
STATUTORY INSTRUMENTS

2019 No. 700

**The Railway (Licensing of Railway Undertakings)
(Amendment etc.) (EU Exit) Regulations 2019**

PART 6

Transitory provisions recognising licences granted by authorities in the EEA

Modifications to the 2005 Regulations

34. For the period of 2 years beginning with exit day, the 2005 Regulations (as amended by these Regulations) have effect with the modifications in [^{F1}regulations 35 to 40].

[^{F2}**35.** Regulation 2(1) (interpretation) has effect as if the following definitions were inserted at the appropriate places—

““the 1995 Directive” means Council [Directive 95/18/EC](#) of 19th June 1995 on the licensing of railway undertakings, as amended by [Directive 2001/13/EC](#) of 26th February 2001 and [Directive 2004/49/EC](#) of 29th April 2004, both of the European Parliament and of the Council;”;

““the 2012 Directive” means [Directive 2012/34/EU](#) of the European Parliament and of the Council of 21st November 2012 establishing a single European railway area (recast);”;

““Channel Tunnel service” means—

- (a) a service for the transport of passengers by rail between Calais-Fréthun station in France and Ashford International station in the United Kingdom;
- (b) a service for the transport of goods by rail between Fréthun freight yard in France and Dollands Moor freight yard in the United Kingdom; or
- (c) a service for the transport of passengers or goods by rail which originates or terminates somewhere other than one of those stations or freight yards but only while it passes between them;”;

““European licence” means a licence that is—

- (a) valid throughout the territory of any EEA state;
- (b) granted to a railway undertaking by which the capacity of the railway undertaking as such is recognised and which authorises the undertaking to provide in and between EEA states such train services as may be specified in the licence; and
- (c) granted pursuant to action taken by an EEA state for the purpose of implementing the 1995 Directive or the 2012 Directive;”;

““French licensing authority” means the body responsible for granting European licences in France;”.]

36. Regulation 5 (prohibition of unlicensed provision of services) has effect as if for paragraph (1) there were substituted—

“(1) Where a person is a railway undertaking to which these Regulations apply, that person may not provide a train service in Great Britain unless the person is authorised to do so—

- (a) by a railway undertaking licence which is appropriate for that train service, or
- (b) by a European licence which would be appropriate for that train service if the United Kingdom were an EEA state,

and any person who provides such a service without such a licence is guilty of an offence.”.

[^{F3}**36A.** The 2005 Regulations have effect as if the following regulation were inserted after regulation 8—

“Information sharing by the ORR

8A.—(1) Where the ORR considers that there is serious doubt whether a railway undertaking which holds a European licence and is operating a Channel Tunnel service in reliance on that licence complies with any requirement of the 1995 Directive or Chapter III of the 2012 Directive, it must so notify the French licensing authority.

(2) The ORR must without delay provide information to the French licensing authority in relation to any relevant railway undertaking licence and the railway undertaking to which that licence has been granted—

- (a) on request by the French licensing authority on notifying the ORR of any concerns or doubts in relation to the validity of that licence;
- (b) if the ORR takes steps in accordance with regulation 8(2)(b) to determine whether or not the railway undertaking to which that licence has been granted complies with a requirement referred to in Schedule 2;
- (c) if the ORR requires that railway undertaking to submit or resubmit its licence for approval in accordance with regulation 8; or
- (d) the ORR suspends or revokes that licence.

(3) In this regulation “a relevant railway undertaking licence” means a railway undertaking licence in reliance upon which a railway undertaking provides a Channel Tunnel service in France.”.]

[^{F4}**37.** Regulation 9 (prohibition on operating trains without a statement of national regulatory provisions) has effect as if—

- (a) in paragraph (1), at the beginning—
 - (i) for “Where” there were substituted “Subject to paragraph (6), where”;
 - (ii) after “railway undertaking licence” there were inserted “or a European licence (see regulation 5)”;
- (b) after paragraph (5) there were inserted—

“(6) This regulation and regulations 10 to 14A and Schedule 3 do not apply in respect of the provision of a Channel Tunnel service if the person providing that service does so in reliance on a European licence and is not authorised to do so by a railway undertaking licence.”.]

38.—(1) Regulation 10 (statements of national regulatory provisions) has effect with the modifications in paragraphs (2) and (3).

(2) Paragraph (1) has effect as if after “railway undertaking licence” there were inserted “or European licence”.

(3) Paragraph (2)(b) has effect as if after “the railway undertaking licence” there were inserted “or the European licence”.

39. Regulation 11(1) (conditions of SNRPs) has effect as if after “railway undertaking licence” there were inserted “or a European licence (see regulation 5)”.

40. The 2005 Regulations have effect as if the following regulation were inserted after regulation 14—

“Monitoring, suspension and revocation of SNRPs issued to holders of European licences

14A.—(1) This regulation applies where the ORR has issued an SNRP to a holder of a European licence under regulation 10.

(2) The ORR must take such steps as are necessary to enable it to determine whether or not the licence holder complies with the requirements referred to in Schedule 2 as to good repute, financial fitness, professional competence and insurance cover for civil liabilities at any time the ORR considers that there is serious doubt whether the licence holder complies with any of those requirements, and in doing so, the ORR must treat Schedule 2 as if it applies in relation to holders of European licences.

(3) If, having taken the steps referred to in paragraph (2), the ORR is satisfied that the licence holder does not comply with any such requirement, the ORR must revoke or suspend the SNRP issued to the licence holder.”.

- F1** Words in reg. 34 substituted (30.9.2021) by [The Railway \(Licensing of Railway Undertakings\) \(Amendment\) Regulations 2021 \(S.I. 2021/1105\)](#), regs. 1(2), **15**
- F2** Reg. 35 substituted (30.9.2021) by [The Railway \(Licensing of Railway Undertakings\) \(Amendment\) Regulations 2021 \(S.I. 2021/1105\)](#), regs. 1(2), **16**
- F3** Reg. 36A inserted (30.9.2021) by [The Railway \(Licensing of Railway Undertakings\) \(Amendment\) Regulations 2021 \(S.I. 2021/1105\)](#), regs. 1(2), **17**
- F4** Reg. 37 substituted (30.9.2021) by [The Railway \(Licensing of Railway Undertakings\) \(Amendment\) Regulations 2021 \(S.I. 2021/1105\)](#), regs. 1(2), **18**

Commencement Information

- I1** [Reg. 34](#) in force at 31.12.2020 on IP completion day (in accordance with 2020 c. 1, Sch. 5 para. 1(1)), see [reg. 1\(2\)](#)
- I2** [Reg. 36](#) in force at 31.12.2020 on IP completion day (in accordance with 2020 c. 1, Sch. 5 para. 1(1)), see [reg. 1\(2\)](#)
- I3** [Reg. 38](#) in force at 31.12.2020 on IP completion day (in accordance with 2020 c. 1, Sch. 5 para. 1(1)), see [reg. 1\(2\)](#)
- I4** [Reg. 39](#) in force at 31.12.2020 on IP completion day (in accordance with 2020 c. 1, Sch. 5 para. 1(1)), see [reg. 1\(2\)](#)
- I5** [Reg. 40](#) in force at 31.12.2020 on IP completion day (in accordance with 2020 c. 1, Sch. 5 para. 1(1)), see [reg. 1\(2\)](#)

Modifications to other legislation

41.—(1) For the period of 2 years beginning with exit day, any reference in, or application of, the provisions listed in paragraph (2) to a railway undertaking licence granted pursuant to the 2005 Regulations includes a reference to, or applies to, a relevant European licence, as the case may be.

(2) The provisions are—

- (a) section 4 of the Railway Fires Act 1905;

- (b) Schedule 2A to the Insolvency Act 1986;
 - (c) sections 6(1A), 72 and 80 of the Railways Act 1993;
 - (d) section 235(2) of the Greater London Authority Act 1999;
 - (e) Schedule 1 to the Civil Contingencies Act 2004;
 - (f) section 46 of the Railways Act 2005;
 - (g) Schedule 11 to the London Underground (East London Line Extension) (No. 2) Order 2001;
 - (h) Schedule 11 to the Docklands Light Railway (Silvertown and London City Airport Extension) Order 2002;
 - (i) Schedule 13 to the Docklands Light Railway (Woolwich Arsenal Extension) Order 2004;
 - (j) article 2 of the British Transport Police (Police Services Agreement) Order 2004;
 - (k) regulation 6 of the Central Rating List (England) Regulations 2005.
- (3) Any act or omission—
- (a) in relation to, or in reliance on, a relevant European licence, and
 - (b) that, for the purposes of the provisions listed in paragraph (2), has effect immediately before exit day,
continues to have effect on and after exit day.
- (4) For the purposes of this regulation—
- “European licence” has the same meaning as in regulation 2(1) of the 2005 Regulations (as modified by regulation 35 of these Regulations);
- [^{F5}“relevant European licence” means any European licence provided that where the holder is required to have a valid SNRP in accordance with regulation 9 of the 2005 Regulations, (as modified by regulation 37 of these Regulations) a European licence is only a relevant European licence if the holder has a valid SNRP that has not been suspended or revoked;]
- “SNRP” has the same meaning as in the 2005 Regulations.

F5 Words in reg. 41(4) substituted (30.9.2021) by [The Railway \(Licensing of Railway Undertakings\) \(Amendment\) Regulations 2021 \(S.I. 2021/1105\)](#), regs. 1(2), **19**

Commencement Information

I6 [Reg. 41](#) in force at 31.12.2020 on IP completion day (in accordance with 2020 c. 1, Sch. 5 para. 1(1)), see [reg. 1\(2\)](#)

Changes to legislation:

There are currently no known outstanding effects for the The Railway (Licensing of Railway Undertakings) (Amendment etc.) (EU Exit) Regulations 2019, PART 6.