
STATUTORY INSTRUMENTS

1994 No. 237

The Railways (Safety Case) Regulations 1994

Citation and commencement

1. These Regulations may be cited as the Railways (Safety Case) Regulations 1994 and shall come into force on 28th February 1994.

Interpretation

2.—(1) In these Regulations, unless the context otherwise requires—

“audit report” means a report made pursuant to the arrangements referred to in paragraph 16 of Schedule 1;

“building operation” has the meaning assigned to it by section 176(1) of the Factories Act 1961⁽¹⁾;

“the Executive” means the Health and Safety Executive;

“factory” means a factory within the meaning of section 175 of the Factories Act 1961 and premises to which section 123(1) or (2) or 125(1) of that Act applies;

“harbour” and “harbour area” have the meanings assigned to them by regulation 2(1) of the Dangerous Substances in Harbour Areas Regulations 1987⁽²⁾;

“infrastructure controller” means a person who controls railway infrastructure;

“mine” and “quarry” have the meanings assigned to them by section 180 of the Mines and Quarries Act 1954⁽³⁾;

“notified” means notified in writing, and related expressions shall be construed accordingly;

“owner” in relation to a station means the person with the freehold interest in the premises comprising the station where those premises are situated in England or Wales and the proprietor of the *dominium utile* where those premises are situated in Scotland;

“railway” has the meaning assigned to it by section 67(1) of the Transport and Works Act 1992⁽⁴⁾ except that it does not include any part of a railway—

(a) within a harbour or harbour area, or which is part of a factory, mine or quarry unless, in each case, it is being used or is intended to be used for the carriage of fare paying passengers;

(b) used solely for the purpose of carrying out a building operation or work of engineering construction;

(c) within a maintenance or goods depot;

“railway infrastructure” means fixed assets used for the operation of a railway including its permanent way and plant used for signalling or exclusively for supplying electricity for operational purposes to the railway, but it does not include a station;

(1) 1961 c. 34.

(2) S.I. 1987/37.

(3) 1954 c. 90; section 180 was modified by S.I. 1974/2013.

(4) 1992 c. 42.

“railway operator” means a person who is an infrastructure controller or operates trains or stations;

“revision” means proposed revision where by virtue of regulation 6(2) the revision has not been made;

“safety case” shall be construed in accordance with paragraph (2);

“safety representative” has the meaning assigned to it by regulation 2(1) of the Safety Representatives and Safety Committees Regulations 1977(5);

“station” means a railway passenger station or terminal, but does not include any permanent way or plant used for signalling or exclusively for supplying electricity for operational purposes to the railway;

“train” includes any rolling stock (within the meaning of the Railways Act 1993(6));

“work of engineering construction” has the meaning assigned to it by section 176(1) of the Factories Act 1961;

“workplace” has the meaning assigned to it by regulation 2(1) of the Safety Representatives and Safety Committees Regulations 1977.

(2) Any reference in these Regulations to a safety case is a reference to a document containing the particulars required by the provision of these Regulations pursuant to which the safety case is prepared, and in so far as the document contains other particulars it shall not be treated as part of the safety case for the purposes of these Regulations; and a safety case may—

- (a) contain the particulars so required by reference to the same particulars contained in another safety case prepared by the same person if the first mentioned safety case is to be submitted for acceptance to the same person who has accepted the other safety case;
- (b) be prepared by a person in respect of more than one operation intended to be undertaken by him if in the event of separate safety cases being prepared in respect of those operations they would have to be accepted by the same person pursuant to these Regulations.

(3) Any provision of these Regulations requiring particulars to be included in a safety case—

- (a) which are also required to be included by virtue of a more general provision of the Regulations is without prejudice to the generality of the more general provision;
- (b) (except in relation to the particulars specified in paragraph 14 of Schedule 1) shall require no more detail to be included than is necessary to enable the person to whom it is submitted for acceptance to satisfy himself on the matters referred to in paragraph (4) or (5) or regulation 10(8)(a).

(4) Any reference in these Regulations to an infrastructure controller accepting a safety case or revision (otherwise than by virtue of regulation 10(8)), is a reference to that controller notifying the person who prepared it that he is satisfied that the procedures and arrangements described in it which affect or are likely to affect the performance of his own health and safety duties will, when properly implemented with those described in any other safety case or revision thereof which that controller has prepared or accepted pursuant to these Regulations, be capable of ensuring compliance by that controller with those duties in relation to the operation to which the first mentioned safety case or revision relates.

(5) Any reference in these Regulations to the Executive accepting a safety case or revision is a reference to the Executive notifying the person who prepared it that it is satisfied with the case for health and safety made out in it.

(5) S.I. 1977/500.

(6) 1993 c. 43.

(6) Any reference in these Regulations to the health and safety duties of an infrastructure controller is a reference to the duties imposed on him by the relevant statutory provisions (other than these Regulations).

(7) Where a railway operator is succeeded by a new railway operator, anything done in pursuance of these Regulations by the former railway operator shall, for the purposes of these Regulations, be treated as having been done by his successor; and for this purpose a person shall be treated as a successor in so far as control of the relevant railway infrastructure or the operation of the trains or stations concerned, as appropriate, has been transferred to him.

(8) Any reference in these Regulations to a person in control of any railway infrastructure is a reference to a person who, in the course of a business or other undertaking carried on by him (whether for profit or not), is in operational control of that infrastructure, except that where such control is for the time being exercised by a person undertaking maintenance, repair or alteration work on the infrastructure, it is a reference to a person who would be in operational control of the infrastructure if such work were not being undertaken.

(9) Any reference in these Regulations to a person operating a train or station is a reference to the person operating the train or station for the time being in the course of a business or other undertaking carried on by him (whether for profit or not), but it does not include a self-employed person by reason only that he himself drives or otherwise controls the movement of a train.

(10) Unless the context otherwise requires, any reference in these Regulations to—

- (a) a numbered regulation or Schedule is a reference to the regulation or Schedule in these Regulations so numbered;
- (b) a numbered paragraph is a reference to the paragraph so numbered in the regulation or Schedule in which the reference appears.

Use of railway infrastructure

3.—(1) A person in control of any railway infrastructure shall not use or permit it to be used for the operation of trains or stations unless—

- (a) he has prepared a safety case containing the particulars specified in Schedules 1 and 2;
- (b) the Executive has accepted that safety case;
- (c) where he is not the person operating those trains or stations, the person undertaking that operation has agreed in writing to comply with any reasonable request he may make as respects any aspect of the operation which affects or is likely to affect the performance of the health and safety duties of the person in control of the railway infrastructure; and
- (d) the person operating those trains or stations has complied with regulation 4 or 5, as appropriate.

(2) A person in control of any railway infrastructure shall not accept a safety case pursuant to these Regulations unless his own safety case has been accepted pursuant to paragraph (1)(b).

Safety case for train operations

4.—(1) A person shall not operate a train in relation to any railway infrastructure unless—

- (a) he has prepared a safety case containing the particulars specified in Schedule 1, and
- (b) the safety case has been accepted—
 - (i) by the relevant infrastructure controller at least 28 days before the operation commences; or
 - (ii) where he is the relevant infrastructure controller, by the Executive.

(2) In this regulation “the relevant infrastructure controller” means the person in control of the railway infrastructure in relation to which the train is to be operated, and where there are different such persons for different parts of that infrastructure paragraph (1) shall apply separately in relation to each such part.

Safety case for station operations

5.—(1) A person shall not operate a station unless—

- (a) he has prepared a safety case containing the particulars specified in Schedule 1, and
- (b) the safety case has been accepted—
 - (i) where another person is the owner of the station and is the only relevant infrastructure controller, by that controller at least 28 days before the operation commences,
 - (ii) in any other case, by the Executive after taking account of any views given to it by the relevant infrastructure controller as respects matters which affect or are likely to affect the performance of his health and safety duties.

(2) In this regulation “the only relevant infrastructure controller” means the person in control of all the railway infrastructure serving the station and “the relevant infrastructure controller” means the only relevant infrastructure controller or where there are different persons in control of different parts of the railway infrastructure serving the station, it means each of them.

Revision of safety cases

6.—(1) A person who has prepared a safety case pursuant to these Regulations shall revise its contents whenever it is appropriate; but nothing in this paragraph shall require the revision to be sent to another person.

(2) Where a revision proposed to be made under paragraph (1) will render the safety case materially different from the last version sent to the person who accepted it pursuant to these Regulations, the revision shall not be made—

- (a) unless the revision has been sent to that person;
- (b) unless that person has accepted the revision or (where he is an infrastructure controller) has notified the person who prepared the safety case that the revision does not affect and is not likely to affect the performance of the health and safety duties of the infrastructure controller; and
- (c) where the person who accepted the safety case is an infrastructure controller, until 28 days after the revision has been accepted or until 28 days after a notification has been made under sub-paragraph (b),

and where the revision is to a safety case accepted pursuant to paragraph (ii) of regulation 5(1) (b) the Executive shall, before accepting the revision, take account of any views given to it by the relevant infrastructure controller referred to in that paragraph as respects the matters referred to in that paragraph.

(3) A person who has prepared a safety case which has been accepted pursuant to these Regulations shall make a thorough review of its contents at least every three years.

Duty to conform with safety case

7.—(1) Where a person has prepared and has had accepted a safety case pursuant to these Regulations he shall ensure that the procedures and arrangements described in the safety case and any revision thereof are followed.

(2) In criminal proceedings for a contravention of paragraph (1) it shall be a defence for the accused to prove that—

- (a) in the particular circumstances of the case it was not in the best interests of the health and safety of persons to follow the procedures or arrangements concerned and there was insufficient time to revise the safety case pursuant to regulation 6, or
- (b) the commission of the offence was due to a contravention by another person of regulation 8 and the accused had taken all reasonable precautions and exercised all due diligence to ensure that the procedures or arrangements were followed.

Co-operation

8.—(1) Every person to whom this regulation applies shall co-operate so far as is necessary with a railway operator (in this regulation referred to as “the duty holder”) to enable him to comply with the provisions of these Regulations.

(2) This regulation applies to—

- (a) any other railway operator whose operations affect or are affected by operations carried out by the duty holder;
- (b) an employer of persons or a self-employed person carrying out work on or in relation to premises or plant owned or controlled by the duty holder.

Notifications, consultations and documents

9.—(1) Where a safety case has been received by an infrastructure controller for acceptance pursuant to these Regulations or a revision thereof has been received by him pursuant to regulation 6(2), the controller shall notify the Executive of that fact forthwith, and, except in the case of a revision, of the address notified to him pursuant to paragraph (4)(a).

(2) Where an infrastructure controller accepts a safety case or revision pursuant to these Regulations (other than by virtue of regulation 10(8)) or sends a notification pursuant to regulation 6(2)(b) in relation to a revision (other than by virtue of regulation 10(9)), he shall send a copy of the safety case or revision and a copy of the notification referred to in regulation 2(4) or the notification referred to in regulation 6(2)(b), as appropriate, to the Executive forthwith.

(3) Where an infrastructure controller accepts a safety case or revision pursuant to these Regulations (other than by virtue of regulation 10(8)) he shall identify in the notification referred to in regulation 2(4) the procedures and arrangements described in the safety case or revision which affect or are likely to affect the performance of his health and safety duties and the extent to which they do so.

(4) A person who prepares a safety case pursuant to these Regulations shall—

- (a) when submitting that safety case to a person for acceptance, notify that person of an address in Great Britain for the purposes of sub-paragraphs (b) to (f) below, and, where the person submitting that safety case is an infrastructure controller, paragraph (7);
- (b) keep the accepted safety case and any revision thereof or a copy thereof at that address;
- (c) keep each audit report made by him or a copy thereof at that address;
- (d) ensure that a record is made of any action taken in consequence of such an audit report and keep that record or a copy thereof at that address;
- (e) ensure that a report is made of every review carried out pursuant to regulation 6(3) and ensure that a copy of it is sent to the person who has accepted the safety case; and
- (f) keep such report or a copy thereof at that address.

(5) A person who submits to the Executive a safety case for acceptance pursuant to regulation 5 or who submits to the Executive a revision to a safety case accepted under that regulation, shall send a copy of the safety case or revision to the relevant infrastructure controller referred to in that regulation.

(6) Where an infrastructure controller scrutinises a safety case submitted to him for acceptance pursuant to these Regulations or a revision submitted to him pursuant to regulation 6(2), he shall make a record of the steps he has taken in that scrutiny and of the results thereof.

(7) Where an infrastructure controller accepts a safety case or revision he shall keep a copy of that safety case or revision, every report sent to him pursuant to paragraph (4)(e) and the record referred to in paragraph (6) at the address he has notified pursuant to paragraph (4)(a).

(8) Each report and record required to be kept by this regulation shall be kept for a period of 3 years after it has been made, and the safety case and revision shall be kept for so long as it is current.

(9) It shall be sufficient compliance with paragraphs (4) and (7) for the information in the documents to be kept at the address notified on film or by electronic means provided that the information is capable of being reproduced as a written copy at that address and it is secure from loss or unauthorised interference.

(10) Where a person has notified an address pursuant to sub-paragraph (a) of paragraph (4), he may notify to the person who has accepted the safety case a different address in Great Britain for the purposes of the provisions referred to in that sub-paragraph, and where he does so references in those provisions and in paragraph (9) where applicable to the address notified shall be construed as the address in the last notification made under this paragraph.

(11) An employer who prepares in respect of a workplace a safety case or revision thereto pursuant to these Regulations shall consult safety representatives on its preparation.

(12) Regulation 7(1) of the Safety Representatives and Safety Committees Regulations 1977 shall have effect as if the reference to safety representatives being entitled to inspect and take copies of documents were, in a case where by virtue of paragraph (9) information is kept on film or in electronic form, a reference to them being entitled to be given appropriate facilities to enable them to read it and to take a copy of it.

Acceptance of safety cases by the Secretary of State

10.—(1) Where an infrastructure controller refuses to accept a safety case or revision thereof submitted to him by a person pursuant to these Regulations he shall notify that person of the reasons for that decision.

(2) A failure by an infrastructure controller to accept within a reasonable time a safety case submitted to him for acceptance pursuant to these Regulations or a revision submitted to him pursuant to regulation 6(2), shall, subject to paragraph (3), be treated as a refusal to accept it for the purposes of the following provisions of this regulation.

(3) Where an infrastructure controller has notified a person under regulation 6(2)(b) that a revision does not affect and is not likely to affect the performance of his health and safety duties, the refusal or failure to accept that revision shall not be treated as a refusal or failure for the purposes of this regulation.

(4) The person the acceptance of whose safety case or revision has been refused by an infrastructure controller may submit it for acceptance to the Secretary of State within 28 days of receiving the notification referred to in paragraph (1) or after the expiry of the time referred in paragraph (2), as appropriate, and where he does so submit it he shall—

- (a) send a copy of any such notification to the Secretary of State and to the Executive;
- (b) notify the infrastructure controller and the Executive that he has submitted the safety case or revision to the Secretary of State, and

(c) send a copy of the safety case or revision to the Executive.

(5) On receiving the notification referred to in paragraph (4)(b) the infrastructure controller shall provide the Secretary of State with a copy of every safety case or revision thereof he has prepared or accepted pursuant to these Regulations and which it is necessary for the Secretary of State to see to come to a view on the matters referred to in paragraph (8)(a).

(6) Where a safety case or revision is submitted for acceptance pursuant to paragraphs (2) and (4), the Secretary of State may decline to deal with it if he considers that the infrastructure controller has not had reasonable time to scrutinise the safety case or revision, as appropriate.

(7) In performing his functions under this regulation the Secretary of State shall take account of any advice given to him with respect thereto by or on behalf of the Health and Safety Commission.

(8) The Secretary of State shall notify his decision in writing to the person who submitted the safety case or revision to him, the infrastructure controller and the Executive; if he decides to accept it—

(a) the notification shall state that he is satisfied that the procedures and arrangements described in the safety case or revision which affect or are likely to affect the performance of the health and safety duties of the infrastructure controller will, when properly implemented with those described in any other safety case or revision thereof the infrastructure controller has prepared or accepted pursuant to these Regulations, be capable of ensuring compliance by that controller with his health and safety duties in relation to the operation to which the first mentioned safety case or revision relates;

(b) these regulations shall have effect as if—

(i) the safety case or revision had been accepted by the infrastructure controller, and

(ii) the references in regulations 4 and 5 to “at least 28 days” did not apply and regulation 6(2)(c) did not apply.

(9) Where the Secretary of State decides not to accept a revision to a safety case because he is satisfied that the revision does not affect and is not likely to affect the health and safety duties of the infrastructure controller, the notification referred to in paragraph (8) shall state that fact and these Regulations shall have effect as if—

(a) the infrastructure controller had sent to the person who prepared the safety case a notification pursuant to regulation 6(2)(b), and

(b) regulation 6(2)(c) did not apply.

Exemptions

11.—(1) Subject to paragraph (2) and to any Community obligation of the United Kingdom the Executive may, by a certificate in writing, exempt any person or class of persons from any requirement or prohibition imposed by these Regulations and any such exemption may be granted subject to conditions and with or without limit of time and may be revoked by a certificate in writing at any time.

(2) The Executive shall not grant any such exemption unless, having regard to the circumstances of the case, and in particular to—

(a) the conditions, if any, which it proposes to attach to the exemption; and

(b) any other requirements imposed by or under any enactment which apply to the case,

it is satisfied that the health and safety of persons who are likely to be affected by the exemption will not be prejudiced in consequence of it.

(3) Subject to any Community obligation of the United Kingdom, the Secretary of State for Defence may, in the interests of national security, by a certificate in writing exempt any person or class of persons from the requirements of these Regulations and any such exemption may be granted

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

subject to conditions and to a limit of time and may be revoked by the said Secretary of State by a further certificate in writing at any time.

Transitional provisions

12. The provisions of Schedule 3 shall have effect.

Revocations

13. The provisions of the Railways Regulations 1992(7) specified in column 1 of Schedule 4 shall be revoked to the extent specified in the corresponding entry in column 2 of that Schedule.

Signed by order of the Secretary of State

3rd February 1994

Roger Freeman
Minister of State,
Department of Transport

3rd February 1994

Michael Forsyth
Minister of State,
Department of Employment