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STATUTORY INSTRUMENTS

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**2021 No. 1105**

**The Railway (Licensing of Railway Undertakings) (Amendment) Regulations 2021**

**PART 2**

**Amendments to the Railway (Licensing of Railway Undertakings) Regulations 2005**

3. The 2005 Regulations are amended in accordance with this Part.
4. In regulation 2(1) (interpretation) after the definition of “the 1993 Act” insert—
- ““the 1995 Directive” means Council [Directive 95/18/EC](#) of 19th June 1995 on the licensing of railway undertakings<sup>(1)</sup>, as amended by [Directive 2001/13/EC](#) of 26th February 2001<sup>(2)</sup> and [Directive 2004/49/EC](#) of 29th April 2004<sup>(3)</sup>, 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)<sup>(4)</sup>;
- “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 granted pursuant to any action taken by an EEA state for the purpose of implementing the 1995 Directive or Chapter III of the 2012 Directive;
- “French licensing authority” means the body responsible for granting European licences in France;”.
5. In regulation 5 (prohibition of unlicensed provision of services)—
- (a) in paragraph (1), at the beginning insert “Subject to paragraph (1A),”;
  - (b) after paragraph (1) insert—

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(1) O.J. No. L 143, 27.6.1995, p. 70. Added to Annex XIII of the EEA Agreement by Article 1 of the Decision of the EEA Joint Committee No. 71/95 of 15th December 1995 (O.J. L 57, 7.3.96, p.37).

(2) O.J. No. L 75, 15.3.2001, p. 26. Added to Annex XIII of the EEA Agreement by Article 2 of the Decision of the EEA Joint Committee No. 118/2001 of 28th September 2001 (O.J. L 322, 6.12.2001, p.32).

(3) O.J. No. L 164, 30.4.2004, p. 44, to which there has been a corrigendum which is not relevant to these Regulations. Added to Annex XIII of the EEA Agreement by Article 1 of the Decision of the EEA Joint Committee No. 151/2004 of 29th October 2004 (O.J. L 102, 21.4.2005, p.27).

(4) O.J. No. L 343, 14.12.12, p. 32, as corrected by Corrigendum, O.J. L 67, 12.3.15, p. 32.

“(1A) A person that is a railway undertaking to which these Regulations apply may provide a Channel Tunnel service if the person holds a European licence that would be appropriate for that service if the United Kingdom were an EEA state.”.

6. After regulation 8 (monitoring, suspension and revocation of railway undertaking licences) insert—

**“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 it 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) if 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.”.

7.—(1) Regulation 9 (prohibition on operating trains without a statement of national regulatory provisions) is amended as follows.

(2) In paragraph (1) at the beginning for “Where” substitute “Subject to paragraph (4A), where”.

(3) After paragraph (4) insert—

“(4A) Paragraphs (1) to (4) do not apply where that person—

- (a) holds a European licence but not a railway undertaking licence; and
- (b) provides a Channel Tunnel service.”.