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STATUTORY INSTRUMENTS

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**2008 No. 2323**

**The Health and Safety (Enforcing Authority  
for Railways and Other Guided Transport  
Systems) (Amendment) Regulations 2008**

**Amendment of 2006 Regulations**

5. For regulation 5 (construction work) substitute the following regulation—

“5.—(1) Without prejudice to regulation 4(5), the operations specified in paragraph (2) of regulation 3 include construction work

- (a) for the maintenance, repair, renewal or improvement of existing infrastructure; and
- (b) for the extension or enlargement of infrastructure if that work is in such close proximity to the operation of a railway, tramway or other system of guided transport specified in that paragraph that such operation creates a risk to the health, safety or welfare of those engaged in that work.

(2) Without prejudice to regulation 4(5) and subject to paragraph (3), the operations set out in paragraph (2) of regulation 3 also include construction work if it is

- (a) carried out within operational premises; and
- (b) relates to the maintenance, repair, renewal or improvement of any fixed asset (other than infrastructure) of a system of transport specified in that paragraph.

(3) Paragraph (2) does not include construction work—

- (a) carried out in relation to a structure, premises or other property whose primary function is not related to the operation of the system of transport; or
- (b) carried out in relation to a bridge, structure or other property which spans or is adjacent to operational premises, by persons other than the owners, operator or manager of the system of transport or persons acting on behalf of one or more of them; or
- (c) where there is a suspension of the activities normally carried out in the operational premises (other than the use of the infrastructure for the through operation of vehicles with the exit of a passenger or passengers from such a vehicle only in the case of emergency) and the construction work meets the following conditions—
  - (i) the work is carried out in an area which is segregated physically from the infrastructure; and
  - (ii) the contractor has the authority to exclude from the segregated area persons who are not attending in connection with the carrying out of the work; or
- (d) where activities normally carried on in relation to the operation of the system of transport continue and—
  - (i) the construction work meets the conditions set out in sub paragraphs (i) and (ii) of paragraph (c); and

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- (ii) there is no access (other than emergency access) between the segregated area and the remainder of the operational premises.”