
STATUTORY INSTRUMENTS

1994 No. 299

HEALTH AND SAFETY

TRANSPORT

The Railways (Safety Critical Work) Regulations 1994

Made - - - - *10th February 1994*
Laid before Parliament *18th February 1994*
Coming into force - - *1st April 1994*

The Secretary of State, in exercise of powers conferred on him by sections 15(1), (2), (4)(a), (5)(b), (6)(b) and 82(3)(a) of, and paragraphs 1(1)(c), 6(2), 7, 8(1) and 14 of Schedule 3 to, the Health and Safety at Work etc. Act 1974(1) and of all other powers enabling him in that behalf for the purpose of giving effect without modifications to proposals submitted to him by the Health and Safety Commission under section 11(2)(d) of the said Act after the carrying out by the said Commission of consultations in accordance with section 50(3) of that Act, hereby makes the following Regulations:

Citation and commencement

1. These Regulations may be cited as the Railways (Safety Critical Work) Regulations 1994, and shall come into force on 1st April 1994.

Interpretation

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

“approve” means approve for the time being in writing, and “approved” shall be construed accordingly;

“building operation” has the meaning assigned to it by section 176(1) of the Factories Act 1961(2);

“the Executive” means the Health and Safety Executive;

“factory” has the meaning assigned to it by section 175 of the Factories Act 1961 and premises to which section 123(1) or (2) or 125(1) of that Act applies;

(1) 1974 c. 37; sections 15 and 50 were amended by the Employment Protection Act 1975 (c. 71) Schedule 15, paragraphs 6 and 16 respectively; the general purposes of Part I referred to in section 15(1) were extended by section 117 of the Railways Act 1993 (c. 43).
(2) 1961 c. 34.

“harbour” and “harbour area” have the meanings assigned to them by regulation 2(1) of the Dangerous Substances in Harbour Area Regulations 1987⁽³⁾;

“means of identification” means a card or other document containing the name of the employee to whom it is issued, his photograph, the name of his employer and such other particulars as the employer wishes to include;

“mine” and “quarry” have the meanings assigned to them by section 180 of the Mines and Quarries Act 1954⁽⁴⁾;

“railway operator” has the meaning assigned to it by the Railways (Safety Case) Regulations 1994⁽⁵⁾ as if, in those Regulations, “railway” included any transport system and “train” included any vehicle;

“relevant assessments” means assessments (including medical assessments) which are relevant for the purpose of ascertaining the competence and fitness of the employee to undertake the safety critical work concerned (whether or not they have been approved under regulation 3(3));

“safety critical work” means work by a person—

- (a) as a driver, guard, conductor or signaller or in any other capacity in which he can control or affect the movement of a vehicle;
- (b) in a maintenance capacity or as a supervisor of, or look-out for, persons working in a maintenance capacity; and for this purpose, a person works in a maintenance capacity if his work involves—
 - (i) maintenance, repair or alteration of—
 - (aa) the permanent way or other means of guiding or supporting vehicles,
 - (bb) signals or any other means of controlling the movement of vehicles, or
 - (cc) any means of supplying electricity to vehicles or to the means of guiding or supporting vehicles, or
 - (ii) coupling or uncoupling vehicles; or
 - (iii) checking that vehicles are working properly before they are used on any occasion, system;
which could affect the health or safety of persons on a transport system;

“transport system” means a transport system to which Chapter I of Part II of the Transport and Works Act 1992⁽⁶⁾ applies or would apply were it not for the exclusion in section 26(2) of that Act, except that it does not include any part of a transport system—

- (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;

“vehicle” means a vehicle used on a transport system and includes a mobile traction unit used on such a system;

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

(3) S.I.1987/37.

(4) 1954 c. 90; section 180 was modified by S.I. 1974/2013.

(5) S.I. 1994/237.

(6) 1992 c. 42.

(2) These Regulations shall apply to a self-employed person as they apply to an employer and an employee and as if that self-employed person were both an employer and employee.

(3) Any reference in these Regulations to a numbered paragraph is a reference to the paragraph so numbered in the regulation in which the reference appears.

Competence and fitness

3.—(1) No employer shall permit any of his employees to undertake any safety critical work unless—

- (a) the employee is competent and fit to undertake that work;
- (b) there is in existence an adequate record of any relevant assessments undergone by the employee;
- (c) the employer has issued the employee with a means of identification;
- (d) the employer has established suitable arrangements to enable a railway operator who is affected by the work to examine the record referred to in sub-paragraph (b) above, or be informed of its contents.

(2) An employee shall carry with him the means of identification referred to in paragraph (1)(c) when he is undertaking any safety critical work.

(3) The Executive may for the purposes of this regulation approve for the time being assessments to be undergone by employees undertaking safety critical work and in the case of each such assessment the procedures to be followed and the standard to be achieved in relation thereto and the intervals within which the assessment is to be undergone again.

(4) Where the Executive has approved assessments under paragraph (3) then, without prejudice to the generality of sub-paragraph (a) of paragraph (1), an employee shall not be treated for the purposes of that sub-paragraph as competent and fit to undertake the work to which the assessments relate unless he has undergone each such assessment in accordance with any procedures so approved and within any intervals so approved, and in the case of each such assessment has achieved a standard not less than that so approved.

(5) Without prejudice to the generality of paragraph (3)—

- (a) assessments approved under that paragraph may include medical assessments made by registered medical practitioners approved by the Executive;
- (b) intervals approved under that paragraph may include intervals approved by reference to the time of resuming work following an event specified for the purpose in the approval.

(6) Where an approval is given under paragraph (3) notice of it shall be published in such manner as the Executive considers appropriate for bringing it to the attention of employers likely to be affected by the approval.

(7) An approval under this regulation may be given in respect of a class of safety critical work.

(8) In any proceedings against a person for an offence of contravening this regulation, it shall be a defence for that person to prove that he took all reasonable precautions and exercised all due diligence to avoid the commission of that offence.

Hours of work

4.—(1) Every employer shall ensure, so far as is reasonably practicable, that no employee of his undertakes any safety critical work for such number of hours as would be liable to cause him fatigue which could endanger safety; and in determining whether he would be so liable regard shall be had to the length of time between periods on duty.

(2) For the purposes of paragraph (1) a person shall be regarded as undertaking work throughout the period he is on duty.

Exemptions

5.—(1) Subject to paragraph (2), 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.

Signed by order of the Secretary of State

10th February 1994

Roger Freeman
Minister of State,
Department of Transport

10th February 1994

Michael Forsyth
Minister of State,
Department of Employment

EXPLANATORY NOTE

(This note is not part of the Regulations)

1. These Regulations regulate the undertaking of safety critical work on a transport system.
2. *Regulation 2* includes a definition of “safety critical work” and “transport system”.
3. *Regulation 2(2)* provides that the Regulations apply to a self-employed person as if that person were both an employer and an employee.
4. *Regulation 3* prohibits an employer from permitting his employees to undertake safety critical work unless certain conditions are satisfied. *Regulation 3(3)* enables the Health and Safety Executive (“the Executive”) to approve assessments to be undergone by employees undertaking safety critical work. *Regulation 3(8)* provides for a defence in the case of contravention of the Regulations.
5. *Regulation 4* requires an employer to ensure, so far as is reasonably practicable, that his employees carrying out safety critical work do not work for such a period of time that would be liable to cause fatigue and endanger safety.
6. *Regulation 5* makes provision for the Executive to grant exemptions in certain circumstances.

An assessment of the cost to business of complying with these Regulations can be obtained from Railways Division 1A, Room S19/14, Department of Transport, 2 Marsham Street, London, SW1P 3EB, telephone number (071) 276 6718. Copies have also been placed in the libraries of both Houses of Parliament.