
STATUTORY INSTRUMENTS

2005 No. 1992

TRANSPORT

HEALTH AND SAFETY

**The Railways (Accident Investigation
and Reporting) Regulations 2005**

Made - - - - - *19th July 2005*

Laid before Parliament *20th July 2005*

Coming into force

*in relation to the whole of
the United Kingdom except
the Channel Tunnel system,
in so far as it forms part of
the United Kingdom*

17th October 2005

*in relation to the Channel
Tunnel System, in so far as
it forms part of the United
Kingdom*

31st January 2006

The Secretary of State, being a Minister designated ^{M1} for the purposes of section 2(2) of the European Communities Act 1972 ^{M2} in relation to measures relating to railways and railway transport, in exercise of the powers conferred upon him by that subsection and in exercise of the powers conferred by sections 2, 6, 7(1), 9, 11 and 13(1) of the Railways and Transport Safety Act 2003 ^{M3} hereby makes the following Regulations:

Marginal Citations

M1 S.I. 1996/266.

M2 1972 c. 68.

M3 2003 c. 20.

Citation and commencement

1.—(1) These Regulations may be cited as the Railways (Accident Investigation and Reporting) Regulations 2005.

(2) These Regulations shall come into force—

Status: Point in time view as at 31/12/2020.

Changes to legislation: There are currently no known outstanding effects for the The Railways (Accident Investigation and Reporting) Regulations 2005. (See end of Document for details)

- (a) on 17th October 2005 in relation to the whole of the United Kingdom except the Channel Tunnel system, in so far as it forms part of the United Kingdom; and
- (b) on 31st January 2006 in relation to the Channel Tunnel system, in so far as it forms part of the United Kingdom.

Interpretation

2.—(1) In these Regulations—

“the 2003 Act” means the Railways and Transport Safety Act 2003;

“accident” means a railway accident;

“the Branch” means the Rail Accident Investigation Branch;

“carriageway” means a way over which there is a public right of passage for motor vehicles;

“Channel Tunnel system” has the meaning given by section 1(7) of the Channel Tunnel Act 1987^{M4} to the words “the tunnel system”;

“Chief Inspector” means the Chief Inspector of Rail Accidents appointed under section 3(2) of the 2003 Act;

“constable” means any person who is—

- (a) a member or special constable of any police force who has been attested as a constable under section 29 of the Police Act 1996^{M5} or declared a constable under section 16 of the Police (Scotland) Act 1967^{M6}; or
- (b) a member of the Police Service of Northern Ireland or the Police Service of Northern Ireland Reserve;

“dangerous goods” has the meaning given by regulation 2(1) of the Carriage of Dangerous Goods and Use of Transportable Pressure Equipment Regulations [^{F1}2007];

^{F2} ...

“evidence” means anything involved in or relating to an accident or incident, whether at the site of the accident or incident or remote from it, including—

- (a) written, electronic, photographic or other records;
- (b) electronic or recording equipment;
- (c) rolling stock, infrastructure, equipment and signalling systems;
- (d) any personal, personnel, medical or other similar record or document; and
- (e) anything else that an inspector identifies to—
 - (i) an owner of railway property;
 - (ii) a railway industry body; or
 - (iii) a manufacturer or supplier of equipment, components or services to an owner of railway property or to a railway industry body,

as being relevant to the accident or incident;

“extensive damage” means damage that can immediately be assessed by the Branch to cost at least 2 million Euros in total;

“incident” means a railway incident;

“infrastructure” means railway infrastructure;

“infrastructure manager” means any person who is responsible for establishing and maintaining infrastructure or a part thereof, which may also include the management of infrastructure control and safety systems, but does not include a maintainer;

“inspector” means a person appointed as an inspector of rail accidents under section 3(1) of the 2003 Act;

“Intergovernmental Commission” has the meaning given to those words by section 49 of the Channel Tunnel Act 1987;

“level crossing” means any place where a railway crosses on a level a highway or other road or passageway, whether or not there is public access to such land;

“maintainer” means a person who maintains, repairs or renews railway property or constructs new works in relation to railway property;

“motor vehicle” has the meaning given by section 185 of the Road Traffic Act 1988 ^{M7};

“railway” means a railway or tramway within the meaning given by section 67 of the Transport and Works Act 1992 ^{M8};

“railway accident” and “railway incident” have the meanings given in section 2(1) of the 2003 Act;

“railway industry body” means a person who is an infrastructure manager, a railway undertaking, a maintainer or an operator of rolling stock or railway assets;

“railway property” has the meaning given in section 1(1) of the 2003 Act;

[^{F3}“railway undertaking” means any public or private undertaking, the principal business of which is to provide services for the transport of goods and passengers, or goods or passengers, by rail with a requirement that the undertaking ensure traction; this includes undertakings which provide traction only;]

“running line” means a railway line which is not a siding and is ordinarily used for the passage of trains or tramcars;

“safety authority”—

(a) in relation to Great Britain, excluding the Channel Tunnel system, means the [^{F4}Office of Rail and Road];

(b) in relation to Northern Ireland, means the Department for Regional Development; and

(c) in relation to the Channel Tunnel system, means the Intergovernmental Commission; and

^{F5} ...

[^{F6}“safety management system” means the organisation and arrangements established by an infrastructure manager or a railway undertaking to ensure the safe management of its operations;]

[^{F6}“vehicle” has the meaning given in the Railways and Other Guided Transport Systems (Safety) Regulations 2006;]

[^{F7}“working days” shall be taken to exclude Saturdays, Sundays, Christmas Day, Good Friday and, in relation to an accident or incident that occurs in England and Wales, any day which, under the Banking and Financial Dealings Act 1971, is a bank holiday in England and Wales, in relation to an accident or incident that occurs in Scotland, any other day which, under that Act, is a bank holiday in Scotland and, in relation to an accident or incident that occurs in Northern Ireland, any day which, under that Act, is a bank holiday in Northern Ireland.]

(2) The following words have the meaning given to them in section 83 of the Railways Act 1993 ^{M9} or the meaning which would be given to them by an equivalent definition in relation to a tramway—

(a) operator;

(b) railway asset;

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- (c) railway services;
- (d) rolling stock;
- (e) station;
- (f) track; and
- (g) train.

(3) “Serious accident” means an accident involving a derailment or collision of rolling stock which has an obvious impact on railway safety regulation or management of safety and includes such an accident that results in—

- (a) the death of at least one person;
- (b) serious injuries to five or more persons; or
- (c) extensive damage to rolling stock, the infrastructure or the environment.

(4) “Serious injury” includes—

- (a) a fracture other than to fingers, thumbs or toes;
- (b) amputation;
- (c) dislocation of the shoulder, hip, knee or spine;
- (d) loss of sight, whether temporary or permanent, in one or both eyes;
- (e) a chemical or hot metal burn or any penetrating injury to one or both eyes;
- (f) an injury leading to hypothermia or heat-induced illness;
- (g) an injury requiring resuscitation of the injured person;
- (h) an injury requiring admittance to hospital for more than 24 hours;
- (i) an injury directly leading to loss of consciousness; or
- (j) an injury resulting from the absorption of a substance by inhalation, ingestion or through the skin that causes acute illness requiring medical treatment.

^{F8}(5)

Textual Amendments

- F1** Word in reg. 2(1) substituted (1.7.2007) by The Carriage of Dangerous Goods and Use of Transportable Pressure Equipment Regulations 2007 (S.I. 2007/1573), reg. 1, **Sch. 8**
- F2** Words in reg. 2(1) omitted (31.12.2020) by virtue of The Merchant Shipping (Accident Reporting and Investigation) and the Railways (Accident Investigation and Reporting) (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1400), regs. 1, **16(2)(a)**; 2020 c. 1, Sch. 5 para. 1(1)
- F3** Words in reg. 2(1) inserted (31.12.2020) by The Merchant Shipping (Accident Reporting and Investigation) and the Railways (Accident Investigation and Reporting) (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1400), regs. 1, **16(2)(b)**; 2020 c. 1, Sch. 5 para. 1(1)
- F4** Words in reg. 2(1) substituted (16.10.2015) by The Office of Rail Regulation (Change of Name) Regulations 2015 (S.I. 2015/1682), reg. 1(2), **Sch. para. 10(k)**
- F5** Words in reg. 2(1) omitted (31.12.2020) by virtue of The Merchant Shipping (Accident Reporting and Investigation) and the Railways (Accident Investigation and Reporting) (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1400), regs. 1, **16(2)(c)**; 2020 c. 1, Sch. 5 para. 1(1)
- F6** Words in reg. 2(1) inserted (31.12.2020) by The Merchant Shipping (Accident Reporting and Investigation) and the Railways (Accident Investigation and Reporting) (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1400), regs. 1, **16(2)(d)**; 2020 c. 1, Sch. 5 para. 1(1)
- F7** Words in reg. 2(1) inserted (11.1.2006) by The Railways (Accident Investigation and Reporting) (Amendment) Regulations 2005 (S.I. 2005/3261), regs. 1, **2(2)**

- F8** Reg. 2(5) omitted (31.12.2020) by virtue of [The Merchant Shipping \(Accident Reporting and Investigation\) and the Railways \(Accident Investigation and Reporting\) \(Amendment\) \(EU Exit\) Regulations 2018 \(S.I. 2018/1400\)](#), regs. 1, **16(3)**; 2020 c. 1, Sch. 5 para. 1(1)

Marginal Citations

- M4** 1987 c. 53.
- M5** 1996 c. 16. By section 24(3) of the 2003 Act, section 29 of the Police Act 1964 applies to a constable of the British Transport Police Force appointed in England or Wales.
- M6** 1967 c. 77. By section 24(4) of the 2003 Act, section 16 of the Police (Scotland) Act 1967 applies to a constable of the British Transport Police Act appointed in Scotland.
- M7** 1998 c. 52.
- M8** 1992 c. 42.
- M9** 1993 c. 43.

Accidents and incidents excluded from the application of Part 1 of the Railways and Transport Safety Act 2003

3.—(1) An accident or incident that occurs within an industrial curtilage shall not be treated as an accident or incident for the purposes of Part 1 of the 2003 Act except where the accident or incident—

- (a) involves a train being used within an industrial curtilage for the purpose of carrying passengers for reward; or
- (b) occurs on track that—
 - (i) is not used for any purpose connected with the industrial activity within that curtilage other than to facilitate the entry to or exit from that curtilage; or
 - (ii) is directly controlled or operated by the person who controls or operates the railway outside the industrial curtilage to which the track within the curtilage is connected.

(2) An accident or incident that occurs on a railway which is operated by a cable haulage system and has a track of a length not exceeding 1 kilometre shall not be treated as an accident or incident for the purposes of Part 1 of the 2003 Act.

(3) Subject to paragraph (4), an accident or incident that occurs on a railway, no part of which crosses a carriageway (whether or not at the same level), shall not be treated as an accident or incident for the purposes of Part 1 of the 2003 Act.

(4) Paragraph (3) shall not apply to an accident or incident occurring on a railway operated by a cable haulage system that is not excluded under paragraph (2).

(5) In this regulation—

- (a) “factory” means a factory within the meaning of section 175 of the Factories Act 1961^{M10} and premises to which section 123(1) or (2) or 125(1) of that Act apply unless such premises are used for the purposes of inspection, servicing, maintenance or repair (excluding construction or re-construction) of railway property;
- (b) “industrial curtilage” means a curtilage of a harbour, freight terminal, mine, quarry or factory;
- (c) “mine” has the same meaning as in section 180 of the Mines and Quarries Act 1954^{M11}; and
- (d) “quarry” has the same meaning as in regulation 3 of the Quarries Regulations 1999^{M12}.

Marginal Citations

- M10** 1961 c. 34. Section 175(2)(n) was amended by regulation 3(1) of and Schedule 1 to the [Factories Act 1961 etc. \(Metrication\) Regulations 1983 \(S.I. 1983/978\)](#).

Status: Point in time view as at 31/12/2020.

Changes to legislation: There are currently no known outstanding effects for the The Railways (Accident Investigation and Reporting) Regulations 2005. (See end of Document for details)

M11 1954 c. 70.

M12 S.I. 1999/2024.

Duty to notify the Rail Accident Investigation Branch of accidents and incidents

4.—(1) Subject to paragraph (6), a railway industry body whose property or staff have been involved in an accident or incident of a type listed in Schedule 1 on a railway or on railway property other than within the Channel Tunnel system shall notify the Branch of its occurrence immediately it learns of the occurrence and by the quickest means available.

(2) Subject to paragraph (6), a railway industry body whose property or staff have been involved in an accident or incident of a type listed in Schedule 2 on a railway or railway property other than within the Channel Tunnel system shall notify the Branch of its occurrence as soon as is reasonably practicable and in any event within three working days of its occurrence.

(3) Where staff or property of a railway industry body have in any month been involved in an accident or incident of a type listed in Schedule 3 on a railway or railway property other than within the Channel Tunnel System, the body shall notify the Branch of every such occurrence during that month no later than 10 days after the end of the month and in accordance with paragraph (9).

(4) Subject to paragraph (6), a railway industry body whose property or staff have been involved in an accident or incident of a type listed in Schedule 4 within the Channel Tunnel system shall notify the Branch of its occurrence immediately it learns of the occurrence and by the quickest means available.

(5) Subject to paragraph (6), a railway industry body whose property or staff have been involved in an accident or incident of a type listed in Schedule 5 within the Channel Tunnel system shall notify the Branch of its occurrence as soon as is reasonably practicable and in any event within three working days of its occurrence.

(6) The duty in paragraphs (1), (2), (4) and (5) to notify the Branch of an accident or incident involving the death or serious injury of a person in circumstances described in Schedules 1, 2, 4 or 5, respectively, shall not arise where the railway industry body reasonably believes that—

- (a) the death or serious injury of that person was a result of natural causes, assault, suicide or attempted suicide;
- (b) the accident or incident—
 - (i) caused the death of or serious injury to a member of staff; and
 - (ii) did not involve the movement of rolling stock; or
- (c) the accident or incident caused the death or serious injury of a person who at the time of the accident or incident was on railway property involved in the accident or incident without lawful authority.

(7) A notification given under paragraph (1), (2), (4) or (5) shall contain as much of the following information relating to the accident or incident as the railway industry body is reasonably able to provide at the time of the notification—

- (a) the geographical position of the accident or incident and the nearest point of access to that position;
- (b) the date and time of the accident or incident;
- (c) the point of departure and intended destination of any rolling stock involved in the accident or incident;
- (d) brief details of the accident or incident and the sequence of events leading to it;
- (e) in the case of an accident, an estimate of the number of people seriously or fatally injured;

- (f) an estimate of the number of passengers on board any rolling stock involved at the time of the accident or incident;
 - (g) the extent of damage caused to any railway, railway property or the environment by the accident or incident;
 - (h) the weather conditions at the time of the accident or incident;
 - (i) the type, and an estimate of the quantity, of any dangerous goods on board the rolling stock involved at the time of the accident or incident;
 - (j) the number of crew on board the rolling stock involved at the time of the accident or incident;
 - (k) the name of the railway industry body whose property is involved in the accident or incident;
 - (l) the names and roles of staff with responsibility for the movement of rolling stock involved in the accident or incident;
 - (m) the vehicle numbers and type of any rolling stock involved;
 - (n) details of any emergency service attending the site of the accident or incident; and
 - (o) contact details of the person in command or control of the accident or incident site.
- (8) The railway industry body that notifies the Branch in accordance with paragraph (1), (2), (4) or (5) shall provide—
- (a) as soon as reasonably practicable after the notification, such of the information referred to in paragraph (7) that it has not supplied with it; and
 - (b) within such time as the Branch specifies, such further information about the accident or incident as the Branch may reasonably require.
- (9) A notification referred to in paragraph (3) shall contain a list of every occurrence during the month in question and shall specify the date, time and place of each occurrence.
- (10) Where the railway industry body does not know the extent of a person's injuries, it shall regard that person as having suffered a serious injury if—
- (a) the person has been removed from the site of the accident or incident to a hospital; and
 - (b) the railway industry body suspects that the person has sustained a serious injury.
- (11) In this regulation “staff” means a person engaged in work for the railway industry body where such work was connected with the operation of the railway or railway property involved in the accident or incident at the time of its occurrence.
- (12) A railway industry body that fails to notify the Branch of an accident or incident in accordance with paragraphs (1) to (5) and (7) to (9) shall be guilty of an offence.

Conduct of investigations by the Rail Accident Investigation Branch

5.—(1) The Branch shall conduct every investigation of an accident or incident in a manner that will not undermine its independence from—

- (a) an infrastructure manager;
- (b) a railway undertaking;
- ^{F9}(c)
- ^{F9}(d)
- ^{F9}(e)
- (f) any other party whose interests might conflict with the tasks of the Branch.

Status: Point in time view as at 31/12/2020.

Changes to legislation: There are currently no known outstanding effects for the The Railways (Accident Investigation and Reporting) Regulations 2005. (See end of Document for details)

(2) The Branch shall not investigate occurrences other than accidents or incidents if such investigation could undermine its independence from any of the parties referred to in paragraph (1).

(3) The Branch shall make the necessary arrangements to commence an investigation of an accident or incident—

- (a) where the accident is a serious accident; or
- (b) where it is not a serious accident but is an accident or incident which, under slightly different conditions, might have led to a serious accident and the Branch has determined that it will conduct an investigation,

within seven days of being notified of the accident or incident.

(4) In making a determination under paragraph (3)(b) the Branch shall take into account—

- (a) the seriousness of the accident or incident;
- (b) whether it forms part of a series of accidents or incidents;
- (c) its impact on railway safety;
- (d) requests from railway industry bodies, the safety authority, or other ^{F10}... States;
- (e) the extent to which an investigation will improve the safety of railways and prevent accidents and incidents; and
- (f) any other matter that the Chief Inspector considers to be reasonable in the circumstances.

(5) The Branch may undertake a preliminary examination of the circumstances surrounding an accident or incident to determine—

- (a) whether it is a serious accident; or
- (b) where it is not a serious accident, whether an investigation is to be conducted.

^{F11}(6)

(7) Where an accident or incident of a type described in paragraph (3) occurs on or close to a border installation between the United Kingdom and another ^{F12}... State, the Branch—

- (a) shall use its best endeavours to agree with the investigating body of the other ^{F12}... State which accident investigating body will conduct the investigation;
- (b) shall permit the investigating body of the other ^{F12}... State to participate in an investigation of such accident or incident conducted by the Branch;
- (c) shall share the results of the investigation of such accident or incident by the Branch with the investigating body of the other ^{F12}... State; and
- (d) may agree to carry out the investigation of the accident or incident in co-operation with the investigating body of the other ^{F12}... State.

(8) Where an accident or incident of a type described in paragraph (3) involves a railway undertaking established and licensed in another ^{F13}... State, the Branch shall invite the investigating body in the other ^{F13}... State to participate in an investigation of that accident or incident.

(9) Where the accident or incident occurs within the part of the Channel Tunnel system which forms part of the United Kingdom and is either a serious accident or one which the Branch has determined it will investigate, the Branch shall invite and permit the rail accident investigating body in France to participate in the investigation of such accident or incident.

(10) During the course of its investigation, the Branch shall—

- (a) keep the persons referred to in regulation 13(2)(b) informed of its progress; and
- (b) so far as is reasonably practicable, take account of opinions relating to the investigation expressed by such persons.

(11) The Chief Inspector shall determine the extent of, and the procedure to be followed in carrying out, an investigation conducted by the Branch or by a person appointed pursuant to regulation 6(1)^{F14}....

(12) The Branch shall conclude its examination at the site of an accident or incident in the shortest possible time in order to enable the infrastructure that is closed as a result of the accident or incident to be restored and opened to railway services as soon as possible.

(13) The Chief Inspector may discontinue an investigation conducted by the Branch at any time and shall publish his reasons for doing so.

(14) The Branch may undertake an investigation into the circumstances of an accident or incident where it has previously determined that no investigation will be conducted.

Textual Amendments

- F9** Reg. 5(1)(c)-(e) omitted (31.12.2020) by virtue of The Merchant Shipping (Accident Reporting and Investigation) and the Railways (Accident Investigation and Reporting) (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1400), regs. 1, **17(2)**; 2020 c. 1, Sch. 5 para. 1(1)
- F10** Word in reg. 5(4)(d) omitted (31.12.2020) by virtue of The Merchant Shipping (Accident Reporting and Investigation) and the Railways (Accident Investigation and Reporting) (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1400), regs. 1, **17(3)**; 2020 c. 1, Sch. 5 para. 1(1)
- F11** Reg. 5(6) omitted (31.12.2020) by virtue of The Merchant Shipping (Accident Reporting and Investigation) and the Railways (Accident Investigation and Reporting) (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1400), regs. 1, **17(4)**; 2020 c. 1, Sch. 5 para. 1(1)
- F12** Word in reg. 5(7) omitted (31.12.2020) by virtue of The Merchant Shipping (Accident Reporting and Investigation) and the Railways (Accident Investigation and Reporting) (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1400), regs. 1, **17(5)**; 2020 c. 1, Sch. 5 para. 1(1)
- F13** Word in reg. 5(8) omitted (31.12.2020) by virtue of The Merchant Shipping (Accident Reporting and Investigation) and the Railways (Accident Investigation and Reporting) (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1400), regs. 1, **17(6)**; 2020 c. 1, Sch. 5 para. 1(1)
- F14** Words in reg. 5(11) omitted (31.12.2020) by virtue of The Merchant Shipping (Accident Reporting and Investigation) and the Railways (Accident Investigation and Reporting) (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1400), regs. 1, **17(7)**; 2020 c. 1, Sch. 5 para. 1(1)

Persons conducting, participating in or assisting with an investigation by the Rail Accident Investigation Branch

6.—(1) The Chief Inspector may appoint a person who is not an inspector to conduct or participate in an investigation by the Branch.

(2) A person appointed under paragraph (1) may exercise such powers of an inspector as are necessary to enable him to perform his functions under the terms of his appointment.

(3) In relation to an investigation of an accident or incident that the Branch is conducting, the Chief Inspector may—

(a) request assistance from a constable, the safety authority, any public body or any other person acting under a power conferred on him by an enactment, or a constable, a procurator fiscal or the Lord Advocate acting under a power conferred on him at common law in Scotland, or from an accident investigating body of another^{F15}... State^{F16}...; or

(b) request assistance (including assistance with the retrieval, delivery, storage, disposal or destruction of evidence) from a person other than a person mentioned in sub-paragraph (a), at such times and in such manner as the Chief Inspector may reasonably determine.

Status: Point in time view as at 31/12/2020.

Changes to legislation: There are currently no known outstanding effects for the The Railways (Accident Investigation and Reporting) Regulations 2005. (See end of Document for details)

(4) Where the Chief Inspector reasonably requests assistance from a person referred to in sub-paragraph (3)(b), that person shall assist him.

(5) Subject to paragraph (6) the Secretary of State may pay reasonable compensation to a person who assists the Chief Inspector pursuant to paragraph (3).

(6) Where a person who assists the Chief Inspector pursuant to paragraph (3) is—

- (a) an owner of railway property, a railway industry body, or a manufacturer or supplier of equipment, components or services to an owner of railway property or to a railway industry body, whose property or staff have been involved in the accident or incident being investigated; and
- (b) under a statutory duty or other legally enforceable requirement to investigate the causes of the accident or incident, including any duty or other legally enforceable requirement arising by virtue of his being authorised to control infrastructure or operate trains or stations,

in determining whether or not to pay compensation, the Secretary of State shall take account of whether the assistance concerned any matter to which the duty or other legally enforceable requirement to investigate referred to in sub-paragraph (b) relates.

(7) A person who fails to assist an inspector when required to do so in accordance with paragraph (4) shall be guilty of an offence.

Textual Amendments

- F15** Word in [reg. 6\(3\)\(a\)](#) omitted (31.12.2020) by virtue of [The Merchant Shipping \(Accident Reporting and Investigation\) and the Railways \(Accident Investigation and Reporting\) \(Amendment\) \(EU Exit\) Regulations 2018 \(S.I. 2018/1400\)](#), [regs. 1, 18\(a\)](#); 2020 c. 1, Sch. 5 para. 1(1)
- F16** Words in [reg. 6\(3\)\(a\)](#) omitted (31.12.2020) by virtue of [The Merchant Shipping \(Accident Reporting and Investigation\) and the Railways \(Accident Investigation and Reporting\) \(Amendment\) \(EU Exit\) Regulations 2018 \(S.I. 2018/1400\)](#), [regs. 1, 18\(b\)](#); 2020 c. 1, Sch. 5 para. 1(1)

Access to the site of an accident or incident

7.—(1) Subject to paragraph (2), no person other than an inspector or a person appointed under regulation 6(1) shall—

- (a) have access to the site of an accident or incident of a type described in Schedules 1 or 4, including the rolling stock, infrastructure or traffic control and signalling systems involved in such accident or incident; or
- (b) remove from or interfere with, or cause to be removed from or interfered with, anything at the site of an accident or incident of a type described in Schedules 1 or 4,

without the consent of an inspector until such time as the Branch has concluded its examination or removal of evidence at the site or determined that it will not conduct an investigation.

(2) A person may have access to, or remove anything described in paragraph (1), only in so far as may be necessary for the purpose of—

- (a) saving life or preventing further injury or suffering;
- (b) preventing further damage or destruction;
- (c) preventing danger, including from dangerous goods;
- (d) protecting the site; or
- (e) exercising a power conferred on that person by an enactment, or a power conferred on a constable, a procurator fiscal or the Lord Advocate at common law in Scotland.

(3) Subject to regulation 17 where a constable, the safety authority or any other person intends to enter a site referred to in paragraph (1) in exercise of a power conferred on him by an enactment —

- (a) he shall, where practicable, notify an inspector of his intention to do so, together with details of any action he proposes to take while on the site; and
- (b) where it is not practicable to notify an inspector in accordance with sub-paragraph (a), he shall inform an inspector as soon as practicable after he has entered the site and provide details of any action he has taken while on the site.

(4) In determining whether it is practicable to notify an inspector under paragraph (3)(a) a person intending to enter a site referred to in paragraph (1) shall have regard to whether the delay that would occur by giving such notification would, or would be likely to, affect adversely the result sought to be obtained from the exercise of his power.

(5) Where an inspector receives notification under paragraph (3)(a) of action proposed by a person referred to in paragraph (3) and a question arises as to the desirability of the proposed action to be taken, the inspector shall refer the question without delay to the Chief Inspector or an inspector acting on behalf of the Chief Inspector for determination pursuant to section 8(6) of the 2003 Act.

(6) A person who fails to comply with the requirements of paragraph (1) shall be guilty of an offence.

Preservation of evidence

8.—(1) For the purpose of enabling him to carry out an investigation into an accident or incident in the most efficient way and within the shortest time, an inspector may, where appropriate in cooperation with the authorities responsible for the judicial inquiry, require a person to supply a list of all evidence relating to the accident or incident which is in his possession or control.

(2) Subject to paragraph (3) and regulation 17, a constable, the safety authority or any other person acting in exercise of a power conferred on him by an enactment, who is investigating an accident or incident shall—

- (a) preserve any evidence that he obtains in the course of his investigation into an accident or incident;
- (b) where practicable, notify an inspector of his intention to collect, examine or analyse evidence, or interview a witness, for his investigation;
- (c) where it is not practicable to notify an inspector in accordance with sub-paragraph (b), inform an inspector as soon as practicable after he has taken that action;
- (d) provide to the Branch details of the action he has taken under this paragraph; and
- (e) upon request by the Branch, provide the Branch with access to or copies of any evidence he has taken or information he has obtained under this paragraph.

(3) Paragraph (2) shall apply until such time as the Branch has concluded its investigation, no longer requires the evidence referred to in paragraph (2) or has determined that it will not conduct an investigation.

(4) In determining whether it is practicable to notify an inspector under paragraph (2)(b) a person intending to collect, examine or analyse evidence or interview a witness for his investigation pursuant to paragraph (2)(b) shall have regard to whether the delay that would occur by giving such notification would, or would be likely to, adversely affect the result sought to be obtained from the exercise of his power.

(5) Where an inspector receives notification under paragraph (2)(b) of action proposed by a person referred to in paragraph (2) and a question arises as to the desirability of the proposed action the inspector shall refer the question without delay to the Chief Inspector or an inspector acting on behalf of the Chief Inspector for determination pursuant to section 8(6) of the 2003 Act.

Status: Point in time view as at 31/12/2020.

Changes to legislation: There are currently no known outstanding effects for the The Railways (Accident Investigation and Reporting) Regulations 2005. (See end of Document for details)

(6) An owner of railway property, a railway industry body, or a manufacturer or supplier of equipment, components or services to an owner of railway property or to a railway industry body, shall preserve all evidence over which he has control and—

- (a) which is, or which he reasonably considers may be, relevant to an investigation of an accident or incident of a type described in Schedules 1 or 4 by the Branch; or
- (b) that the Branch directs him to preserve,

until the Branch has concluded its investigation, no longer requires the evidence or has determined that it will not conduct an investigation.

(7) A person who contravenes paragraph (6) shall be guilty of an offence.

Use of evidence

9.—(1) Except in so far as paragraph (2) or (3) applies, an owner of railway property, a railway industry body, or a manufacturer or supplier of equipment, components or services to an owner of railway property or to a railway industry body, shall not move or use any evidence that is, or may become, relevant to an investigation by the Branch except where it is necessary to do so for the purpose of—

- (a) saving life or preventing further injury or suffering;
- (b) preventing further damage or destruction;
- (c) preventing danger, including from dangerous goods; or
- (d) protecting the site,

until the Branch has concluded its investigation, no longer requires the evidence or has determined that it will not conduct an investigation.

(2) An owner of railway property, a railway industry body, or a manufacturer or supplier of equipment, components or services to an owner of railway property or a railway industry body, may—

- (a) with the consent of the Branch, move or use evidence relating to an accident or incident of a type described in Schedules 1 or 4; and
- (b) unless the Branch gives notice to the contrary, move or use evidence relevant to an accident or incident of a type described in Schedules 2, 3 or 5 provided that there is no practicable alternative to the movement or use of that evidence and such movement or use is essential for the safe operation of the railway.

(3) An owner of railway property, a railway industry body, or a manufacturer or supplier of equipment, components or services to an owner of railway property or a railway industry body who moves or uses evidence pursuant to paragraph (2) shall make and retain a record of the condition, position and location of the evidence before it was moved or used and shall supply that record on demand to the Branch.

(4) Subject to paragraph (5), in the course of an investigation into an accident or incident, an inspector or a person appointed under regulation 6(1) may, for the purpose of examining or analysing an article, dismantle or alter the composition of it, whether or not such dismantling or altering has the effect of destroying it

(5) Where an inspector or a person appointed under regulation 6(1) decides to dismantle or alter the composition of an article under paragraph (4), and the inspector or person appointed under regulation 6(1) has reason to believe that a constable, the safety authority or any other person exercising a power conferred on him by an enactment, or a constable, a procurator fiscal or the Lord Advocate exercising a power conferred on him at common law in Scotland, would be entitled to analyse or examine that article for the purpose of his own investigation into that accident or incident, the inspector or person appointed under regulation 6(1) shall—

- (a) before commencing such dismantling or alteration, give notice to those persons of his intention to do so;
 - (b) permit those persons to be present during such examination or analysis;
 - (c) consider any reasonable representations those persons may make as to the impact such dismantling or alteration may have on their own investigation; and
 - (d) provide those persons with access to all records and reports relating to the examination or analysis.
- (6) Where an inspector or a person appointed under regulation 6(1) considers that it would not be detrimental to an investigation he may—
- (a) inform a person of his intention to analyse or examine an article; or
 - (b) permit a person to be present during the analysis or examination.
- (7) A person other than a person referred to in paragraph (5) whom the Branch allows to be present during an analysis or examination shall not disclose to anyone except a constable, the safety authority or any other person acting under a power conferred on him by an enactment, or to a constable, a procurator fiscal or the Lord Advocate acting under a power conferred on him at common law in Scotland, any information he obtains in connection with that analysis or examination without the consent of the Chief Inspector.
- (8) The Branch may retain any evidence that it no longer requires for the purposes of the investigation for which it was obtained if that evidence may be required for the purposes of another investigation being conducted by the Branch.
- (9) The Branch shall release to a constable, the safety authority or any other person exercising a power conferred on him by an enactment, or to a constable, a procurator fiscal or the Lord Advocate acting under a power conferred on him at common law in Scotland, any evidence that it no longer requires, where—
- (a) the Branch has reason to believe that person would be entitled to collect that evidence for the purpose of his own investigation; and
 - (b) that evidence—
 - (i) is not prohibited from being disclosed by regulation 10(2) or any other enactment; or
 - (ii) is not evidence to which regulation 10(3) applies.
- (10) The Branch shall release to its owner evidence that it no longer requires for the purposes of the investigation for which it was obtained or which it is not retaining under paragraph (8) and which the Branch is not required to release to a person referred to in paragraph (9) provided that before it does so the Branch shall consult with any person known to it to be leading an investigation under statutory or common law powers into the accident or incident in respect of which the evidence was obtained by the Branch.
- (11) Where evidence is released to the owner pursuant to paragraph (10), the owner shall be responsible for the storage, destruction or disposal of it from the date of its release.
- (12) Before releasing evidence under paragraphs (9) or (10) the Branch shall give seven days notice of its intention to do so to the intended recipient of such evidence.
- (13) An owner of railway property, a railway industry body, or a manufacturer or supplier of equipment, components or services to an owner of railway property or to a railway industry body, that moves or uses evidence relating to an accident or incident other than for a purpose specified in paragraph (1) shall be guilty of an offence unless the movement or use of the evidence by that body is in compliance with paragraph (2).
- (14) An owner of railway property, a railway industry body, or a manufacturer or supplier of equipment, components or services to an owner of railway property or to a railway industry body, that—

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- (a) moves or uses evidence that is relevant to an accident or incident of a type described in Schedule 1 or 4 without the consent of the Branch under paragraph (2)(a); or
- (b) moves or uses evidence that is relevant to an accident or incident of a type described in Schedule 2, 3 or 5 where the Branch has given notice to the contrary under paragraph (2) (b),

shall be guilty of an offence unless that movement or use of such evidence is for a purpose specified in paragraph (1).

(15) An owner of railway property, a railway industry body, or a manufacturer or supplier of equipment, components or services to an owner of railway property or a railway industry body, that fails to make and retain a record as required by paragraph (3) shall be guilty of an offence.

(16) A person who discloses information that he obtains during an analysis or examination in contravention of paragraph (7) shall be guilty of an offence.

Disclosure of evidence

10.—(1) Except as provided in paragraphs (2) and (3) the Branch—

- (a) may publish or make available for inspection any evidence or information it may acquire during the course of an investigation where such disclosure would not obstruct it in its general aims contained in section 4 of the 2003 Act; and
- (b) shall provide to a constable or the safety authority investigating an accident or incident, or any other person exercising a power conferred on him by an enactment, or to a constable, a procurator fiscal or the Lord Advocate exercising a power conferred on him at common law in Scotland to investigate an accident or incident, access to and copies of any evidence obtained by the Branch in the course of an investigation of that accident or incident, but only where the recipient would be entitled by an enactment, or in Scotland at common law, to collect that evidence for the purpose of his own investigation.

(2) Except by order of a relevant court and subject to paragraph (7) the Branch shall not disclose to anyone—

- (a) a statement or declaration provided to the Branch or any recording or other note or record relating to such statement or declaration unless the person who has provided such statement, declaration, recording note or record consents to its disclosure;
- (b) the name, address or other information relating to a person—
 - (i) who has provided to the Branch a statement or declaration or other note or record relating to such statement or declaration; or
 - (ii) who has indicated to an inspector or person appointed under regulation 6(1) that he intends to provide a statement or declaration or other note or record to the Branch, unless that person consents to such disclosure; or
- (c) a medical record relating to a person involved in the accident or incident.

(3) Except by order of a relevant court and subject to paragraph (7), the Branch shall not be required to disclose to anyone—

- (a) personal information relating to a person involved in the accident or incident or with the investigation of that accident or incident (other than personal information protected by paragraph (2));
- (b) the opinion of an inspector or a person appointed under regulation 6(1) which is unsubstantiated by evidence;
- (c) the notes made by an inspector or person appointed under regulation 6(1), whether written or held electronically;

- (d) any trade secret or other information, the release of which, in the opinion of the Chief Inspector would, or would be likely to, prejudice the commercial interests of the person holding it; or
 - (e) working documents of the Branch.
- (4) Except by order of a relevant court a person who assists the Branch under regulation 6(1), 6(3)(b) or 15(2)(b) shall not disclose to anyone any of the evidence or information described in paragraphs (2) or (3) which the Branch is precluded from disclosing save by order of a relevant court. This paragraph shall similarly apply to evidence or information provided to such a person if it is such that, if provided to the Branch, would be subject to paragraphs (2) or (3).
- (5) No order may be made under paragraphs (2), (3) or (4) unless the court is satisfied that disclosure is in the public interest, having regard in particular to any adverse impact such disclosure may have on the investigation by the Branch to which the evidence or information relates, upon any future investigation and upon public safety.
- (6) Paragraphs (2)(a) and (b) shall not be construed as placing a duty on the Branch to seek consent to disclose from a person referred to in those sub-paragraphs or compelling the Branch to disclose where the Branch has not sought consent at the time of the making of the statement.
- (7) Nothing in paragraphs (2) or (3) shall preclude the Branch from—
- (a) publishing the opinion of a person in a report of the accident or incident in so far as it is relevant to the conclusions in the report;
 - (b) publishing in a report of the accident or incident information based on matters contained in a statement, declaration, recording or other note referred to in paragraph (2)(a) or in a medical record referred to in paragraph (2)(c);
 - (c) providing a person who makes a statement or declaration with a copy of such statement or declaration;
 - (d) sharing the results of the investigation of an accident or incident with an investigating body in another ^{F17}... State;
 - (e) disclosing or discussing information based on a matter contained in a statement, declaration, recording, or other note it has obtained during the course of an investigation with a person providing assistance, evidence or information to the Branch; or
 - (f) disclosing the name or address of a person to a person providing assistance, evidence or information to the Branch but only in so far as is necessary for the purpose of obtaining evidence or information in furtherance of the Branch's investigation.
- (8) A person who assists the Branch under regulation 6(1), 6(3)(b) or 15(2)(b) shall not disclose to anyone other than a constable, the safety authority or any other person exercising a power conferred on him by an enactment, or a constable, a procurator fiscal or the Lord Advocate exercising a power conferred on him at common law in Scotland, evidence or any other information, to which paragraph (4) does not apply, that he acquires about an investigation through the giving of such assistance without the consent of the Chief Inspector or an inspector acting on behalf of the Chief Inspector.
- (9) A person who discloses evidence or information in contravention of paragraph (2), (4) or (8) shall be guilty of an offence.
- (10) In this regulation “relevant court” means—
- (a) the Crown Court or High Court in England and Wales or Northern Ireland; or
 - (b) the Court of Session or the High Court of Justiciary in Scotland.

Status: Point in time view as at 31/12/2020.

Changes to legislation: There are currently no known outstanding effects for the The Railways (Accident Investigation and Reporting) Regulations 2005. (See end of Document for details)

Textual Amendments

- F17** Word in [reg. 10\(7\)\(d\)](#) omitted (31.12.2020) by virtue of [The Merchant Shipping \(Accident Reporting and Investigation\) and the Railways \(Accident Investigation and Reporting\) \(Amendment\) \(EU Exit\) Regulations 2018 \(S.I. 2018/1400\)](#), regs. 1, **19**; 2020 c. 1, Sch. 5 para. 1(1)

Reports etc. of accidents and incidents investigated by the Rail Accident Investigation Branch

11.—(1) Subject to the requirements in the following paragraphs the Branch may at any time provide a report (including an interim report), advice, recommendations or information relating to an accident or incident to such persons, and in such form and in such manner, as the Chief Inspector considers appropriate in the circumstances, taking account of—

- (a) the nature and seriousness of the accident or incident;
- (b) the speed at which the report, advice, recommendations or information needs to be given or acted upon;
- (c) the stage which the investigation has reached; and
- (d) the relevance or importance of the examination or investigation findings.

(2) Upon the conclusion of an investigation conducted by the Branch into a serious accident, or an accident or incident which under slightly different conditions might have led to a serious accident, the Branch shall report to the Secretary of State and publish a final report—

- (a) in the shortest time possible and normally not later than twelve months after the date of the occurrence; and
- (b) shall include in it such of the information described in Schedule 6 as is relevant to the accident or incident.

(3) Upon the conclusion of an investigation conducted by the Branch, other than one to which paragraph (2) applies, the Branch shall report to the Secretary of State and publish a report in such form as may be determined by the Chief Inspector.

(4) A report published under this regulation may relate to more than one accident or incident.

(5) In relation to a report referred to in paragraph (2), the Branch shall provide a copy of the report to ^{F18}... every person referred to in regulation 13(2).

Textual Amendments

- F18** Words in [reg. 11\(5\)](#) omitted (31.12.2020) by virtue of [The Merchant Shipping \(Accident Reporting and Investigation\) and the Railways \(Accident Investigation and Reporting\) \(Amendment\) \(EU Exit\) Regulations 2018 \(S.I. 2018/1400\)](#), regs. 1, **20**; 2020 c. 1, Sch. 5 para. 1(1)

Recommendations of the Rail Accident Investigation Branch

12.—(1) The Branch shall address a recommendation contained in a report prepared under regulation 11(2) or (3)—

- (a) to the safety authority; and
- (b) to such other ^{F19}... State, public body or authority as it considers it appropriate to do so by reason of the character of the recommendation.

(2) A public body or authority to whom a recommendation is addressed under paragraph (1) shall, in relation to that recommendation—

- (a) ensure that the recommendation is duly taken into consideration and where appropriate acted upon;
 - (b) report to the Branch without undue delay or within such other period, not exceeding twelve months, as may be agreed with the Chief Inspector—
 - (i) giving full details of any measure taken to implement the recommendation;
 - (ii) giving full details of any proposed measure to implement the recommendation and the proposed timetable for securing that implementation; or
 - (iii) giving a full explanation as to why the recommendation is not to be the subject of measures to be taken to implement it; and
 - (c) give notice to the Branch if at any time the information provided to the Branch pursuant to sub-paragraph (b) is rendered inaccurate.
- (3) The requirement to report under paragraph (2)(b) or to give notice under paragraph (2)(c) shall only apply to the extent that it is reasonably practicable for the authority that is required to report to have the specified information or for it to become aware that the information has been rendered inaccurate.
- (4) Having regard to the nature of a recommendation addressed to it, the safety authority may require any person, within such period as the safety authority may [^{F20}reasonably] determine, to—
- (a) take that recommendation into consideration and where appropriate act upon it;
 - (b) send to the safety authority—
 - (i) full details of any measure that body has taken to implement the recommendation;
 - (ii) full details of any measure proposed by that body to implement the recommendation and the proposed timetable for securing that implementation; and
 - (iii) a full explanation as to why the recommendation is not to be the subject of a measure to be taken by that body to implement the recommendation; and
 - (c) give notice to the safety authority if at any time any information provided to the safety authority under sub-paragraph (b)(ii) above is rendered inaccurate.
- (5) A person who fails to comply with a requirement imposed on him by the safety authority in accordance with paragraph (4) shall be guilty of an offence.

Textual Amendments

- F19** Word in reg. 12(1)(b) omitted (31.12.2020) by virtue of [The Merchant Shipping \(Accident Reporting and Investigation\) and the Railways \(Accident Investigation and Reporting\) \(Amendment\) \(EU Exit\) Regulations 2018 \(S.I. 2018/1400\)](#), regs. 1, 21; 2020 c. 1, Sch. 5 para. 1(1)
- F20** Word in reg. 12(4) inserted (11.1.2006) by [The Railways \(Accident Investigation and Reporting\) \(Amendment\) Regulations 2005 \(S.I. 2005/3261\)](#), regs. 1, 2(3)

Duty of the Rail Accident Investigation Branch to consider representations

13.—(1) Before publishing a report under regulations 11(2) or (3) the Branch shall serve a notice in writing on every person referred to in paragraph (2) of its intention to publish the report, supply a copy of the report or the relevant part of the report to each person and invite each person to make representations to the Branch in response to its contents.

- (2) The persons referred to in paragraph (1) are—
 - (a) any person whose reputation the Branch considers may be adversely affected by a report, or, if that person is deceased, such person as appears to the Chief Inspector, at the time he

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proposes to serve notice pursuant to paragraph (1), as best able to represent the interest and reputation of the deceased in the matter; and

- (b) any of the following persons whom the Branch considers to be relevant—
 - (i) the owner of railway property;
 - (ii) a railway industry body, or a manufacturer or supplier of equipment, components or services to an owner of railway property or a railway industry body;
 - (iii) the safety authority;
 - (iv) victims and their relatives;
 - (v) owners of damaged property;
 - (vi) the emergency services involved;
 - (vii) representatives of staff and users of the railways; and
 - (viii) a person falling within the descriptions in sub-paragraphs (b)(i) to (vii) in other ^{F21}... States.

(3) A person upon whom notice is served under paragraph (1) may make representations in response to the report within fourteen days from service of the notice or within such longer period as may be determined by the Chief Inspector.

(4) The Branch shall consider any representations it receives under paragraph (3) and may amend the report in consequence of any such representation.

(5) A person to whom a report or part of a report has been supplied under paragraph (1) shall not disclose its contents without the permission of the Branch.

(6) A person who discloses the contents of a report in contravention of paragraph (5) shall be guilty of an offence.

Textual Amendments

F21 Word in reg. 13(2)(b)(viii) omitted (31.12.2020) by virtue of [The Merchant Shipping \(Accident Reporting and Investigation\) and the Railways \(Accident Investigation and Reporting\) \(Amendment\) \(EU Exit\) Regulations 2018 \(S.I. 2018/1400\)](#), regs. 1, 22; 2020 c. 1, Sch. 5 para. 1(1)

Annual report of the Chief Inspector

- 14.—(1) The Chief Inspector shall publish a report on the activities of the Branch—
 - (a) on or before 30th September 2006 in respect of the period from the coming into force of these Regulations to 31st December 2005; and
 - (b) thereafter on or before 30th September each year in respect of the previous calendar year.
- (2) Every report under paragraph (1) shall contain in respect of the period to which it relates—
 - (a) a summary of the investigations conducted by the Branch;
 - (b) a list of the recommendations issued; and
 - (c) details of the measures that have been reported to the Branch as having been taken in response to its recommendations.

(3) A report may contain such other information relating to the activities and aims of the Branch specified in section 4 of the 2003 Act as the Chief Inspector may determine.

^{F22}(4)

Textual Amendments

- F22** Reg. 14(4) omitted (31.12.2020) by virtue of The Merchant Shipping (Accident Reporting and Investigation) and the Railways (Accident Investigation and Reporting) (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1400), regs. 1, 23; 2020 c. 1, Sch. 5 para. 1(1)

Miscellaneous functions

15.—(1) The Branch may conduct studies into, monitor and analyse any matter it considers may be relevant to the effective investigation of accidents or incidents including—

- (a) the responses of those persons to whom the recommendations of the Branch are addressed;
- (b) technological and other developments; and
- (c) statistics and trends relating to the railway industry including those relating to accidents and incidents.

(2) In order to assist the Branch in carrying out the activities described in paragraph (1), the Chief Inspector may request assistance or information from—

- (a) a constable, the safety authority, any public body or any other person exercising a power conferred on him by an enactment, or a constable, a procurator fiscal or the Lord Advocate exercising a power conferred on him at common law in Scotland, an accident investigating body of another ^{F23} ... State ^{F24} ...; or
- (b) any other person,

at times and in a manner the Chief Inspector may reasonably determine.

(3) The Secretary of State may pay reasonable compensation to a person who assists the Chief Inspector pursuant to paragraph (2).

(4) The Chief Inspector may arrange for the publication, in such form and in such manner as he considers appropriate, of such information and advice as is relevant to the general aims of the Branch referred to in section 4 of the 2003 Act.

[^{F25}(5) The Branch must use its best endeavours to exchange information and views with similar investigation bodies established in other States for the purpose of—

- (a) improving railway and train safety;
- (b) developing and improving investigation methods;
- (c) adapting to, and keeping up to date with, technical and scientific progress in relation to railway and train safety and investigation methods.]

Textual Amendments

- F23** Word in reg. 15(2)(a) omitted (31.12.2020) by virtue of The Merchant Shipping (Accident Reporting and Investigation) and the Railways (Accident Investigation and Reporting) (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1400), regs. 1, 24(2)(a); 2020 c. 1, Sch. 5 para. 1(1)
- F24** Words in reg. 15(2)(a) omitted (31.12.2020) by virtue of The Merchant Shipping (Accident Reporting and Investigation) and the Railways (Accident Investigation and Reporting) (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1400), regs. 1, 24(2)(b); 2020 c. 1, Sch. 5 para. 1(1)
- F25** Reg. 15(5) substituted (31.12.2020) by The Merchant Shipping (Accident Reporting and Investigation) and the Railways (Accident Investigation and Reporting) (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1400), regs. 1, 24(3); 2020 c. 1, Sch. 5 para. 1(1)

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Offences

16.—(1) A person guilty of an offence under regulation 4(12), 7(6), 8(7) and 9(13) to 9(16) shall be liable—

- (a) on summary conviction to imprisonment for a term not exceeding six months, or to [^{F26}a fine not exceeding £20,000][^{F26}a fine], or both; and
- (b) on conviction on indictment, to imprisonment for a term not exceeding six months, or a fine, or both.

(2) A person guilty of an offence under regulation 6(7) shall be liable [^{F27}—
[^{F27}on summary conviction, or on conviction on indictment, to a fine].

(3) A person guilty of an offence under regulation 10(9), 12(5) or 13(6) shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale.

Textual Amendments

F26 Words in [reg. 16\(1\)](#) substituted (E.W.) (12.3.2015) by [The Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(Fines on Summary Conviction\) Regulations 2015 \(S.I. 2015/664\)](#), [reg. 1\(1\)](#), [Sch. 4 para. 69\(2\)](#) (with [reg. 5\(1\)](#))

F27 Words in [reg. 16\(2\)](#) substituted (E.W.) (12.3.2015) by [The Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(Fines on Summary Conviction\) Regulations 2015 \(S.I. 2015/664\)](#), [reg. 1\(1\)](#), [Sch. 4 para. 69\(3\)](#) (with [reg. 5\(1\)](#))

Scotland

17. Nothing in regulations 7(3) or 8(2) shall apply to —

- (a) the procurator fiscal or the Lord Advocate, or
- (b) a constable acting in accordance with directions given by the appropriate chief constable under section 17(2) of the Police (Scotland) Act 1967 ^{M13} in pursuance of lawful instructions received by him from the appropriate prosecutor under section 17(3) of that Act.

Marginal Citations

M13 1967 c. 77

Alistair Darling
Secretary of State for Transport

SCHEDULE 1

Regulation 4(1)

Types of accidents and incidents other than any occurring within the Channel Tunnel System which must be notified to the Rail Accident Investigation Branch immediately and by the quickest means available

1. An accident resulting in the death of a person or the serious injury of two or more persons.
2. An accident on a level crossing involving rolling stock, resulting in the death of a person or serious injury to a person.
3. A collision between rolling stock on a running line which causes damage or blocks a running line that was open to railway traffic at the time of the collision.
4. A derailment of rolling stock on a running line that was open to railway traffic at the time of the derailment, or which blocks a running line that was open to railway traffic at the time of the derailment.
5. A collision of rolling stock with an arrestor mechanism or buffer stop, other than in a siding, that causes damage to the rolling stock.
6. An accident involving the release or combustion of dangerous goods being carried on rolling stock that necessitates the evacuation of the area.
7. An accident or incident that is likely to result in suspension of a railway service for a period in excess of 6 hours.
8. An accident that causes extensive damage to rolling stock, the infrastructure or the environment.
9. An accident or incident which under slightly different conditions might have led to a death, serious injury or extensive damage to rolling stock, the infrastructure or the environment.

SCHEDULE 2

Regulation 4(2)

Types of accidents and incidents other than any occurring within the Channel Tunnel System which must be notified to the Rail Accident Investigation Branch as soon as reasonably practicable and in any event within three working days of occurrence

1. A collision of rolling stock with an object on or adjacent to a running line which under slightly different conditions might have caused a derailment, except—
 - (a) if it is notifiable under regulation 4(1);
 - (b) if the object was an animal; or
 - (c) where the obstruction was caused by an obvious act of vandalism.
2. An accident resulting in the serious injury of one person only except if it is notifiable under regulation 4(1).
3. An obstruction of, or damage to, track, caused by a road vehicle encroaching onto a running line, except when the obstruction or damage occurs on a part of a tramway track laid along a carriageway.
4. Any unintended division of a train or a tramcar.
5. The failure of rolling stock on the track caused by—
 - (a) the failure of an axle;

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- (b) the failure of a wheel or tyre, including a tyre loose on its wheel; or
 - (c) a fire or severe electrical arcing or fusing, whether or not extinguished by a fire-fighting service.
6. The failure of a cable or the fastening thereof of the winding plant or other equipment involved in working a railway operated by a cable haulage system.

SCHEDULE 3

Regulation 4(3)

Types of accidents and incidents other than any occurring within the Channel Tunnel System which must be notified to the Rail Accident Investigation Branch no later than ten days after the end of the month in which the accident or incident occurred

1. The failure of equipment at a level crossing which reduces the level of safety on the railway.
2. The failure of a rail, including a rack rail, on a running line whether by a complete fracture through its cross section, or by the buckling or detachment of a piece of rail and which necessitates an immediate closure of that running line or speed reduction on that running line.
3. The failure of a structure on railway property, including a tunnel, bridge, viaduct, culvert, railway cutting, embankment, station, signal or fixed electrical equipment which under slightly different circumstances may have led to a serious accident or which otherwise reduces the level of railway safety.
4. A failure in the signalling system which reduces the level of railway safety.
5. Rolling stock passing a railway signal displaying a stop aspect, unless either the driver had been given authority to pass the signal or the signal did not display in sufficient time to enable the driver to stop safely at the signal.
6. A collision between a tramcar and a road vehicle on a part of a tramway laid along a carriageway.

SCHEDULE 4

Regulation 4(4)

Types of accidents and incidents occurring within the Channel Tunnel System that must be notified to the Rail Accident Investigation Branch immediately and by the quickest means available

1. An accident resulting in death or serious injury to a person.
2. A derailment of rolling stock which causes damage to or blocks a running line.
3. A collision that occurs on any line other than a siding, between rolling stock and—
 - (a) other rolling stock;
 - (b) an object capable of causing damage to or derailment of the rolling stock; or
 - (c) a buffer stop.
4. An accident that causes extensive damage to rolling stock, the infrastructure or environment.
5. A collision on a level crossing involving a vehicle or pedestrian and rolling stock, whether or not a person suffers death or injury.

6. An accident involving the release or combustion of dangerous goods that necessitates the evacuation of a tunnel or part of the terminal.
7. Fire necessitating evacuation of passengers from one part of a train to another part of the same train or intervention of the fire brigade.
8. An accident or incident leading to the evacuation of passengers from a train.
9. Unauthorised passing of a closed marker or signal.
10. Runaway train on a line.
11. An accident or incident which, under slightly different conditions might have led to serious injuries or extensive damage to rolling stock, the infrastructure or the environment.

SCHEDULE 5

Regulation 4(5)

Types of accidents and incidents occurring within the Channel Tunnel System that must be notified to the Rail Accident Investigation Branch as soon as practicable and in any event within three working days of occurrence

1. A fire, arcing or fusing which adversely affects the functioning of signalling, catenary or rolling stock control equipment.
2. A fire that results in the suspension of railway services or closure of a part of railway property affecting the track, for a period of more than 1 hour.
3. Any unintended division of a train, or breakage of coupling.
4. The failure of rolling stock on the track caused by—
 - (a) the failure or seizing of an axle;
 - (b) the failure of a wheel or tyre, including a tyre loose on its wheel;
 - (c) the failure of brakes on a train; or
 - (d) a fire or severe electrical arcing or fusing on rolling stock, whether or not extinguished by a fire-fighting service.
5. A broken rail, major failure of track equipment (weld, fastenings, etc.) or track deformation.
6. Any significant safety related breakdown or any serious destruction or collapse of equipment, installations or structures.
7. Any failure in the signalling system, or any other safety system, which endangers or potentially endangers the safe operation of the railway.
8. Submersion of track that necessitates its closure.
9. Unscheduled stopping of a train in a tunnel for more than 30 minutes.
10. Damage to track caused by rolling stock or a dragging object.
11. Spillage of fuel from a road vehicle being carried on a shuttle train.
12. A breach of the requirements for the transport of dangerous goods contained or referred to in the Carriage of Dangerous Goods and Use of Transportable Pressure Equipment Regulations [^{F28}2007].

Status: Point in time view as at 31/12/2020.

Changes to legislation: There are currently no known outstanding effects for the The Railways (Accident Investigation and Reporting) Regulations 2005. (See end of Document for details)

Textual Amendments

F28 Word in Sch. 5 para. 12 substituted (1.7.2007) by [The Carriage of Dangerous Goods and Use of Transportable Pressure Equipment Regulations 2007 \(S.I. 2007/1573\)](#), reg. 1, **Sch. 8**

13. Any incident during which installations, equipment or rolling stock come into unintended contact with live overhead power lines with a voltage in excess of 200 volts.

SCHEDULE 6

Regulation 11(2)

Principal content of an accident and incident investigation report

Summary

1. The summary shall contain a short description of the occurrence, when and where it took place and its consequences. It shall state the direct causes as well as contributing factors and underlying causes established by the investigation. The main recommendations shall be quoted and information shall be given on the addressees.

Immediate facts of the occurrence

2.—(1) The occurrence—

date, exact time and location of the occurrence;

description of the events and the accident site including the efforts of the rescue and emergency services;

the decision to establish an investigation, the composition of the team of investigators and the conduct of the investigation.

(2) The background to the occurrence—

staff and contractors involved and other parties and witnesses;

the trains and their composition including the registration numbers of the items of rolling stock involved;

the description of the infrastructure and signalling system - track types, switches, interlocking, signals, train protection;

means of communication;

works carried out at or in the vicinity of the site;

trigger of the railway emergency plan and its chain of events;

trigger of the emergency plan of the public rescue services, the police and the medical services and its chain of events.

(3) Fatalities, injuries and material damage—

passengers and third parties, staff, including contractors;

cargo, luggage and other property;

rolling stock, infrastructure and the environment.

(4) External circumstances—

weather conditions and geographical references.

Record of investigations and inquiries

- 3.—(1) Summary of testimonies (subject to the protection of identity of the persons)—
railway staff, including contractors;
other witnesses.
- (2) The safety management system—
the framework organisation and how orders are given and carried out;
requirements on staff and how they are enforced;
routines for internal checks and audits and their results;
interface between different actors involved with the infrastructure.
- (3) Rules and regulations—
relevant [^{F29}international] and national rules and regulations;
other rules such as operating rules, local instructions, staff requirements, maintenance prescriptions and applicable standards.
- (4) Functioning of rolling stock and technical installations—
signalling and control command system, including registration from automatic data recorders;
infrastructure;
communications equipment;
rolling stock, including registration from automatic data recorders.
- (5) Documentation on the operating system—
measures taken by staff for traffic control and signalling;
exchange of verbal messages in connection with the occurrence, including documentation from recordings;
measures taken to protect and safeguard the site of the occurrence.
- (6) Man-machine-organisation interface—
working time applied to the staff involved;
medical and personal circumstances with influence on the occurrence, including existence of physical or psychological stress;
design of equipment with impact on man-machine interface.
- (7) Previous occurrences of a similar character.

Textual Amendments

- F29** Word in Sch. 6 para. 3(3) substituted (31.12.2020) by [The Merchant Shipping \(Accident Reporting and Investigation\) and the Railways \(Accident Investigation and Reporting\) \(Amendment\) \(EU Exit\) Regulations 2018 \(S.I. 2018/1400\)](#), regs. 1, 25; 2020 c. 1, Sch. 5 para. 1(1)

Analysis and conclusions

- 4.—(1) Final account of the event chain—
establishing the conclusions on the occurrence, based on the facts established in paragraph 3.
- (2) Discussion—
analysis of the facts established in paragraph 3 with the aim of drawing conclusions as to the causes of the occurrence and the performance of the rescue services.

Status: Point in time view as at 31/12/2020.

Changes to legislation: There are currently no known outstanding effects for the The Railways (Accident Investigation and Reporting) Regulations 2005. (See end of Document for details)

(3) Conclusions—

direct and immediate causes of the occurrence including contributory factors relating to actions taken by persons involved or the condition of rolling stock or technical installations;
underlying causes relating to skills, procedures and maintenance;
root causes relating to the regulatory framework conditions and application of the safety management system.

(4) Additional observations—

deficiencies and shortcomings established during the investigation, but without relevance to the conclusions on causes.

(5) Measures that have been taken—

Record of measures already taken or adopted as a consequence of the occurrence.

(6) Recommendations.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations implement articles 19 to 25 and Annex V of Directive [2004/49/EC](#) of the European Parliament and the Council of 29th April 2004 on the safety of the Community's railways and amending Council Directive [2001/14/EC](#) on the allocation of railway infrastructure capacity and the levying of charges for the use of railway infrastructure and safety certification, in so far as those articles have not already been implemented by Part 1 of the Railways and Transport Safety Act 2003 (c. 20) (“the 2003 Act”), which establishes the Rail Accident Investigation Branch, (“the Branch”), being a permanent body given power to investigate railway accidents and incidents.

The Regulations set out the procedures for dealing with specified accidents and incidents, including notification requirements, dealing with evidence and publishing reports and recommendations. The regulations —

- (a) contain a list of definitions the purposes of the Regulations (*regulation 2*);
- (b) provide for an accident or incident occurring on a railway of a type described in regulation 3 not to be treated as an accident or incident for the purposes of Part 1 of the 2003 Act (*regulation 3*);
- (c) require railway industry bodies (as defined in regulation 2(1)) to notify to the Branch the accidents and incidents listed in schedules 1 to 5 within the prescribed time limits, to provide the Branch with such information about the accident or incident listed in regulation 4(7) as the railway industry body is reasonably able to provide at the time of the notification and to provide further information subsequently (*regulation 4*);
- (d) require the Branch to conduct its investigations in a manner that will not undermine its independence from the persons listed in the regulations, describe the manner in which the Branch will determine whether to investigate an accident or incident, when it is to involve other member States in its investigations and empower it to determine the extent and procedure to be followed in carrying out an investigation (*regulation 5*);
- (e) provide for the appointment of persons to conduct or participate in an investigation by the Branch, and for persons to provide assistance to the Branch (*regulation 6*);

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- (f) prohibit access to the site of an accident or incident, or the removal of anything from the site of an accident or incident, except for the limited purposes described and provided the Branch is notified of such action (*regulation 7*);
- (g) require evidence relating to an accident or incident to be preserved and confer a right for the inspector carrying out an investigation to require an immediate listing of evidence (*regulation 8*);
- (h) restrict the movement or use of evidence relating to an accident or incident, provide for the testing or analysis by the Branch of certain evidence to be carried out with the knowledge and in the presence of others, and provide for the disposal of evidence no longer required by the Branch or another investigator (*regulation 9*);
- (i) permit or require the disclosure of certain evidence or information and prohibit the disclosure of certain evidence unless disclosure is ordered by a court (*regulation 10*);
- (j) provide for the making and publication of a report into an accident or incident and for certain reports to include the information described in Schedule 6 (*regulation 11*);
- (k) require a person to whom recommendations made by the Branch are addressed to ensure that these are considered and, where appropriate, acted on (*regulation 12*);
- (l) require the Branch to consider representations by persons affected by the accident or incident (*regulation 13*);
- (m) provide for the publication of an annual report on the activities of the Branch (*regulation 14*);
- (n) permit the Branch to conduct studies into, monitor and analyse any matter it considers may be relevant to the effective investigation of accidents and incidents, publish information and advice that is relevant to its general aims and require the Branch to actively exchange information with the investigation bodies established in other member States (*regulation 15*); and
- (o) create offences and penalties (*regulation 16, as read with regulations 4(12), 6(7), 7(6), 8(7), 9(13) to (16), 10(9), 12(5) and 13(6)*).
- (p) disapply certain provisions in Scotland (*regulation 17*).

A full regulatory impact assessment of the effect that this instrument will have on the costs of business is available from the Rail Accident Investigation Branch, The Wharf, Stores Road, Derby, DE21 4BA.

Status:

Point in time view as at 31/12/2020.

Changes to legislation:

There are currently no known outstanding effects for the The Railways (Accident Investigation and Reporting) Regulations 2005.