
EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations implement Council Directive [95/18/EC](#) dated 19th June 1995 on the licensing of railway undertakings, as amended by two further Directives (“the amended 1995 Directive”). These are Directive [2001/13/EC](#) dated 26th February 2001, and Directive [2004/49/EC](#) dated 29th April 2004, both being of the European Parliament and the Council. The Regulations do not apply to Northern Ireland.

The provision of train services without having a European licence is made a criminal offence (regulation 5). The Office of Rail Regulation (“ORR”) is appointed as the body to issue European licences (regulation 6). Applicants for such licences must satisfy requirements as to good repute, professional competence, financial fitness and insurance cover for civil liabilities (regulation 6 and Schedule 2). Such licences are valid as long as the licence holder complies with the requirements referred to in Schedule 2 and the requirements to submit the licence for review or approval (regulation 7). The licence is subject to monitoring and review by the ORR, who may suspend or revoke such licences in certain circumstances (regulation 8).

The licensing regime established by the Railways Act 1993 is amended to take account of the new licensing regime established by these Regulations (regulations 9 to 14). In addition to requiring a European licence, railway undertakings providing services in Great Britain will require a Statement of National Regulatory Provisions (a “SNRP”) (regulation 9). One or more conditions will be included in a SNRP by the ORR, but these conditions must be compatible with Community law and must not be discriminatory (regulation 11). SNRPs may be modified by consent (regulation 13).

Provision is made for the offence of making a false statement (regulation 15), and for offences by bodies corporate and Scottish partnerships (regulation 16).

Certain provisions of the Railways Act 1993 (“the 1993 Act”) and of other legislation are amended so as to include references to European licences (Schedule 1). These include provisions relating to railway administration orders, the duty to furnish information, and byelaw making powers. Some statutory provisions are to have effect in relation to SNRPs, subject to some modifications (regulation 15 and Schedule 3). These include provisions relating to modification references to the Competition Commission and orders for securing compliance. Some statutory provisions relating to the investigation by the Rail Passengers' Council or the London Transport Users' Committee of possible contraventions of conditions are to have effect in relation to holders of European licences and possible contraventions of SNRPs held by them (regulations 17 and 19). Transitional provisions are made in relation to existing licences and licence exemptions (regulation 20 and Schedule 4).

Copies of templates published by the ORR and referred to in these Regulations may be obtained from the ORR at 1 Waterhouse Square, 138-142 Holborn, London EC1N 2TQ. They may also be accessed online at www.rail-reg.gov.uk.

A Regulatory Impact Assessment has been prepared and copies can be obtained from the Department for Transport, Great Minster House, 76 Marsham Street, London SW1P 4DR. A copy has been placed in the Library of each House of Parliament.

A copy of the Transposition Note is also available from the Department for Transport.

Copies of the Regulatory Impact Assessment and of the Transposition Note may also be accessed on the HMSO website www.opsi.gov.uk.

Changes to legislation:

There are currently no known outstanding effects for the The Railway (Licensing of Railway Undertakings) Regulations 2005.