

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations are made in exercise of the powers conferred by the Channel Tunnel Act 1987 in order to amend the Railway (Licensing of Railway Undertakings) Regulations 2005 (the “2005 Regulations”) and the Railway (Licensing of Railway Undertakings) (Amendment etc.) (EU Exit) Regulations 2019 (the “2019 Regulations”). This is to enable the implementation of an agreement with France for the mutual recognition of railway operator licences in the Channel Tunnel and immediate cross-border areas (the “agreement”).

Regulation 1 (citation, commencement and extent) and regulation 2 (interpretation) together with the amendments to the 2019 Regulations (regulations 14 to 19) are commenced on 30 September 2021. The amendments to the 2005 Regulations in Part 2, and the consequential amendments in Part 3 and regulation 13 are then commenced at 11 pm on 31 January 2022 with regulations 14 to 19 also being revoked at the same point.

These Regulations make amendments to the 2005 Regulations in respect of rail operator licensing arrangements as they apply to European railway undertakings conducting cross-border services between the UK and France. These amendments provide for the recognition of operator licences (“European licences”) issued to such undertakings by the relevant authorities in the EEA pursuant to Council [Directive 95/18/EC](#) of 19th June 1995 (as subsequently amended by [Directive 2001/13/EC](#) of 26th February 2001 and [Directive 2004/49/EC](#) of 29th April 2004) or Chapter III of [Directive 2012/34/EU](#) of the European Parliament and of the Council of 21st November 2012.

The recognition of European licences only applies in relation to cross-border services (“Channel Tunnel services”) between the UK and France and only as far as Ashford International station (for passenger services) and Dollands Moor freight yard (for freight services). Under the agreement equivalent provision is made for the recognition of railway undertaking licences issued by the Office of Rail and Road (“ORR”) in Great Britain, in the French part of the Channel Tunnel and to Calais-Fréthun station (for passenger services) and Fréthun freight yard (for freight services).

Part 2 makes amendments to the 2005 Regulations to provide for the recognition of European licences in the UK for operators conducting rail services through the Channel Tunnel, as described in the fourth paragraph above. Part 2 also includes provision for the ORR to share information with the French licensing authority responsible for issuing European licences in France, in relation both to holders of European Licences operating a Channel Tunnel service in Great Britain and to holders of railway undertaking licences operating a Channel Tunnel service in France. Holders of European licences providing a Channel Tunnel service are also exempted from the requirement to hold a Statement of Regulatory Provisions (“SNRP”) issued by the ORR under the 2005 Regulations.

Part 3 makes consequential amendments to primary legislation.

Part 4, as well as making minor consequential amendments to secondary legislation, amends the 2019 Regulations. The 2019 Regulations corrected deficiencies in the 2005 Regulations arising out of the UK’s exit from the European Union. Among other things, the 2019 Regulations provided for continued recognition in Great Britain of European licences for a transitory period until 11.00 p.m. on 31st January 2022 (the “transitory period”). After that time, all railway undertakings will need to hold a railway undertaking licence issued by the ORR to operate a train service in Great Britain.

These Regulations modify these transitory recognition provisions, so far as they apply to Channel Tunnel services, in order to enable implementation of the agreement during the transitory period. The transitory provisions are modified so as to provide for information sharing by the ORR with

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the French licensing authority and to disapply the SNRP requirement for European licence holders providing a Channel Tunnel service.

An impact assessment has not been produced for this instrument as no, or no significant, impact on the private or voluntary sector is foreseen. An Explanatory Memorandum has been produced for this instrument and is published alongside this instrument at www.legislation.gov.uk.