
STATUTORY INSTRUMENTS

1998 No. 1340

The Railways Regulations 1998

PART IV

INTERNATIONAL LICENCES

Prohibition of unlicensed provision of international services

15.—(1) Subject to paragraph (4) no person may provide international services in Great Britain or international combined transport goods services in Great Britain unless he is authorised to do so by an international licence, and any person who provides such services without such a licence shall be guilty of an offence.

(2) Any person who is guilty of an offence under this regulation shall be liable—

(a) on summary conviction, to a fine not exceeding the statutory maximum;

(b) on conviction on indictment, to a fine.

(3) No proceedings shall be instituted in England and Wales in respect of an offence under this regulation except by or on behalf of the Secretary of State or the International Rail Regulator.

(4) This regulation does not apply to the provision of services to which paragraph (1) applies prior to 28th September 1998 if and to the extent that the operation of railway assets for the purposes of such provision is authorised by a licence granted under Part I of the Railways Act 1993 which was granted before 27th June 1998, but any such licence shall to that extent be revoked on 28th September 1998.

(5) In this regulation the expression “international licence” includes a licence granted pursuant to any action taken by an EEA State for the purpose of implementing Council Directive No.95/18/EC.

Appointment of licensing authority and grant of international licences

16.—(1) The International Rail Regulator is hereby designated as the person responsible for granting international licences.

(2) Subject to and in accordance with these Regulations, the International Rail Regulator shall, on an application in writing made to him by a railway undertaking established in Great Britain in such form and manner as he may from time to time prescribe, grant to that railway undertaking an international licence.

(3) An international licence may authorise the provision of services generally or be restricted to particular types of service specified in the licence.

(4) Before granting or modifying an international licence the International Rail Regulator shall consult the Health and Safety Executive.

(5) An applicant shall submit with his application such application fee as the International Rail Regulator may reasonably require and the information about the applicant referred to in Schedule 3 and at any time after submitting the application such further information as the International Rail Regulator may reasonably require in connection with the application.

(6) The applicant shall at the same time as he submits any information about his professional competence to the International Rail Regulator send to the Health and Safety Executive a copy of that information.

(7) The International Rail Regulator shall grant an international licence if, and only if, he is satisfied that the applicant will be able at any time to satisfy the requirements referred to in Schedule 3 as to good repute, financial fitness, professional competence and cover for liabilities to third parties.

(8) An application for an international licence shall be determined by the International Rail Regulator as soon as possible and in any event within three months of receipt of the information referred to in paragraph (5).

(9) In respect of each application for an international licence the International Rail Regulator shall publish at least once in the Official Journal of the European Communities, the London Gazette, the Edinburgh Gazette and in one or more newspapers whose circulation together covers the whole of Great Britain a notice including the following particulars:—

- (a) a statement that the applicant has made an application for an international licence and the principal address of the International Rail Regulation;
- (b) the name of the applicant and the address of its registered or principal office; and
- (c) a summary of the activities which the applicant wishes to carry out pursuant to the international licence

(10) The International Rail Regulator shall inform the applicant in writing of his decision and, where he refuses to grant an international licence, the refusal shall state the reasons for his decision.

(11) As soon as practicable after granting an international licence the International Rail Regulator shall send a copy of the licence to the Regulator and to the Health and Safety Executive.

(12) Any sums received by the International Rail Regulator under this regulation shall be paid into the Consolidated Fund.

(13) Schedule 3 shall have effect.

Modification of international licences

17.—(1) The International Rail Regulator may modify an international licence if the holder of the licence consents to the modification.

(2) Before modifying an international licence the International Rail Regulator shall consult the Health and Safety Executive.

(3) As soon as practicable after modifying an international licence the International Rail Regulator shall send a copy to the Regulator and to the Health and Safety Executive.

Validity of international licences

18. An international licence shall, unless previously revoked or surrendered in accordance with any provision in these Regulations or the licence, continue in force for as long as the railway undertaking concerned complies with the requirements of these Regulations and any conditions included in the licence.

Monitoring, suspension and revocation of international licences

19.—(1) If at any time the International Rail Regulator considers that there is serious doubt whether a railway undertaking to which an international licence has been granted complies with a requirement of these Regulations or a condition included in the licence, he may take such steps as are necessary to enable him to determine whether or not the undertaking does so comply.

(2) Where the serious doubt of the International Rail Regulator relates wholly or partly to the requirement of professional competence such steps shall include consulting the Health and Safety Executive.

(3) If, having taken the steps referred to in paragraph (1), the International Rail Regulator is satisfied that a railway undertaking to which an international licence has been granted does not comply with any such requirement, he shall revoke the licence or suspend it for such period as he thinks fit.

(4) The International Rail Regulator shall revoke an international licence if proceedings have been commenced for the winding up of a railway undertaking to which an international licence has been granted on the grounds that the undertaking is unable to pay its debts and he is satisfied that there is no reasonable prospect of satisfactory financial restructuring of the undertaking within a reasonable period of time.

(5) Where the International Rail Regulator is satisfied that there is serious doubt whether a railway undertaking to which an international licence has been granted by a licensing authority other than himself complies with any requirement of Council Directive No. [95/18/EC](#) he shall without delay so notify that licensing authority.

(6) Where the International Rail Regulator has suspended or revoked an international licence solely on the grounds of the non-compliance by the railway undertaking with the requirements of financial fitness specified in Schedule 3, but he considers that there is a realistic prospect of a satisfactory financial restructuring of the undertaking taking place within a reasonable period of time, he may grant to the undertaking a temporary international licence pending such financial restructuring.

(7) A temporary international licence granted under paragraph (6) shall not be granted where the International Rail Regulator after consultation with the Health and Safety Executive considers that safety would be jeopardised.

(8) A temporary international licence granted under paragraph (6) shall not be granted for a period exceeding six months.

(9) Where a railway undertaking to which an international licence has been granted has either ceased the operations to which the licence relates or has not commenced such operations within six months of the date of such grant then the International Rail Regulator may either require the railway undertaking to resubmit its licence to him for approval or suspend the licence.

(10) Where the International Rail Regulator has required a railway undertaking to resubmit its international licence in pursuance of paragraph (9) on the grounds that the railway undertaking has not commenced such operations the railway undertaking shall be entitled to request that a period longer than the six months be granted in which it can commence operations. In considering such a request the International Rail Regulator shall take account of the specific nature of the services to be provided by the railway undertaking under the international licence.

(11) In the event of a change to a railway undertaking's legal situation, in particular following a change in the control or ownership of the railway undertaking as a result of a merger with or take-over by another undertaking, the International Rail Regulator may require the railway undertaking to resubmit its licence to him for review. The railway undertaking may continue operations while its licence is under review unless the International Rail Regulator is satisfied after consultation with the Health and Safety Executive that safety is jeopardised by the change and so notifies the undertaking.

(12) When a railway undertaking intends significantly to change or extend its activities from those in respect of which a licence was granted to it, the railway undertaking shall resubmit its licence to the International Rail Regulator for review.

(13) When the International Rail Regulator suspends, revokes or amends an international licence in accordance with this regulation he shall forthwith inform the Commission of such amendment, revocation or suspension.

Conditions of international licences

20.—(1) An international licence shall include conditions requiring the licence holder to satisfy requirements as to the good repute, financial fitness, professional competence and cover for liabilities to third parties of the licence holder, including those requirements specified in Schedule 3, and may include conditions—

- (a) requiring the licence holder to submit to a review of its licence at least every five years during the currency of the licence;
- (b) concerning the suspension or revocation of the licence.

(2) Without prejudice to the generality of paragraph (1) licence conditions may require the licence holder to make a payment to the International Rail Regulator on the grant of the licence and to make such further payments during the currency of the licence, the amount or amounts to be determined by the International Rail Regulator.

(3) Any sums received by the International Rail Regulator under paragraph (2) shall be paid into the Consolidated Fund.