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DRAFT STATUTORY INSTRUMENTS

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**2021 No.**

**The Railway (Licensing of Railway Undertakings) (Amendment) Regulations 2021**

**PART 3**

Consequential amendments to primary legislation

**The Railway Fires Act 1905**

**8.** In section 4 of the Railway Fires Act 1905(1) (definitions and application), in the definition of “railway company”—

- (a) at the end of paragraphs (a) and (b) omit “or”;
- (b) at the end of paragraph (c) insert “or”;
- (c) after paragraph (c) insert—

“(d) who holds a relevant European licence (within the meaning given by section 6(2) of the Railways Act 1993);”.

**The Insolvency Act 1986**

**9.** In paragraph 10 of Schedule 2A to the Insolvency Act 1986(2) (exceptions to the prohibition on the appointment of administrative receiver: supplementary provision)—

- (a) at the end of sub-paragraph (1)(n) insert “or a relevant European licence.”;
- (b) after sub-paragraph (2A) insert—

“(3) In sub-paragraph (1)(n) “relevant European licence” has the meaning given by section 6(2) of the Railways Act 1993.”.

**The Railways Act 1993**

**10.—**(1) The Railways Act 1993(3) is amended as follows.

(2) In section 6 (prohibition on unauthorised operators of railway assets)—

- (a) for subsection (1A) substitute—

“(1A) This section does not apply to a person who acts as the operator of a railway asset to the extent that the asset is operated for the purpose of providing—

- (a) a service for which a railway undertaking licence is required; or

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(1) 1905 c. 11; the definition of “railway company” was inserted by the Railways Act 1993 (c.43), Schedule 12, paragraph 2(2); the definition was amended by S.I. 2005/3050, 2016/645 and 2019/700.

(2) 1986 c. 45; Schedule 2A was inserted by the Enterprise Act 2002 (c.40) section 250(2), Schedule 18 to which relevant amendments have been made by S.I. 2005/3050, 2016/645 and 2019/700.

(3) 1993 c. 43; section 6(1A) was inserted by S.I. 1998/1340 and subsequently amended by S.I. 2005/3050 and 2019/700, subsection (2) was amended by S.I. 2005/3050, 2016/645 and 2019/700; section 80(1A) was inserted by S.I. 2005/3050 and amended by S.I. 2015/1682, 2016/645 and 2019/700. There are other amending instruments but none is relevant.

- (b) a Channel Tunnel service for which a railway undertaking licence or a European licence is required.”;
- (b) after subsection (1A) insert—
- “(1B) In this section—
- “Channel Tunnel service” means—
- (a) a railway passenger service between Calais-Fréthun station in France and Ashford International station in the United Kingdom;
  - (b) a service for the carriage of goods by railway between Fréthun freight yard in France and Dollands Moor freight yard in the United Kingdom; or
  - (c) a railway passenger service or service for the carriage of goods by railway which originates or terminates somewhere other than one of those stations or freight yards, but only while it passes between them;
- “European licence” means a licence granted pursuant to any action taken by an EEA state for the purpose of implementing—
- (a) Council [Directive 95/18/EC](#) of 19 June 1995 on the licensing of railway undertakings, as amended by [Directive 2001/13/EC](#) of 26 February 2001 and [Directive 2004/49/EC](#) of 29 April 2004, both of the European Parliament and of the Council; or
  - (b) Chapter III of [Directive 2012/34/EU](#) of the European Parliament and of the Council of 21 November 2012 establishing a single European railway area (recast).”.

(3) In section 6(2) (prohibition on unauthorised operators of railway assets) after the definition of “railway undertaking licence” insert—

““relevant European licence” means a European licence which an operator relies on to provide a Channel Tunnel service.”.

(4) In section 80(1A) (duty to furnish information on request), after “railway undertaking licences”, insert “, and holders of relevant European licences,”.

(5) In section 83(1) (interpretation) after the definition of “relevant condition or requirement” insert—

““relevant European licence” has the meaning given by section 6(2);”.

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

**11.** In Schedule 1 to the Civil Contingencies Act 2004(4) (category 1 and 2 responders) for paragraph 24 substitute—

- “**24.** A person who provides services in connection with railways in Great Britain and who holds—
- (a) a railway undertaking licence granted pursuant to the Railway (Licensing of Railway Undertakings) Regulations 2005; or
  - (b) a relevant European licence, within the meaning of section 6(2) of the Railways Act 1993.”.

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(4) 2004 c. 36; paragraph 24 of Schedule 1 was substituted by [S.I. 2005/3050](#), and amended by [S.I. 2016/645](#) and [S.I. 2019/700](#).

## **The Railways Act 2005**

**12.** In section 46(7)(c) of the Railways Act 2005<sup>(5)</sup> (bye-laws), after “railway undertaking licence” insert “or a relevant European licence”.

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<sup>(5)</sup> 2005 c. 14; section 46(7) was amended by S.I. 2005/3050 and 2019/700.