
STATUTORY INSTRUMENTS

2005 No. 3050

The Railway (Licensing of Railway Undertakings) Regulations 2005

PART 3

STATEMENTS OF NATIONAL REGULATORY PROVISIONS

Prohibition on operating trains without a statement of national regulatory provisions

9.—(1) Where a person is a railway undertaking to which these Regulations apply, that person may not provide train services in Great Britain unless (in addition to being authorised by a European licence) he holds a valid statement of national regulatory provisions (“SNRP”).

(2) Any person who provides such services without holding such a statement shall be guilty of an offence.

(3) Any person who is guilty of an offence under this regulation shall be liable—

- (a) on summary conviction, to a fine not exceeding the statutory maximum, or
- (b) on conviction on indictment, to a fine.

(4) No proceedings shall be instituted in England or Wales in respect of an offence under this regulation except by or on behalf of the ORR.

(5) In this regulation and in regulations 10 and 11, the expression “European licence” includes a licence granted pursuant to any action taken by an EEA State for the purpose of implementing the 1995 Directive.

Statements of national regulatory provisions (“SNRPs”)

10.—(1) Upon application being made, the ORR shall issue a SNRP to a holder of a valid European licence who desires to provide train services in Great Britain.

(2) Any application for a SNRP—

- (a) shall be made to the ORR and in such form and manner as the ORR may from time to time determine and publish, and
- (b) shall be accompanied by a copy of the European licence, if already held.

(3) A SNRP shall continue in force for such period as may be specified in or determined by or under the SNRP.

Conditions of SNRPs

11.—(1) Subject to paragraph (4), a SNRP shall include one or more conditions (whether or not relating to the activities for which the applicant for the SNRP requires a European licence) as appear to the ORR to be requisite or expedient having regard to the duties imposed on it by section 4 of the 1993 Act; and in this context, the references in that section to the functions assigned or transferred

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to the ORR under or by virtue of Part 1 of the 1993 Act shall have effect as if they were references to the functions conferred on the ORR under or by virtue of this Part of these Regulations.

(2) Subject to paragraph (4), a SNRP may include conditions requiring the rendering to the ORR of a payment on the grant of the SNRP or payments during the currency of the SNRP, or both, of such amount or amounts as may be determined by or under the SNRP.

(3) Without prejudice to the generality of paragraph (1), conditions included in a SNRP by virtue of paragraph (1) may impose any of the following requirements—

- (a) specific technical and operational requirements for rail services;
 - (b) safety requirements applying to staff, rolling stock and the internal organisation of the undertaking;
 - (c) provisions on health, safety, social conditions and the rights of workers and consumers;
 - (d) requirements applying to all undertakings in the relevant railway sector designed to offer benefits or protection to consumers.
- (4) A condition may not—
- (a) impose any requirement which is incompatible with Community law, or
 - (b) be applied in a discriminatory manner.

(5) Any sums received by the ORR in consequence of the provisions of any condition of a SNRP shall be paid into the Consolidated Fund.

Referral for Commission's opinion

12.—(1) A railway undertaking may at any time refer to the European Commission the question of whether a condition included in a SNRP—

- (a) is compatible with Community law, or
- (b) has been applied in a non-discriminatory manner.

(2) Where a railway undertaking refers a question referred to in paragraph (1) to the European Commission, and the European Commission delivers an opinion that a requirement imposed through a condition in a SNRP is incompatible with Community law or has been applied in a discriminatory manner, the ORR shall review the condition.

Modification of SNRPs by consent

13.—(1) Subject to regulation 11 and to the following provisions of this regulation, the ORR may modify the conditions of a SNRP if the SNRP holder consents to the modifications.

- (2) Before making modifications under this regulation, the ORR shall give notice—
- (a) stating that it proposes to make the modifications and setting out their effect,
 - (b) stating the reasons why it proposes to make the modifications, and
 - (c) specifying the period (not being less than 28 days from the date of publication of the notice) within which representations or objections with respect to the proposed modifications may be made,

and shall, before making the modifications, consider any representations or objections which are duly made and not withdrawn.

- (3) A notice under paragraph (2) shall be given—
- (a) by publishing the notice in such manner as the ORR considers appropriate for the purpose of bringing the notice to the attention of persons likely to be affected by the making of the modifications; and

(b) by serving a copy of the notice on the SNRP holder.

Application and modification of statutory provisions in relation to SNRPs and SNRP holders

14. Schedule 3 (application and modification of statutory provisions in relation to SNRPs and SNRP holders) shall have effect for the purpose of applying certain enactments to SNRPs and SNRP holders.

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