
STATUTORY INSTRUMENTS

1997 No. 487

The Level Crossings Regulations 1997

Compliance with orders under the Level Crossings Act 1983

3.—(1) While an order is in force under section 1 of the Level Crossings Act 1983⁽¹⁾ in relation to a level crossing, whether or not that order was made before the coming into force of this regulation, the operator of the crossing shall ensure that the order is complied with.

(2) In any proceedings for an offence for a contravention of paragraph (1) above it shall be a defence for the person charged to prove—

- (a) that the contravention was due to the act or default of another person not being one of his employees (hereinafter called “the other person”); and
- (b) that he took all reasonable precautions and exercised all due diligence to avoid the contravention.

(3) The person charged shall not, without leave of the court, be entitled to rely on the defence referred to in paragraph (2) above unless, within a period ending seven clear days—

- (a) before the hearing to determine mode of trial, where the proceedings are in England or Wales; or
- (b) before the trial, where the proceedings are in Scotland,

he has served on the prosecutor a notice in writing giving such information identifying or assisting in the identification of the other person as was then in his possession.

(4) Where a contravention of paragraph (1) of this regulation by any person is due to the act or default of some other person, that other person shall be guilty of the offence which would, but for any defence under this regulation available to the first-mentioned person, be constituted by the act or default.

(5) In this regulation “level crossing” and “operator” have the same meanings as in section 1 of the Level Crossings Act 1983.

(6) In consequence of the preceding provisions of this regulation, section 1(3)(a) of the Level Crossings Act 1983 (operator’s duty to ensure order is complied with) shall cease to have effect.

(1) 1983 c. 16; the definition of “operator” in section 1(11) was substituted by section 51 of the Transport and Works Act 1992 (c. 42).