
STATUTORY RULES OF NORTHERN IRELAND

2005 No. 537

**The Railways Infrastructure (Access, Management
and Licensing of Railway Undertakings)
Regulations (Northern Ireland) 2005**

PART IX

MISCELLANEOUS

Statutory authority to run trains

39. Any international grouping or railway undertaking granted access or transit rights under these Regulations shall, if and to the extent that it would not, apart from this regulation, have statutory authority to run trains over any track in exercise of such rights, be taken to have statutory authority to do so.

International groupings

40. In the event of a contravention of, or a refusal or failure to comply with, a requirement or prohibition imposed by these Regulations on an international grouping—

- (a) where the contravention, or refusal or failure to comply would be an offence under these Regulations each railway undertaking comprised in the grouping shall be guilty of the offence and liable to be proceeded against and punished accordingly unless that undertaking proves that the contravention, refusal or failure occurred without the consent or connivance of that undertaking and that the undertaking exercised all due diligence to prevent that contravention, refusal or failure; and
- (b) where a civil remedy would be available to any person in respect of any loss, damage or injury caused by the contravention, or refusal or failure to comply, each railway undertaking comprised in the grouping shall be jointly and severally liable in respect of such loss, damage or injury.

Civil proceedings

41.—(1) The obligation to comply with—

- (a) regulation 7;
- (b) regulation 8;
- (c) paragraphs (4) and (9) of regulation 11;
- (d) paragraphs (3), (10) and (11)(c) of regulation 15;
- (e) paragraph (8) of regulation 27;

shall be a duty owed to any person who may be affected by a breach of that duty and shall be actionable by any such person who sustains loss, damage or injury caused by the breach at the suit or instance of that person.

(2) In any proceedings brought against the infrastructure manager, international grouping, railway undertaking or applicant under paragraph (1), it shall be defence for it to prove that it took all reasonable steps and exercised all due diligence to avoid the breach of duty.

(3) Without prejudice to the right, which any person may have by virtue of paragraph (1) to bring civil proceedings in respect of any breach of duty, the obligation to comply shall be enforceable by civil proceedings by the Department for an injunction or any other relief.

Making of false statements etc.

42.—(1) If any person, in giving any information or making any application under or for the purposes of any provision of these Regulations, makes any statement which he knows to be false in a material particular, he is guilty of an offence and shall be liable—

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

(2) No proceedings shall be instituted in Northern Ireland in respect of an offence under this regulation except by or with the consent of the Department or the Director of Public Prosecutions.

Offences by bodies corporate

43. For the purposes of these Regulations section 20(2) of the Interpretation Act (Northern Ireland) 1954⁽¹⁾ applies with the omission of the words “the liability of whose members is limited” and where the affairs of the body corporate are managed by its members, applies in relation to the acts or defaults of a member in connection with his functions of management as if he were a director of the body corporate.

Offences outside the United Kingdom

44.—(1) For the purpose of determining whether a breach of the duty imposed by regulation 8 has occurred, it is immaterial that the relevant acts or omissions occurred outside the United Kingdom if, when they occurred, the person—

- (a) was a United Kingdom national. or
- (b) was a body incorporated under the law of any part of the United Kingdom, or
- (c) was a person (other than a United Kingdom national or such a body) maintaining a place of business in the United Kingdom.

(2) In this regulation “United Kingdom national” means an individual who is—

- (a) a British citizen, a British Dependent Territories citizen, a British National (Overseas) or a British Overseas citizen;
- (b) a person who under the British Nationality Act 1981⁽²⁾ is a British subject; or
- (c) a British protected person (within the meaning of that Act).

Amendments and revocation

45. Schedule 5 (amendments and revocation) shall have effect.

(1) 1954 c. 33 (N.I.)

(2) 1981 c. 61

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.
