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STATUTORY INSTRUMENTS

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**2006 No. 266 (C. 7)**

**TRANSPORT**

**RAILWAYS**

**The Railways Act 2005 (Commencement No.5) Order 2006**

*Made* - - - - *6th February 2006*

The Secretary of State for Transport makes this Order in exercise of the powers conferred upon him by section 60(2) of the Railways Act 2005(1):

**Citation and interpretation**

- 1.—(1) This Order may be cited as the Railways Act 2005 (Commencement No.5) Order 2006.  
(2) In this Order, “the Act” means the Railways Act 2005.

**Commencement**

- 2.—(1) The following provisions of the Act shall come into force on 7th February 2006—  
(a) section 2, to the extent that it relates to the provisions of Schedule 3 brought into force by paragraph (b); and  
(b) paragraphs 1 and 12 of Schedule 3.  
(2) The provisions of the Act specified in the Schedule shall come into force on 1st April 2006.

Signed by authority of the Secretary of State for Transport

6th February 2006

*Derek Twigg*  
Parliamentary Under Secretary of State

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## SCHEDULE

Article 2

### PROVISIONS COMING INTO FORCE ON 1ST APRIL 2006

Section 2, in so far as it relates to the provisions of Schedule 3 brought into force by this Schedule.

Section 3(1), in so far as it relates to the other provisions of section 3 brought into force by this Schedule.

Section 3(2) and (8)(a), to the extent that each has not already come into force .

Section 3(4).

Section 3(9), to the extent that it inserts subsection (5B) into section 4 of the Railways Act 1993.

Section 3(10), to the extent that it has not already come into force.

Section 3(11)(b), to the extent that it has not already come into force.

Section 51(1)(b) and (5).

Section 59(1), in so far as it relates to the provisions of Schedule 12 brought into force by this Schedule.

Section 59(6), in so far as it relates to the provisions of Schedule 13, Part 1 brought into force by this Schedule.

Schedule 3, to the extent that it has not already come into force.

Schedule 12, paragraphs 4, 6 and 12.

The following entries in Part 1 of Schedule 13:

The entry relating to section 78(7)(c) of the Health and Safety at Work etc. Act 1974<sup>(2)</sup>.

The entry relating to section 4 of the Railways Act 1993<sup>(3)</sup>, in so far as it repeals part of subsection (3)(a) of that section.

The entries in relation to sections 8, 15B and 16(3) of the Railways Act 1993 to the extent that each has not already come into force.

The entry relating to Schedule 4A to the Railways Act 1993, in so far as it repeals the words “and the Health and Safety Executive” in paragraph 7(4)(b) of that Schedule.

The entry relating to section 62(1)(m) and (n) of the Railways and Transport Safety Act 2003<sup>(4)</sup>.

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(2) 1974 c. 37.

(3) 1993 c. 43. Sections 4, 8(7), 15B and 16(3) were amended by the Railways and Transport Safety Act 2003 (c. 20), section 16(5) and paragraphs 1 and 3 of Schedule 2 and by the Transport Act 2000 (c. 38), sections 221 and 216 and Schedule 17; section 15B was inserted by the Transport Act 2000, section 242; section 16(3) was amended by the Enterprise Act 2002 (c. 40) section 86(5) and 164(2) and Schedule 9 and by the Transport Act 2000, section 216 and Schedule 17; Schedule 4A was inserted by the Transport Act 2000, section 231(2) and Schedule 24.

(4) 2003 c. 20.

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## EXPLANATORY NOTE

*(This note is not part of the Order)*

This Order brings into force provisions of the Railways Act 2005 (“the Act”).

Provisions coming into force on 7th February 2006.

Article 2(1) of the Order brings paragraphs 1 and 12 of Schedule 3 to the Act into force on 7th February 2006. Paragraph 1 provides for the definition of “railway safety purposes” under the Act and gives the Secretary of State the power to amend that definition by regulations. Paragraph 12 amends section 43A of the Health and Safety at Work Act 1974 (c. 37) to give the Secretary of State power to make regulations enabling the Office of Rail Regulation (“the ORR”) to charge a levy for the purpose of meeting expenses incurred in carrying out railway safety functions and enforcement functions relating to railway safety.

Provisions coming into force on 1st April 2006.

Article 2(2) of the Order brings section 2 of the Act into force. This section introduces Schedule 3, which provides for the transfer of responsibilities regarding railway safety purposes to the Office of Rail Regulation from the Health and Safety Commission.

Article 2(2) commences several amendments to section 4 of the Railways Act 1993 (“the 1993 Act”). This excludes the exercise of safety functions from the provisions relating to the general duties of the ORR. This also removes the duty of the ORR, when exercising its general functions, to have regard to advice of the Health and Safety Executive (“HSE”) when taking into account the need to protect all persons from dangers arising from the operation of railways. The ORR is placed under a duty to have regard to guidance given by the Secretary of State when exercising railway safety functions other than enforcement functions, together with a power for the Secretary of State to revoke or vary such guidance, and a duty to publish any guidance.

Article 2(2) also commences various provisions contained in section 51 of the Act, which impose duties on the ORR to provide information, advice and assistance to the Secretary of State about a matter relevant to the railway safety purposes.

Amendments are commenced to section 18 of the Fire Precautions Act 1971 and section 78 of the Health and Safety at Work Act 1974 to allow a fire and rescue authority to enter into arrangements with the ORR so that the ORR carries out the authority’s functions under the Fire Precautions Act in relation to work premises for which the ORR is the appropriate enforcement body. Section 1 of the Level Crossings Act 1983 is amended so that the ORR may give notice to an operator of a railway crossing which imposes a duty on the operator to request the Secretary of State to make an order for the protection of users of that crossing. Section 37 of the Deregulation and Contracting Out Act 1994 is amended so that the Secretary of State must consult the ORR before revoking any provision of certain regulations relating to railway safety, and may require the ORR to conduct a consultation in relation to the proposed revocation.

Repeals of parts of sections 4, 8, 15B, 16(3) and Schedule 4A to the 1993 Act are commenced. These repeals remove respectively; the duty on the ORR to take into account advice given by HSE when considering the need to protect persons from dangers arising from the operation of railways, the duty on the Secretary of State and the ORR to send a copy of each licence to the HSE after it is granted, the duty on the Competition Commission to send to the HSE a copy or of any modifications made to a licence, the duty on the Office of Fair Trading, the Competition Commission and the Secretary of State to send HSE a copy of any modifications made to a licence that are consequential on the

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making of a relevant order, and the requirement for ORR to serve a review implementation notice on the HSE when conducting a review of access charges.

A repeal of part of section 62(1) of the Railways and Transport Safety Act 2003 removes the requirement for the British Transport Police Authority to obtain the opinion of the HSE and the Health and Safety Commission regarding policing of the railways.

#### **NOTE AS TO EARLIER COMMENCEMENT ORDERS**

*(This note is not part of the Order)*

The following provisions of the Railways Act 2005 have been brought into force by commencement orders made before the date of this Order.

<i>Provision</i>	<i>Date of Commencement</i>	<i>S.I .No</i>
Section 1(1) (partially)	8th June 2005 (partially)	<a href="#">2005/1444</a>
	26th June 2005 (partially)	
	24th July 2005 (partially)	<a href="#">2005/1909</a>
	16th October 2005 (partially)	<a href="#">2005/2812</a>
Section 1(2)	8th June 2005	<a href="#">2005/1444</a>
Section 1(3)	8th June 2005 (partially)	<a href="#">2005/1444</a>
	24th July 2005 (remainder)	<a href="#">2005/1909</a>
Section 1(4) to (9)	8th June 2005	<a href="#">2005/1444</a>
Section 3(1) (partially)	8th June 2005 (partially)	<a href="#">2005/1444</a>
	26th June 2005 (partially)	
Section 3(2) (partially)	8th June 2005	<a href="#">2005/1444</a>
Section 3(3) and (7)	26th June 2005	<a href="#">2005/1444</a>
Section 3(6) (partially)	16th October 2005	<a href="#">2005/2812</a>
Section 3(8)(a) (partially)	8th June 2005	<a href="#">2005/1444</a>
Section 3(8)(b)	16th October 2005	<a href="#">2005/2812</a>
Section 3(8)(c)	8th June 2005	<a href="#">2005/1444</a>
Section 3(8)(d)	24th July 2005	<a href="#">2005/1909</a>
Section 3(9) (partially)	8th June 2005	<a href="#">2005/1444</a>
Section 3(10) (partially)	16th October 2005	<a href="#">2005/2812</a>
Section 3(11)(a)	24th July 2005	<a href="#">2005/1909</a>
Section 3(11)(b)	26th June 2005	<a href="#">2005/1444</a>
Section 5	21st August 2005	<a href="#">2005/2252</a>
Section 6(1) to (3)	8th June 2005	<a href="#">2005/1444</a>
Section 6(4)	8th June 2005 (partially)	<a href="#">2005/1444</a>
	16th October 2005 (remainder)	<a href="#">2005/2812</a>

<i>Provision</i>	<i>Date of Commencement</i>	<i>S.I. No</i>
Section 6(5) to (8)	8th June 2005	2005/1444
Section 7	8th June 2005	2005/1444
Section 8	16th October 2005	2005/2812
Section 9	16th October 2005	2005/2812
Section 10, except subsection (6)	8th June 2005	2005/1444
Section 10(6)	24th July 2005 (partially)	2005/1909
	16th October 2005 (remainder)	2005/2812
Section 11	8th June 2005	2005/1444
Section 12(1) to (7)	24th July 2005	2005/1909
Section 12(8)	24th July 2005 (partially)	2005/1909
	16th October 2005 (remainder)	2005/2812
Section 13	24th July 2005	2005/1909
Section 14 (as regards England and Wales)	24th July 2005	2005/1909
Sections 15 and 16	24th July 2005	2005/1909
Section 18	24th July 2005	2005/1909
Sections 19 to 21	24th July 2005	2005/1909
Section 40(1) to (3)	24th July 2005	2005/1909
Section 40(4) except paragraph (b)	24th July 2005	2005/1909
Section 40(4)(b) and (5)	16th October 2005	2005/2812
Section 40(6) and (7)	24th July 2005	2005/1909
Section 46(1),(2),(7) and (8)	24th July 2005	2005/1909
Section 46(3)	24th July 2005 (partially)	2005/1909
	16th October 2005 (remainder)	2005/2812
Section 46(4), (5) and (6)	16th October 2005	2005/2812
Section 47	16th October 2005	2005/2812
Section 48	16th October 2005	2005/2812
Section 49	16th October 2005	2005/2812
Section 50	16th October 2005	2005/2812
Section 51(1)(a) and (c), (3) and (4)	8th June 2005	2005/1444
Section 51(2)	16th October 2005	2005/2812
Section 52	24th July 2005	2005/1909
Section 53	8th June 2005 (partially)	2005/1444

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<i>Provision</i>	<i>Date of Commencement</i>	<i>S.I. No</i>
	24th July 2005 (remainder)	2005/1909
Section 54(1) to (3)	8th June 2005	2005/1444
Section 54(4) (partially)	8th June 2005 (partially)	2005/1444
	24th July 2005 (partially)	2005/1909
	16th October 2005 (partially)	2005/2812
Section 55	8th June 2005	2005/1444
Section 56(2) (partially)	8th June 2005	2005/1444
Section 56(3), except paragraphs (b) and (c)	8th June 2005	2005/1444
Section 56(4)	8th June 2005	2005/1444
Section 56(5)	8th June 2005 (partially)	2005/1444
	16th October 2005 (remainder)	2005/2812
Section 56(6)	8th June 2005	2005/1444
Section 57	8th June 2005	2005/1444
Section 58	8th June 2005	2005/1444
Section 59(1) (partially)	8th June 2005 (partially)	2005/1444
	24th July 2005 (partially)	2005/1909
	16th October 2005 (partially)	2005/2812
	21st November 2005 (partially)	
Section 59(2) to (5)	8th June 2005	2005/1444
Section 59(6) (partially)	8th June 2005 (partially)	2005/1444
	26th June 2005 (partially)	
	24th July 2005 (partially)	2005/1909
	16th October 2005 (partially)	2005/2812
	21st November 2006 (partially)	
Section 59(7) (partially)	16th October 2005 (partially)	2005/2812
Schedule 1, paragraphs 1 to 10	24th July 2005	2005/1909
Schedule 1, paragraph 11	16th October 2005	2005/2812
Schedule 1, paragraph 13(1) and (3)	24th July 2005	2005/1909
Schedule 1, paragraph 13(2)	16th October 2005	2005/2812
Schedule 1, paragraph 13(4)(a)	24th July 2005 (partially)	2005/1909
	16th October 2005 (remainder)	2005/2812
Schedule 1, paragraph 13(4)(b)	24th July 2005 (partially)	2005/1909

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	16th October 2005 (remainder)	2005/2812
Schedule 1, paragraph 13(5)	24th July 2005 (partially)	2005/1909
	16th October 2005 (remainder)	2005/2812
Schedule 1, paragraph 14	16th October 2005	2005/2812
Schedule 1, paragraphs 15 to 19	24th July 2005 (partially)	2005/1909
	16th October 2005 (remainder)	2005/2812
Schedule 1, paragraph 20(1)	24th July 2005 (partially)	2005/1909
	16th October 2005 (remainder)	2005/2812
Schedule 1, paragraph 20(2) and (3)	24th July 2005	2005/1909
Schedule 1, paragraph 20(4)	24th July 2005 (partially)	2005/1909
	16th October 2005 (remainder)	2005/2812
Schedule 1, paragraph 20(5)	24th July 2005 (partially)	2005/1909
	16th October 2005 (remainder)	2005/2812
Schedule 1, paragraph 21(1) (partially)	24th July 2005 (partially)	2005/1909
	16th October 2005 (partially)	2005/2812
Schedule 1, paragraph 21(2)	24th July 2005	2005/1909
Schedule 1, paragraph 21(4) to (8) (partially)	24th July 2005 (partially)	2005/1909
	16th October 2005 (partially)	2005/2812
Schedule 1, paragraph 22 (partially)	24th July 2005 (partially)	2005/1909
	16th October 2005 (partially)	2005/2812
Schedule 1, paragraph 23(1) (partially)	24th July 2005 (partially)	2005/1909
	16th October 2005 (partially)	2005/2812
Schedule 1, paragraph 23(2) and (3) (partially)	24th July 2005 (partially)	2005/1909
	16th October 2005 (partially)	2005/2812
Schedule 1, paragraph 24(1) (partially)	24th July 2005 (partially)	2005/1909
	16th October 2005 (partially)	2005/2812
Schedule 1, paragraph 24(2)	24th July 2005 (partially)	2005/1909
	16th October 2005 (remainder)	2005/2812
Schedule 1, paragraphs 25 and 26 (partially)	24th July 2005 (partially)	2005/1909
	16th October 2005 (partially)	2005/2812
Schedule 1, paragraphs 27 and 28	24th July 2005	2005/1909
Schedule 1, paragraph 29	26th June 2005	2005/1444

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<i>Provision</i>	<i>Date of Commencement</i>	<i>S.I. No</i>
Schedule 1, paragraph 30(1) and (2)	24th July 2005	2005/1909
Schedule 1, paragraph 30(3) except sub-paragraph (b)	24th July 2005	2005/1909
Schedule 1, paragraph 30(3)(b)	16th October 2005	2005/2812
Schedule 1, paragraph 30(4) to (7)	24th July 2005	2005/1909
Schedule 1, paragraph 31	16th October 2005	2005/2812
Schedule 1, paragraph 32(1)	24th July 2005	2005/1909
Schedule 1, paragraph 32(3) to (5)	24th July 2005	2005/1909
Schedule 1, paragraph 33	24th July 2005	2005/1909
Schedule 1, paragraph 35 (partially)	24th July 2005	2005/1909
Schedule 1, paragraph 35 (remainder)	16th October 2005	2005/2812
Schedule 1, paragraph 36(a)	24th July 2005	2005/1909
Schedule 1, paragraph 36(c)	16th October 2005	2005/2812
Schedule 1, paragraph 37	8th June 2005	2005/1444
Schedule 2	8th June 2005 (partially)	2005/1444
	24th July 2005 (remainder)	2005/1909
Schedules 5 and 6	24th July 2005	2005/1909
Schedule 9 (partially)	24th July 2005	2005/1909
Schedule 9 (remainder)	16th October 2005	2005/2812
Schedule 10	8th June 2005 (partially)	2005/1444
	24th July 2005 (remainder)	2005/1909
Schedule 11, paragraph 1 (partially)	8th June 2005 (partially)	2005/1444
	24th July 2005 (partially)	2005/1909
	16th October 2005 (partially)	2005/2812
Schedule 11, paragraph 6 (partially)	24th July 2005 (partially)	2005/1909
	16th October 2005 (partially)	2005/2812
Schedule 11, paragraphs 7(2), 8, 9 and 12	24th July 2005	2005/1909
Schedule 11, paragraph 14(1) to (5)	8th June 2005	2005/1444
Schedule 11, paragraph 14(6) and (7) (as regards England and Wales)	24th July 2005	2005/1909



<i>Provision</i>	<i>Date of Commencement</i>	<i>S.I .No</i>
Schedule 11, paragraph 15	24th July 2005 (partially)	2005/1909
	16th October 2005 (remainder)	2005/2812
Schedule 11, paragraph 16(1)	8th June 2005	2005/1444
Schedule 11, paragraph 16(2)	24th July 2005	2005/1909
Schedule 12, paragraph 1(1) (partially)	24th July 2005	2005/1909
Schedule 12, paragraph 1(3)	24th July 2005	2005/1909
Schedule 12, paragraph 2(1) (partially)	24th July 2005	2005/1909
	16th October 2005 (remainder)	2005/2812
Schedule 12, paragraph 2(2)	24th July 2005	2005/1909
Schedule 12, paragraph 2(3) and (4)	24th July 2005 (partially)	2005/1909
	16th October 2005 (remainder)	2005/2812
Schedule 12, paragraphs 3 and 5.	24th July 2005	2005/1909
Schedule 12, paragraph 7	8th June 2005	2005/1444
Schedule 12, paragraph 8	24th July 2005 (partially)	2005/1909
	16th October 2005 (remainder)	2005/2812
Schedule 12, paragraphs 9, 10 and 11	8th June 2005	2005/1444
Schedule 12, paragraph 13	21st November 2006	2005/2812
Schedule 12, paragraph 14(1) (partially)	8th June 2005 (partially)	2005/1444
	24th July 2005 (partially)	2005/1909
Schedule 12, paragraph 14(3), (4) and (6) to (9)	24th July 2005	2005/1909
Schedule 12, paragraph 14(5) (b)	8th June 2005	2005/1444
Schedule 12, paragraphs 15 and 16	8th June 2005	2005/1444
Schedule 12, paragraph 17(1) (partially)	8th June 2005 (partially)	2005/1444
	24th July 2005 (partially)	2005/1909
Schedule 12, paragraph 17(2) and (3)	24th July 2005	2005/1909
Schedule 12, paragraph 17(7)	8th June 2005	2005/1444
Schedule 12, paragraph 17(8) and (9)	24th July 2005	2005/1909
Schedule 12, paragraph 18(1)	8th June 2005 (partially)	2005/1444
	24th July 2005 (partially)	2005/1909

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	16th October 2006 (remainder)	<a href="#">2005/2812</a>
Schedule 12, paragraph 18(2) (a) and (b)	24th July 2005	<a href="#">2005/1909</a>
Schedule 12, paragraph 18(2) (c) and (3)	24th July 2005 (partially)	<a href="#">2005/1909</a>
	16th October 2005 (remainder)	<a href="#">2005/2812</a>
Schedule 12, paragraph 18(4)	8th June 2005	<a href="#">2005/1444</a>
Schedule 13, Part 1 (partially)	8th June 2005 (partially)	<a href="#">2005/1444</a>
	26th June 2005 (partially)	
	24th July 2005 (partially)	<a href="#">2005/1909</a>
	16th October 2005 (partially)	<a href="#">2005/2812</a>
	21st November 2005	
Schedule 13, Part 2 (partially)	16th October 2005	<a href="#">2005/2812</a>