

SCHEDULE 1

Regulation 3

AMENDMENTS, REPEALS AND REVOCATIONS

PART 1

AMENDMENTS AND REPEALS OF PRIMARY LEGISLATION

**The Railway Fires Act 1905**

1. In section 4 of the Railway Fires Act 1905(1) (definitions and application)—
  - (a) after the definition of “agricultural crops”, insert—

“The expression “EEA State” means a member State, Norway, Iceland or Liechtenstein;”;

and
  - (b) in the definition of “railway company”, at the end of paragraph (b) add—

“or
  - (c) who holds a European licence granted pursuant to a provision contained in any instrument made for the purpose of implementing Council Directive 1995/18/EC dated 19th June 1995 on the licensing of railway undertakings, as amended by Directive 2001/13/EC dated 26th February 2001 and Directive 2004/49/EC dated 29th April 2004, both of the European Parliament and of the Council, or pursuant to any action taken by an EEA State for that purpose;”.

**The Insolvency Act 1986**

2. In Schedule 2A to the Insolvency Act 1986(2) (exceptions to prohibition on appointment of administrative receiver: supplementary provisions)—
  - (a) at the end of paragraph 10(1)(l), omit “or”;
  - (b) at the end of paragraph 10(1)(m), add—

“or
  - (n) in reliance on a European licence granted pursuant to a provision contained in any instrument made for the purpose of implementing Council Directive 1995/18/EC dated 19th June 1995 on the licensing of railway undertakings, as amended by Directive 2001/13/EC dated 26th February 2001 and Directive 2004/49/EC dated 29th April 2004, both of the European Parliament and of the Council, or pursuant to any action taken by an EEA State for that purpose.”; and
  - (c) after paragraph 10(2A), add—

“(2B) In sub-paragraph (1)(n), an “EEA State” means a member State, Norway, Iceland or Liechtenstein.”.

**The Railways Act 1993**

- 3.—(1) The 1993 Act(3) shall be amended in accordance with the following provisions of this paragraph.

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(1) 1905 5 Edw 7 c.11; the definition of “railway company” was inserted by the 1993 Act, Schedule 12, paragraph 2(2).  
(2) 1986 c. 45; Schedule 2A was inserted by the Enterprise Act 2002 (c. 40) section 250(2), Schedule 18; and paragraph 10(2A) of Schedule 2A was inserted by the Communications Act 2003 (c. 21), Schedule 17, paragraph 82.  
(3) Section 6(1A) and (2A) was inserted, and section 6(2) was amended, by regulation 21 of the Railways Regulations 1998 (S.I. 1998/1340). Sections 59(6) of the 1993 Act were amended by the Railways Act 2005 (c. 14), section 49(1) and Schedule 13,

(2) In section 6 (prohibition on unauthorised operators of railway assets), in subsection (1A) for “international services” substitute “services for which a European licence is required”.

(3) In subsection (2) of that section—

(a) for the definition of “international licence” substitute—

““European licence” means a licence granted pursuant to a provision contained in any instrument made for the purpose of implementing Council Directive [1995/18/EC](#) dated 19th June 1995 on the licensing of railway undertakings, as amended by Directive [2001/13/EC](#) dated 26th February 2001 and Directive [2004/49/EC](#) dated 29th April 2004, both of the European Parliament and of the Council, or pursuant to any action taken by an EEA State for that purpose;” and

(b) omit the definition of “international services”.

(4) For subsection (2A) of that section, substitute—

“(2A) In subsection (2) above, “EEA State” means a member State, Norway, Iceland or Liechtenstein.”.

(5) In section 59 (railway administration orders), in subsection (6), after “passenger licence” in both places insert “or a European licence which authorises the carriage of passengers by railway (or both)”.

(6) In section 72 (keeping of the register by the ORR), in subsection (2)—

(a) in paragraph (a), after “in relation to licences”, insert “and European licences”;

(b) in paragraph (a)(i), for “and every licence exemption”, substitute “, every licence exemption and every European licence”;

(c) in paragraph (a)(iii), for “and every” substitute “, every”, and at the end, add “, and every modification or revocation of a European licence”;

(d) at the end of paragraph (a)(v), add “or European licence”; and

(e) at the end of paragraph (a), after “surrender of a licence” add “or European licence”.

(7) In section 80 (duty to furnish information on request)—

(a) after subsection (1), insert—

“(1A) Holders of European licences shall be under a duty to furnish to the Office of Rail Regulation in such form and manner as it may by notice request such information as it may so request, being information which the Office of Rail Regulation considers necessary for the purpose of facilitating the performance of any of its functions under any instrument made for the purpose of implementing Council Directive [95/18/EC](#) dated 19th June 1995 on the licensing of railway undertakings, as amended by Directive [2001/13/EC](#) dated 26th February 2001 and Directive [2004/49/EC](#) dated 29th April 2004, both of the European Parliament and of the Council.”;

(b) in subsection (2), after “subsection (1)” insert “or (1A)”;

(c) in subsection (3), for “If any such request” substitute “If a request under subsection (1) above”;

(d) after subsection (3), add—

“(3A) If a request under subsection (1A) above is not complied with, the Office of Rail Regulation may serve a notice under subsection (4) below on the person from whom the information was requested under subsection (1A) above.”;

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Part 1. Section 72(2) was amended by the Railways and Transport Safety Act [2003 \(c. 20\)](#), Schedule 2, Part 1, paragraphs 1 and 3; and the Transport Act [2000 \(c. 38\)](#), Schedule 17, Part 1, paragraphs 1 and 15, and Schedule 27, paragraphs 17 and 36. Section 80 was amended by the Transport Act 2000, Schedule 27, paragraphs 17 and 38, and Schedule 31, Part 4; and the Railways Act 2005, Schedule 1, paragraph 33.

- (e) at the end of subsection (4), add—
  - “In its application to a notice served by virtue of subsection (3A) above this subsection has effect with the omission of the references to the Secretary of State and the Scottish Ministers.”; and
- (f) in subsection (8), after “Regulation”, insert “in the case of a request under subsection (1) above, or the Office of Rail Regulation in the case of a request under subsection (1A) above.”.
- (8) In section 83 (interpretation), in subsection (1)—
  - (a) before the definition of “exempt facility”, insert—
    - ““European licence” has the meaning given by section 6(2) above;”; and
  - (b) omit the definition of “international licence”.
- (9) In section 145 (general restrictions on disclosure of information), before subsection (2)(h), insert—
  - “(ga) for the purpose of facilitating the carrying out by the Office of Rail Regulation of any of its functions under any instrument made for the purpose of implementing Council Directive [95/18/EC](#) dated 19th June 1995 on the licensing of railway undertakings, as amended by Directive [2001/13/EC](#) dated 26th February 2001 and Directive [2004/49/EC](#) dated 29th April 2004, both of the European Parliament and of the Council;”.
- (10) In Schedule 7 (transfer of relevant activities in connection with railway administration orders)—
  - (a) in paragraph 1(2), in the definition of “other appointee”, after “section 8 of this Act” insert “or of a European licence”;
  - (b) after paragraph 4(2), add—
    - “(3) Sub-paragraphs (1) and (2) have effect in relation to a European licence as they have effect in relation to a licence.”.

#### **The Civil Contingencies Act 2004**

- 4.** In Schedule 1 to the Civil Contingencies Act 2004(4) (category 1 and 2 responders)—
  - (a) for paragraph 24, substitute—
    - “**24.**—(1) A person who provides services in connection with railways in Great Britain and who holds a European licence granted pursuant to—
      - (a) a provision contained in any instrument made for the purpose of implementing Council Directive [1995/18/EC](#) dated 19th June 1995 on the licensing of railway undertakings, as amended by Directive [2001/13/EC](#) dated 26th February 2001 and Directive [2004/49/EC](#) dated 29th April 2004, both of the European Parliament and of the Council, or
      - (b) any action taken by an EEA State for that purpose.
    - (2) In this paragraph, “EEA State” means a member State, Norway, Iceland or Liechtenstein.”; and
  - (b) for paragraph 35, substitute—
    - “**35.**—(1) A person who provides services in connection with railways, in so far as such services are provided in Scotland, and who holds a European licence granted pursuant to—

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(4) [2004 c. 36.](#)

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- (a) a provision contained in any instrument made for the purpose of implementing Council Directive [1995/18/EC](#) dated 19th June 1995 on the licensing of railway undertakings, as amended by Directive [2001/13/EC](#) dated 26th February 2001 and Directive [2004/49/EC](#) dated 29th April 2004, both of the European Parliament and of the Council, or
  - (b) any action taken by an EEA State for that purpose.
- (2) In this paragraph, “EEA State” has the same meaning as in paragraph 24.”

### **The Railways Act 2005**

5. In section 46 of the Railways Act 2005(5) (bye-laws)—
- (a) at the end of subsection (7)(a), omit “or”; and
  - (b) at the end of subsection (7)(b), add—
    - “or
    - (c) authorised to provide train services by a European licence.”.
6. In section 59 of that Act (consequential amendments, transitional provisions and repeals), after subsection (5) add—
- “(5A) Subsections (2) to (5) have effect in relation to a European licence and a holder of a European licence as they have effect in relation to a licence and a licence holder respectively.”.

## **PART 2**

### **AMENDMENTS AND REVOCATIONS OF SECONDARY LEGISLATION**

#### **The Town and Country Planning (Control of Advertising) Regulations 1992**

7.—(1) In the Town and Country Planning (Control of Advertising) Regulations 1992(6), regulation 2(1) (interpretation) shall be amended as follows.

- (2) After the definition of “discontinuance notice”, insert—

““EEA State” means a member State, Norway, Iceland or Liechtenstein;”.

(3) In the definition of “statutory undertaker”, after “Railways Act 1993,” insert “any person who holds a European licence granted pursuant to the Railway (Licensing of Railway Undertakings) Regulations 2005(7) or pursuant to any action taken by an EEA State for the purpose of implementing Council Directive [1995/18/EC](#) dated 19th June 1995 on the licensing of railway undertakings(8), as amended by Directive [2001/13/EC](#) dated 26th February 2001(9) and Directive [2004/49/EC](#) dated 29th April 2004(10), both of the European Parliament and of the Council;”.

#### **The Railways (Amendment) Regulations 1998**

8. The Railways (Amendment) Regulations 1998(11) are revoked.

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(5) [2005 c. 14](#).

(6) [S.I. 1992/666](#); the relevant amending instrument is [S.I. 1994/2351](#).

(7) [S.I. 2005/3050](#).

(8) O.J. L 143, 27.6.1995, p. 70.

(9) O.J. L 75, 15.3.2001, p. 26.

(10) O.J. L 164, 30.4.2004, p. 44, to which there has been a corrigendum which is not relevant to these Regulations.

(11) [S.I. 1998/1519](#).

### **The London Underground (East London Line Extension) (No. 2) Order 2001**

**9.**—(1) In the London Underground (East London Line Extension) (No. 2) Order 2001(12), Schedule 11 (protection for Railtrack) shall be amended as follows.

(2) In paragraph 1(2)—

(a) after the definition of “designated lands”, insert—

““EEA State” means a member State, Norway, Iceland or Liechtenstein;” and

(b) in the definition of “train operator”, at the end add “or any person who holds a European licence granted pursuant to the Railway (Licensing of Railway Undertakings) Regulations 2005(13) or pursuant to any action taken by an EEA State for the purpose of implementing Council Directive 1995/18/EC dated 19th June 1995 on the licensing of railway undertakings(14), as amended by Directive 2001/13/EC dated 26th February 2001(15) and Directive 2004/49/EC dated 29th April 2004(16), both of the European Parliament and of the Council;”.

### **The Docklands Light Railway (Silvertown and London City Airport Extension) Order 2002**

**10.**—(1) In the Docklands Light Railway (Silvertown and London City Airport Extension) Order 2002(17), Schedule 11 (protection of railway undertakers) shall be amended as follows.

(2) In paragraph 13(6)—

(a) before the definition of “the relevant costs”, insert—

““EEA State” means a member State, Norway, Iceland or Liechtenstein;” and

(b) in the definition of “train operator”, at the end add “or any person who holds a European licence granted pursuant to the Railway (Licensing of Railway Undertakings) Regulations 2005(18) or pursuant to any action taken by an EEA State for the purpose of implementing Council Directive 1995/18/EC dated 19th June 1995 on the licensing of railway undertakings(19), as amended by Directive 2001/13/EC dated 26th February 2001(20) and Directive 2004/49/EC dated 29th April 2004(21), both of the European Parliament and of the Council;”.

### **The Docklands Light Railway (Woolwich Arsenal Extension) Order 2004**

**11.**—(1) In the Docklands Light Railway (Woolwich Arsenal Extension) Order 2004(22), Schedule 13 (protection of railway interests) shall be amended as follows.

(2) In paragraph 15(6)—

(a) before the definition of “the relevant costs”, insert—

““EEA State” means a member State, Norway, Iceland or Liechtenstein;” and

(b) in the definition of “train operator”, at the end add “or any person who holds a European licence granted pursuant to the Railway (Licensing of Railway Undertakings)

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(12) [S.I. 2001/3682](#).

(13) [S.I. 2005/3050](#).

(14) O.J. L 143, 27.6.1995, p. 70.

(15) O.J. L 75, 15.3.2001, p. 26.

(16) O.J. L 164, 30.4.2004, p. 44, to which there has been a corrigendum which is not relevant to these Regulations.

(17) [S.I. 2002/1066](#).

(18) [S.I. 2005/3050](#).

(19) O.J. L 143, 27.6.1995, p. 70.

(20) O.J. L 75, 15.3.2001, p. 26.

(21) O.J. L 164, 30.4.2004, p. 44, to which there has been a corrigendum which is not relevant to these Regulations.

(22) [S.I. 2004/757](#).

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Regulations 2005(23) or pursuant to any action taken by an EEA State for the purpose of implementing Council Directive 1995/18/EC dated 19th June 1995 on the licensing of railway undertakings(24), as amended by Directive 2001/13/EC dated 26th February 2001(25) and Directive 2004/49/EC dated 29th April 2004(26), both of the European Parliament and of the Council;”.

#### **The British Transport Police (Police Services Agreement) Order 2004**

12.—(1) In the British Transport Police (Police Services Agreement) Order 2004(27), article 2 (requirement to enter into a police services agreement) shall be amended as follows.

(2) At the end of paragraph (1)(b), add “or who has been granted a European licence pursuant to the Railway (Licensing of Railway Undertakings) Regulations 2005(28) or pursuant to any action taken by an EEA State for the purpose of implementing Council Directive 1995/18/EC dated 19th June 1995 on the licensing of railway undertakings(29), as amended by Directive 2001/13/EC dated 26th February 2001(30) and Directive 2004/49/EC dated 29th April 2004(31), both of the European Parliament and of the Council, in connection with the railway services in question;”.

(3) At the end of paragraph (3), insert—

“; and “EEA State” means a member State, Norway, Iceland or Liechtenstein.”.

#### **The Central Rating List (Wales) Regulations 2005**

13.—(1) In the Central Rating List (Wales) Regulations 2005(32), regulation 7 (railway hereditaments) shall be amended as follows.

(2) In paragraph (3)—

(a) before the definition of “excepted hereditament”, insert—

““EEA State” means a member State, Norway, Iceland or Liechtenstein;” and

(b) in the definition of “licence exempt operator” and “licence holder”, after “Railways Act 1993” insert “except that “licence holder” also includes a holder of a European licence granted pursuant to the Railway (Licensing of Railway Undertakings) Regulations 2005(33) or pursuant to any action taken by an EEA State for the purpose of implementing Council Directive 1995/18/EC dated 19th June 1995 on the licensing of railway undertakings(34), as amended by Directive 2001/13/EC dated 26th February 2001(35) and Directive 2004/49/EC dated 29th April 2004(36), both of the European Parliament and of the Council;”.

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(23) [S.I. 2005/3050](#).

(24) O.J. L 143, 27.6.1995, p. 70.

(25) O.J. L 75, 15.3.2001, p. 26.

(26) O.J. L 164, 30.4.2004, p. 44, to which there has been a corrigendum which is not relevant to these Regulations.

(27) [S.I. 2004/1522](#).

(28) [S.I. 2005/3050](#).

(29) O.J. L 143, 27.6.1995, p. 70.

(30) O.J. L 75, 15.3.2001, p. 26.

(31) O.J. L 164, 30.4.2004, p. 44, to which there has been a corrigendum which is not relevant to these Regulations.

(32) [S.I. 2005/422 \(W 40\)](#).

(33) [S.I. 2005/3050](#).

(34) O.J. L 143, 27.6.1995, p. 70.

(35) O.J. L 75, 15.3.2001, p. 26.

(36) O.J. L 164, 30.4.2004, p. 44, to which there has been a corrigendum which is not relevant to these Regulations.

## Central Rating List (England) Regulations 2005

14.—(1) In the Central Rating List (England) Regulations 2005<sup>(37)</sup>, regulation 6 (railway hereditaments) shall be amended as follows.

(2) In paragraph (4)—

(a) before the definition of “excepted hereditament”, insert—

““EEA State” means a member State, Norway, Iceland or Liechtenstein;” and

(b) in the definition of “licence exempt operator” and “licence holder”, after “Railways Act 1993” insert “except that “licence holder” also includes a holder of a European licence granted pursuant to the Railway (Licensing of Railway Undertakings) Regulations 2005<sup>(38)</sup> or pursuant to any action taken by an EEA State for the purpose of implementing Council Directive 1995/18/EC dated 19th June 1995 on the licensing of railway undertakings<sup>(39)</sup>, as amended by Directive 2001/13/EC dated 26th February 2001<sup>(40)</sup> and Directive 2004/49/EC dated 29th April 2004<sup>(41)</sup>, both of the European Parliament and of the Council;”.

### SCHEDULE 2

Regulation 6(14)

#### QUALIFICATIONS FOR EUROPEAN LICENCE

##### Good repute

1. In determining whether a railway undertaking is of good repute, the ORR shall have regard to all relevant evidence, including any information in its possession as to the previous conduct of any appropriate officer of the undertaking if that conduct appears to it to relate to the undertaking’s fitness to hold a European licence.

2. Without prejudice to the generality of its powers under paragraph 1, the ORR shall not determine that a railway undertaking is of good repute if—

- (a) an order has been made by the court for the winding up of the undertaking or the sequestration of its estate under insolvency legislation or any appropriate officer of the undertaking for the time being has been adjudged bankrupt or his estate has been sequestrated under that legislation;
- (b) the undertaking or any appropriate officer of the undertaking has been convicted of a serious offence, including in particular an offence contrary to the law relating to commercial transactions, or the law relating to transport; or
- (c) the undertaking or any appropriate officer of the undertaking has been convicted of a serious offence which is contrary to either of the following laws, or has been convicted repeatedly of offences which are contrary to either of those laws—
  - (i) social or labour law (including legislation relating to occupational health and safety); or
  - (ii) in the case of an undertaking seeking to operate cross-border goods transport subject to customs procedures, customs law.

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<sup>(37)</sup> S.I. 2005/551.

<sup>(38)</sup> S.I. 2005/3050.

<sup>(39)</sup> O.J. L 143, 27.6.1995, p. 70.

<sup>(40)</sup> O.J. L 75, 15.3.2001, p. 26.

<sup>(41)</sup> O.J. L 164, 30.4.2004, p. 44, to which there has been a corrigendum which is not relevant to these Regulations.



3.—(1) For the purposes of paragraph 2, a person has been convicted of a serious offence if that offence was committed under the law of any part of the United Kingdom or under the law of a country or territory outside the United Kingdom and if on conviction there was imposed on him for that offence a sentence of imprisonment for a term exceeding three months.

(2) In sub-paragraph (1), the reference to a sentence of imprisonment includes a reference to any form of custodial sentence or order, other than one imposed under the enactments relating to mental health.

4.—(1) Any reference in paragraph 3 to an offence under the law of any part of the United Kingdom includes a reference to a civil offence (wherever committed) within the meaning of the Army Act 1955<sup>(42)</sup>, the Air Force Act 1955<sup>(43)</sup> or as the case may be the Naval Discipline Act 1957<sup>(44)</sup>.

(2) For the purposes of paragraphs 1 to 3—

- (a) convictions which are spent for the purposes of the Rehabilitation of Offenders Act 1974<sup>(45)</sup> shall be disregarded; and
- (b) the ORR may also disregard an offence if such time as it thinks proper has elapsed since the date of the conviction.

5. In paragraphs 1 and 2 the reference to any appropriate officer of the undertaking is to any director, manager, secretary or similar officer of the undertaking, any other person in charge of the management of the undertaking, or any other person purporting to act in any such capacity.

### **Financial fitness**

6. Subject to paragraph 8 an applicant for a European licence shall be considered to meet the required standard of financial fitness when it can demonstrate that it will be able to meet its actual and potential obligations, established under realistic assumptions, for a period of twelve months.

7. For the purpose of demonstrating its financial fitness a railway undertaking shall make available to the ORR the undertaking's annual accounts, or if the undertaking is not able to provide annual accounts then the undertaking's balance sheet, together with details of the following matters (in so far as these cannot be ascertained from the annual accounts or, as the case may be, the balance sheet)—

- (a) the railway undertaking's available funds, including the bank balance, pledged overdraft provisions and loans;
- (b) the railway undertaking's funds and assets available as security;
- (c) the railway undertaking's working capital;
- (d) relevant costs, including the railway undertaking's purchase costs of payments to account for vehicles, land, buildings, installations and rolling stock; and
- (e) charges on the railway undertaking's assets.

8. The ORR shall not find the railway undertaking to be financially fit if the railway undertaking has substantial arrears of taxes or social security payments which are owed as a result of the undertaking's activity.

9. Without prejudice to regulation 6(6), the ORR may request that the railway undertaking provide to it audit reports or other suitable documents as the ORR considers necessary in relation to

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<sup>(42)</sup> 1955 c. 18.

<sup>(43)</sup> 1955 c. 19.

<sup>(44)</sup> 1957 c. 53.

<sup>(45)</sup> 1974 c. 53.



the matters listed in paragraph 7(a) to (e) which have been prepared by a body other than the railway undertaking such as a bank, building society, accountant or auditor.

### **Professional competence**

**10.** For the purposes of these Regulations the requirement of professional competence are satisfied by a railway undertaking when the undertaking has or will have a management organisation which possesses the knowledge or experience (or both) necessary to exercise safe and reliable operational control and supervision of the type of operations specified in the licence.

### **Insurance Cover**

**11.—(1)** An applicant for a European licence shall be considered to meet the requirement of insurance cover where, in accordance with the law of the United Kingdom or of any part of the United Kingdom and any relevant international law, the undertaking maintains adequate insurance cover, or has made arrangements having equivalent effect, covering its liabilities in the event of accident to passengers, luggage, freight, mail and third parties.

(2) In sub-paragraph (1), “relevant international law” means any provisions contained in any international agreement or arrangement to which the United Kingdom is a party and which have the force of law in the United Kingdom.

(3) Insurance cover shall be considered to be “adequate” for the purposes of paragraph (1) if it has been approved by the ORR.

## SCHEDULE 3

Regulation 14

### APPLICATION AND MODIFICATION OF STATUTORY PROVISIONS IN RELATION TO SNRPS AND SNRP HOLDERS

## PART 1

### APPLICATION AND MODIFICATION OF STATUTORY PROVISIONS

#### **Application and modification of statutory provisions to SNRPs and SNRP holders**

**1.** Subject to the following paragraphs of this Schedule, the following provisions have effect in relation to SNRPs and SNRP holders as they have effect in relation to licences and holders of licences and as if reference to a licence or a holder of a licence included a reference to a SNRP or a SNRP holder respectively—

- (a) section 27 of the Insolvency Act 1986<sup>(46)</sup> (protection of interests of creditors and members), as that section is applied by paragraph 10 of Part 1 of Schedule 6 to the 1993 Act;
- (b) sections 13 to 16 of the 1993 Act<sup>(47)</sup> (modification references to the Competition Commission and modifications by order);

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<sup>(46)</sup> 1986 c. 45.

<sup>(47)</sup> 1993 c. 43; sections 13 to 16 were amended by: S.I. 1999/506; the Transport Act 2000 (c. 38), section 242, Schedule 17, Part 1, paragraphs 1 and 7 to 9, and Schedule 31, Part 4; the Enterprise Act 2002 (c. 40), sections 86(5) and 164(2), Schedule 9, Part 1, paragraph 10, Schedule 25, paragraph 30, and Schedule 26; the Communications Act 2003 (c. 21), Schedule 16, paragraph 4; the Competition Act 1998 (c. 41), Schedule 10, paragraph 15(3), and Schedule 14, Part 1; the Railways and

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- (c) sections 55 to 58 of the 1993 Act(48) (orders for securing compliance);
- (d) section 68 of the 1993 Act(49) (investigatory functions);
- (e) subsections (1), (2)(a) (other than sub-paragraphs (ii), (iv) and (viii)), (3), (4), (7), (8) and (11) of section 72 of the 1993 Act(50) (keeping of register by the ORR);
- (f) section 168 of the Enterprise Act 2002(51) (adverse effects on competition);
- (g) subsections (2) to (5) of section 59 of the Railways Act 2005(52) (consequential amendments, transitional provisions and repeals); and
- (h) paragraph 24(2) of Schedule 1 to that Act (non publication of statement of policy under section 57B of the 1993 Act).

## PART 2

### OTHER MODIFICATIONS OF STATUTORY PROVISIONS

#### Railway administration orders

2. Subsection (1B)(b) of section 27 of the Insolvency Act 1986 (protection of interests of creditors and members), as that section is applied by paragraph 10 of Part 1 of Schedule 6 to the 1993 Act, has effect as if the reference to a licence under Part 1 of the Railways Act 1993 included a reference to a SNRP issued pursuant to the Railway (Licensing of Railway Undertakings) Regulations 2005.

#### Modification references to the Competition Commission

3. In section 13 of the 1993 Act (modification references to the Competition Commission), subsection (1)(a)(i) has effect as if the reference to a railway asset, or railway assets of a class or description, whose operator acts as such by virtue of a licence included a reference to a railway asset which is, or railway assets of a class or description which are, used for the provision of train services in respect of which a SNRP is held.

4. In section 15 of that Act (modification following report), subsection (1A) has effect as if the reference to section 15A of that Act included a reference to regulation 11 of the Railway (Licensing of Railway Undertakings) Regulations 2005.

5. In section 15B of that Act (making of modifications by Competition Commission), subsection (2) has effect as if at the end there were added “and shall be bound by paragraph (3) of regulation 11 of the Railway (Licensing of Railway Undertakings) Regulations 2005 as to the requirements which conditions may impose and by paragraph (4) of that regulation”.

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Transport Safety Act 2003 (c. 20), Schedule 2, Part 1, paragraphs 1 and 3, and Schedule 8; and the Railways Act 2005 (c. 14), Schedule 1, paragraphs 6 to 10 and Schedule 13, Part 1.

- (48) Sections 55 to 58 were amended by the Transport Act 2000 (c. 38), sections 225 and 226, Schedule 16, paragraphs 8, 35, 36 and 38, Schedule 17, Part 1, paragraphs 1, 11 and 12, and Part 2, paragraphs 17 and 26, Schedule 27, paragraphs 17, 30 to 33, and Schedule 31, Part 4; the Competition Act 1998 (c. 41), Schedule 10, paragraph 15(6); the Railways and Transport Safety Act 2003 (c. 20), Schedule 2, Part 1, paragraphs 1, 3 and 12; and the Railways Act 2005 (c. 14) Schedule 1, paragraphs 21 to 26. Sections 57A to 57F were inserted by the Transport Act 2000 (c. 38), section 225(1).
- (49) Section 68 was amended by the Railways and Transport Safety Act 2003 (c. 20), Schedule 2, Part 1, paragraphs 1 and 3; the Transport Act 2000, section 234, Schedule 22, Part 1, paragraphs 1 and 7, and Schedule 31, Part 4; and the Railways Act 2005, Schedule 13.
- (50) Section 72(2) was amended by the Railways and Transport Safety Act 2003 (c. 20), Schedule 2, Part 1, paragraphs 1 and 3; and the Transport Act 2000 (c. 38), Schedule 17, Part 1, paragraphs 1 and 15, and Schedule 27, paragraphs 17 and 36.
- (51) 2002 c. 40; section 168 was amended by the Railways Act 2005 (c. 14), Schedule 13.
- (52) 2005 c. 14.

### **Orders for securing compliance**

6. In section 55 of the 1993 Act (orders for securing compliance), subsection (5)(a) has effect as if the reference to section 4 of that Act included a reference to regulation 11 of the Railway (Licensing of Railway Undertakings) Regulations 2005.

### **Keeping of register by the ORR**

7. In section 72 of the 1993 Act (keeping of register by the ORR), subsection (2)(a)(i) has effect as if the reference to every licence exemption were omitted.

### **Enterprise Act 2002: regulated markets**

8. In section 168 of the Enterprise Act 2002 (regulated markets)—

- (a) subsections (3)(h) and (4)(h) have effect as if the reference to a licence granted under section 8 of the Railways Act 1993 (c. 43) included a reference to a SNRP issued pursuant to the Railway (Licensing of Railway Undertakings) Regulations 2005; and
- (b) subsection (4)(h) has effect as if the reference to section 4 of that Act included a reference to regulation 11 of those Regulations.

### **Amendment of access agreements**

9. In its application in relation to SNRPs or SNRP holders, subsection (1) of section 22C of the 1993 Act<sup>(53)</sup> (amendment of access agreements, and supplementary provisions relating to such agreements) has effect as if the reference to the conditions of a licence, in both places where it occurs, were to the conditions of a SNRP.

## SCHEDULE 4

Regulation 20

### TRANSITIONAL PROVISIONS RELATING TO EXISTING LICENCES AND LICENCE EXEMPTIONS

#### **The relevant date**

1. In this Schedule, “the relevant date” means the date of these Regulations coming into force.

#### **Existing licences granted under the Railways Act 1993**

2. Paragraphs 3 and 4 apply in relation to any licence granted under Part 1 of the 1993 Act before the relevant date and which is still valid at that date.

3.—(1) To the extent that the licence authorises the provision of services to which regulation 5 applies, the licence shall have effect on and after the relevant date and for the purposes of Part 2 of these Regulations as if—

- (a) it were a European licence granted pursuant to these Regulations by the ORR;
- (b) any reference in the licence to the licence or the licence holder were to the European licence or the holder of the European licence respectively;
- (c) in Part I (Scope) of the licence—

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<sup>(53)</sup> Section 22C(1) was inserted by the Transport Act 2000 (c. 38), section 232(2), and amended by the Railways and Transport Safety Act 2003 (c. 20), Schedule 2, Part 1, paragraphs 1 and 3.

*Status: This is the original version (as it was originally made).*

- (i) any reference to section 8 of the Railways Act 1993 (as amended) (“the Act”) were to regulation 6 of the Railway (Licensing of Railway Undertakings) Regulations 2005 (“the Regulations”);
  - (ii) any reference to the licence being subject to Conditions were omitted, except to the extent that those Conditions relate to the scope of activities which are authorised by the licence;
  - (iii) any reference to the licence being revoked in accordance with the provisions of the Schedule (Terms as to Revocation) to the licence or by notice were a reference to the European licence being revoked in accordance with the Regulations or with the provisions of Part III of the ORR template headed “European Passenger Licence (Standard)” (in the case of a licence for the transport of passengers) or Part III of the ORR template headed “European Freight Licence (Standard)” (in the case of a licence other than for the transport of passengers);
  - (d) for Part II (Interpretation) of and the Schedule (Terms as to Revocation) to the licence, there were substituted Parts II and III of the ORR template headed “European Passenger Licence (Standard)” or Parts II and III of the ORR template headed “European Freight Licence (Standard)” as appropriate;
  - (e) Part III (Conditions) of the licence were omitted, except to the extent that it relates to the scope of activities which are authorised by the licence; and
  - (f) the provisions of regulations 7 and 8 and 15 to 19 applied in relation to the licence and the licence holder.
- (2) The ORR templates referred to in paragraph (1) are the templates with the appropriate headings published by the ORR on 25th October 2005.
- (3) Any approval given before the relevant date in relation to a paragraph of the Schedule to the licence shall have effect on and after the relevant date as if given in relation to any equivalent paragraph in the European licence.
- (4) Where any act has been done before the relevant date in relation to a term in the Schedule to the licence, nothing in sub-paragraph (1) requires that act to be repeated.

4.—(1) To the extent that the licence relates to the provision of services to which regulation 9 applies, the licence shall have effect on and after the relevant date and for the purposes of Part 3 of these Regulations as if—

- (a) it were a SNRP issued pursuant to these Regulations by the ORR;
- (b) any reference in the licence to “licence holder” or “licence” were to “SNRP holder” or “SNRP” respectively;
- (c) in Part I (Scope) of the licence—
  - (i) any reference to section 8 of the Railways Act 1993 (as amended) (“the Act”), were to regulation 10 of the Railway (Licensing of Railway Undertakings) Regulations 2005 (“the Regulations”);
  - (ii) any reference to authorising the licence holder to be the operator of trains were omitted;
  - (iii) any reference to the licence being revoked in accordance with the provisions of the Schedule (Terms as to Revocation) to the licence or by notice were a reference to the SNRP being revoked in accordance with the provisions of Part IV of the ORR template headed “Passenger SNRP (Standard)” or Part IV of the ORR template headed “Freight SNRP (Standard)”, as appropriate;

- (d) for Parts II (Interpretation) and III (Conditions) of and the Schedule (Terms as to Revocation) to the licence, there were substituted Parts II, III and IV of the ORR template headed “Passenger SNRP (Standard)” or Parts II, III or IV of the ORR template headed “Freight SNRP (Standard)”, as appropriate; and
- (e) the provisions of regulations 10(3) and 11 to 19 applied in relation to the SNRP and the SNRP holder.

(2) The ORR templates referred to in paragraph (1) are the templates with the appropriate headings published by the ORR on 25th October 2005.

(3) Any approval or consent given before the relevant date, in relation to a condition in Part III of the licence shall have effect on and after the relevant date as if given in relation to any equivalent condition in the SNRP.

(4) Where any act has been done before the relevant date in relation to a condition in Part III of the licence or in relation to a term in the Schedule to the licence, nothing in sub-paragraph (1) requires that act to be repeated.

### **Existing licences granted pursuant to the Railways Regulations 1998**

**5.** Paragraphs 6 and 7 apply in relation to any licence granted pursuant to the Railways Regulations 1998<sup>(54)</sup> before the relevant date and which is still valid at that date.

**6.** To the extent that the licence authorises the provision of services to which regulation 5 of these Regulations applies, the licence shall have effect on and after the relevant date and for the purposes of Part 2 of these Regulations as if—

- (a) it were a European licence granted pursuant to these Regulations by the ORR;
- (b) for Parts I (Scope), II (Interpretation), III (Conditions) of and the Schedule (Revocation or Suspension of the Licence) there were substituted Parts I, II and III of the ORR template headed “European Passenger Licence (Eurostar)” (in the case of a licence for the transport of passengers) or Parts I, II and III of the ORR template headed “European Freight Licence (EWSI)” (in the case of a licence other than for the transport of passengers); and
- (c) the provisions of regulations 7 and 8 and 15 to 19 applied in relation to the licence and the licence holder.

(2) The ORR templates referred to in paragraph (1) are the templates with the appropriate headings published by the ORR on 25th October 2005.

(3) Any approval given by the International Rail Regulator before the relevant date in relation to a paragraph of the Schedule to the licence shall have effect on and after the relevant date as if given by the ORR in relation to any equivalent paragraph in the European licence.

(4) Where any act has been done before the relevant date in relation to a term in the Schedule to the licence, nothing in sub-paragraph (1) requires that act to be repeated.

**7.—(1)** The holder of the licence shall be deemed to have been granted a SNRP as at the relevant date, and accordingly to be a SNRP holder for the purposes of Part 3 of these Regulations.

(2) In the case of a holder who provides train services for the transport of passengers, the SNRP shall be in the form of the template published by the ORR on 25th October 2005 and headed “Passenger SNRP (Eurostar)”.

(3) In the case of a holder who provides train services other than for the transport of passengers, the SNRP shall be in the form of the template published by the ORR on 25th October 2005 and headed “Freight SNRP (EWSI)”.

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<sup>(54)</sup> S.I. 1998/1340, to which there are amendments not relevant to these Regulations.

(4) The provisions of regulations 10(3) and 11 to 19 shall apply in relation to the SNRP and the SNRP holder.

### **Applications for licences under the Railways Act 1993 or the Railways Regulations 1998**

**8.—(1)** This paragraph applies in relation to any application for a licence under Part 1 of the Railways Act 1993 or under the Railways Regulations 1998 for the authorisation of services to which regulation 5 applies, and made before the relevant date but not then determined.

(2) Subject to sub-paragraph (3), the application shall on and after that date be treated as an application for a European licence, and Part 2 of these Regulations shall apply accordingly.

(3) Where any act has been done (including the payment of any fee) in relation to an application to which sub-paragraph (1) applies before the relevant date, nothing in sub-paragraph (2) requires that act to be repeated.

### **Existing licence exemptions granted under the Railways Act 1993**

**9.** Paragraphs 10 to 14 apply in relation to any licence exemption granted under Part 1 of the Railways Act 1993 before the relevant date and which is still valid at that date.

**10.** To the extent that a person is exempted, by virtue of the Strategic Rail Authority (Licence Exemption) Order 2001<sup>(55)</sup>, from the requirement to be authorised to provide services to which regulation 5 applies, that person shall be deemed to have been granted on the relevant date—

- (a) a European licence for the purposes of Part 2 of these Regulations; and
- (b) a SNRP for the purposes of Part 3 of these Regulations.

**11.** The European licence referred to in paragraph 10(a) shall be in the form of the template published by the ORR on 25th October 2005 and headed “European Passenger Licence (Standard)”.

**12.** The SNRP referred to in paragraph 10(b) shall be in the form of the template published by the ORR on 25th October 2005 and headed “Passenger SNRP (Standard)”.

**13.** Regulations 7 and 8 and 15 to 19 shall apply in relation to the European licence and the holder of that licence.

**14.** Regulations 10(3) and 11 to 19 shall apply in relation to the SNRP and the SNRP holder.

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(55) S.I. 2001/218.