

*These notes refer to the Railway Safety Act (Northern Ireland)
2002 (c.8) which received Royal Assent on 13 August 2002*

Railway Safety Act (Northern Ireland) 2002

EXPLANATORY NOTES

COMMENTARY ON CLAUSES

12. The following are the main sections of the Act.

Section 1: Safety of Railways:

This section provides for existing legislation relevant to rail safety to be made “existing statutory provisions” under the terms of Part II of the [Health & Safety at Work \(Northern Ireland\) Order 1978 \(NI 9\)](#). The legislation in question is listed in subsection (4) of the section. This will allow the Department to make regulations using the broader range of general powers available in that Order. The intention is to use these powers to make regulations requiring safety cases to be made under Article 17 of that Order. Access to these general powers will also allow the Department to implement relevant European legislation in the Railway Safety field. These powers are modelled on Section 117 of the [Railways Act 1993 \(c 43\)](#).

Section 2: Approval of railway works, plant and equipment:

This section provides powers to make regulations requiring prior departmental approval be obtained before new works, plant or equipment are first brought into use. It will also provide powers requiring approval be obtained before new works, plant or equipment are first brought into use after alterations have been made to them. Prior approval is an important part of the safety regime. These powers are modelled on Section 41 of the [Transport and Works Act 1992 \(c 42\)](#), which does not extend to Northern Ireland. Once the secondary legislation has been introduced the powers in the old legislation to approve new works will be repealed.

Section 3: Accidents:

Existing legislation provides powers to carry out investigations following accidents. This section provides powers to make regulations requiring accidents to be reported to the Department. The section is similar to Section 43 of the [Transport and Works Act 1992 \(c 42\)](#) and will enable accident reporting and follow-up action, to include investigations where appropriate, to be brought into line with modern practice.

Section 4: Directions limiting speed and loads:

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Currently there is no Northern Ireland legislation giving the Department power to give directions limiting speeds and loads. This Section, mirroring Section 45 of the [Transport and Works Act 1992 \(c 42\)](#), provides such powers, which are required for the safe regulation of all railways. However they are likely to be especially useful for the appropriate regulation of heritage railways. It may be possible to exempt heritage operators from the burden of producing a full safety case where their risk assessment indicates that they are content to operate light trains at relatively low speeds.

Section 5: Signs and Barriers at private crossings:

This section makes provision for the placing of signs and barriers on or near a private road or path, which crosses a railway. Contravention of this section will, on summary conviction, attract a fine not exceeding level 3 on the standard scale. These powers are modelled on Sections 52 to 56 of the [Transport and Works Act 1992 \(c 42\)](#).

Section 6: Interpretation:

This section provides for definitions of “the Department” “operator” “railway” and railway “vehicle” for the purposes of this Act.

Section 7: Consequential Amendments and Repeals:

This section provides for amendments to the [Regulation of Railways Act 1871 \(c.78\)](#). Clause 1 (4)(b) makes the Regulation of Railways Act (1871) “existing statutory provision” (see commentary on Section 1). This section amends that Act to refer to regulations made under this Act. The definition of an accident is also extended. This section also provides for the legislation listed in Schedule 2 to be repealed.

Section 8: Commencement:

This section provides for most of the Act to come into operation two months after the date it receives Royal Assent. However, Sections 2 and 3 provide powers for the Department to make regulations that will replace existing legislation. Section 7 and Schedule 2 are connected to Sections 2 and 3. This Section provides for Sections 2, 3 and 7 and Schedule 2 to come into operation later than the rest of the Act. The intention is to bring these provisions into operation at the same time as the new regulations come into operation. This mechanism will ensure that the old legislation remains in force until it is superseded by the new legislation in the regulations.

Section 9: Short Title:

This section provides for the Act to be called the Railway Safety Act (Northern Ireland) 2002.

Schedules:

[Schedule 1:](#)

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This contains the provisions for the placing of signs and barriers at private crossings.

Schedule 2:

This lists the repeals of existing legislation no longer necessary due to new powers provided by the Act.