

*These notes refer to the Railways and Transport Safety Act 2003 (c.20) which received Royal Assent on 10 July 2003*

# **RAILWAYS AND TRANSPORT SAFETY ACT 2003**

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## **EXPLANATORY NOTES**

### **THE ACT**

#### **Part 6 – Miscellaneous**

##### ***Section 103: International Carriage by Rail***

150. This part extends throughout the United Kingdom

#### **Background**

151. The United Kingdom is a signatory to the Protocol of Vilnius 1999 (“the Protocol”) which modifies the Convention concerning International Carriage by Rail (“COTIF<sup>1</sup>”) 1980, by presenting a new Convention text<sup>2</sup>. The Protocol of Vilnius will need to be ratified by the UK, but before that can happen the UK must have the necessary legislation in place to be able to give effect to the new COTIF when it comes in to force. This Act makes the necessary provision to allow for this. Like the existing 1980 COTIF<sup>3</sup>, the new COTIF provides a uniform system of laws, which will apply to the carriage of passengers, luggage and freight in international through traffic by rail, in order to facilitate the development of that traffic. There are currently 41 signatories to the 1980 COTIF. Uniform systems of law have been in operation for many years: the first international convention concerning the carriage of goods was signed in 1893.
152. Under the 1980 COTIF there are several sets of rules, known as “Uniform Rules” which make provision on:
- contracts for the international carriage of passengers (known as the CIV Uniform Rules)
  - contracts for the international carriage of goods (freight) (known as the CIM Uniform Rules) with annexes dealing with, amongst other things, the carriage of dangerous goods (known as the RID Regulation)
153. COTIF 1980 is being modified primarily to reflect major changes in railway management and operations particularly following EC Directive [91/440/EEC](#) (29 July 1991) on the development of the Community’s railways.
154. In particular, the changes to the COTIF 1980 reflect the following developments in EC Member States:
- increasing separation of infrastructure management from train operators; and

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<sup>1</sup> An acronym for “Convention Relative aux Transports Internationaux Ferroviaires”.

<sup>2</sup> Miscellaneous No.21 (2000), Command Paper 4873,

<sup>3</sup> Consolidated text published in Treaty Series No.73 (1997), Command Paper 3812.

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- introduction of open access rights, opening up the possibility of more than one operator on any one network.
155. The CIV Uniform Rules also ensure that minimum levels of compensation exist for certain incidents throughout all signatory states. These levels have been increased in the new COTIF, which will be of benefit to international rail users generally.
156. The Protocol of Vilnius signed on 3 June 1999:
- provides brand new CIV Uniform Rules (Appendix A) and CIM Uniform Rules (Appendix B);
  - makes RID a free standing Appendix, (Appendix C)
- and recognising the importance of these issues for facilitating international traffic introduces new Uniform Rules for:
- Contracts of use of vehicles in international rail traffic (CUV) (Appendix D)
  - Contracts of use of infrastructure in international rail traffic (CUI) (Appendix E)
  - The validation of technical standards and prescriptions applicable to railway material intended to be used in international traffic (APTU) (Appendix F)
  - The technical admission of railway material used in international traffic (ATMF) (Appendix G)
157. Article 6§8 and §9 of the Protocol makes transitional provision for contracts entered into under COTIF 1980.
158. The Protocol and the new COTIF it presents was presented to Parliament as a Command Paper CM 4873 in October 2000.
159. The new COTIF will come into force three months after the Protocol is ratified by two-thirds of signatories to the Convention. This is unlikely to be before 2004.
160. Although the UK will ratify the Protocol by means of the Royal Prerogative, once the new COTIF comes in to force as a matter of international law it will not have the force of law in UK until the relevant provisions of this Act are brought into force and the corresponding domestic regulations are made. The International Transport Conventions Act 1983, which currently gives effect to the COTIF 1980 is not sufficiently flexible to deal with the new COTIF. The sections in this Act, combined with the domestic implementing regulations are designed to provide the necessary flexibility to give effect to the new COTIF. Redundant provisions of the 1983 Act will be repealed by the new regulations.
161. The new COTIF covers certain matters that are already covered by EC law. In particular, the new APTU and ATMF appendices address the same matters as the EC Directives on the interoperability of the European rail network (Directives [96/48/EC](#) & [2001/16/EC](#)). The new COTIF does however recognise that, for EC Member States, EC law shall prevail.

### **Commentary on section**

162. [Section 103](#) provides the Secretary of State with the power to make regulations to give effect to the new COTIF in the UK. Such regulations must be approved by both Houses of Parliament.