
DRAFT STATUTORY INSTRUMENTS

2021 No.

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

PART 4

Amendments etc. to other legislation

The British Transport Police (Police Services Agreement) Order 2004

13.—(1) Article 2 of the British Transport Police (Police Services Agreement) Order 2004(1) (requirement to enter into a police services agreement) is amended as follows.

(2) At the end of paragraph (1)(b) insert “or who holds a relevant European licence”.

(3) After paragraph (3) insert the following—

“(4) In this article “relevant European licence” has the meaning given in section 6(2) of the Railways Act 1993.”.

The Railway (Licensing of Railway Undertakings) (Amendment etc.) (EU Exit) Regulations 2019

14. The 2019 Regulations are amended in accordance with regulations 15 to 19.

15. In regulation 34 for “regulations 35 to 39” substitute “regulations 35 to 40”.

16. For regulation 35 substitute—

“**35.** Regulation 2(1) (interpretation) has effect as if the following definitions were inserted at the appropriate places—

““the 1995 Directive” means Council [Directive 95/18/EC](#) of 19th June 1995 on the licensing of railway undertakings, as amended by [Directive 2001/13/EC](#) of 26th February 2001 and [Directive 2004/49/EC](#) of 29th April 2004, both of the European Parliament and of the Council;”;

““the 2012 Directive” means [Directive 2012/34/EU](#) of the European Parliament and of the Council of 21st November 2012 establishing a single European railway area (recast);”;

““Channel Tunnel service” means—

(a) a service for the transport of passengers by rail between Calais-Fréthun station in France and Ashford International station in the United Kingdom;

(b) a service for the transport of goods by rail between Fréthun freight yard in France and Dollands Moor freight yard in the United Kingdom; or

- (c) a service for the transport of passengers or goods by rail 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 that is—

- (a) valid throughout the territory of any EEA state;
- (b) granted to a railway undertaking by which the capacity of the railway undertaking as such is recognised and which authorises the undertaking to provide in and between EEA states such train services as may be specified in the licence; and
- (c) granted pursuant to action taken by an EEA state for the purpose of implementing the 1995 Directive or the 2012 Directive;”;

““French licensing authority” means the body responsible for granting European licences in France;”.

17. After regulation 36 insert—

“**36A.** The 2005 Regulations have effect as if the following regulation were inserted after regulation 8—

“Information sharing by the ORR

8A.—(1) Where the ORR considers that there is serious doubt whether a railway undertaking which holds a European licence and is operating a Channel Tunnel service in reliance on that licence complies with any requirement of the 1995 Directive or Chapter III of the 2012 Directive, it must so notify the French licensing authority.

(2) The ORR must without delay provide information to the French licensing authority in relation to any relevant railway undertaking licence and the railway undertaking to which that licence has been granted—

- (a) on request by the French licensing authority on notifying the ORR of any concerns or doubts in relation to the validity of that licence;
- (b) if the ORR takes steps in accordance with regulation 8(2)(b) to determine whether or not the railway undertaking to which that licence has been granted complies with a requirement referred to in Schedule 2;
- (c) if the ORR requires that railway undertaking to submit or resubmit its licence for approval in accordance with regulation 8; or
- (d) the ORR suspends or revokes that licence.

(3) In this regulation “a relevant railway undertaking licence” means a railway undertaking licence in reliance upon which a railway undertaking provides a Channel Tunnel service in France.”.

18. For regulation 37 substitute—

“**37.** Regulation 9 (prohibition on operating trains without a statement of national regulatory provisions) has effect as if—

- (a) in paragraph (1), at the beginning—
 - (i) for “Where” there were substituted “Subject to paragraph (6), where”;
 - (ii) after “railway undertaking licence” there were inserted “or a European licence (see regulation 5)”;
- (b) after paragraph (5) there were inserted—

“(6) This regulation and regulations 10 to 14A and Schedule 3 do not apply in respect of the provision of a Channel Tunnel service if the person providing that service does so in reliance on a European licence and is not authorised to do so by a railway undertaking licence.”.””

19. In paragraph (4) of regulation 41 for the definition of “relevant European licence” substitute—

““relevant European licence” means any European licence provided that where the holder is required to have a valid SNRP in accordance with regulation 9 of the 2005 Regulations, (as modified by regulation 37 of these Regulations) a European licence is only a relevant European licence if the holder has a valid SNRP that has not been suspended or revoked;”.