
STATUTORY INSTRUMENTS

2005 No. 1992

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

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.

(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.