
STATUTORY INSTRUMENTS

1994 No. 237

HEALTH AND SAFETY

TRANSPORT

The Railways (Safety Case) Regulations 1994

Made - - - - *3rd February 1994*
Laid before Parliament *7th February 1994*
Coming into force - - *28th February 1994*

The Secretary of State, in exercise of the powers conferred on him by sections 15(1), (2), (4)(a), (5)(b), (6)(b) and 82(3)(a) of, and paragraphs 1(1)(c), 8(1), 9, 15(1) and 16 of Schedule 3 to, the Health and Safety at Work etc. Act 1974(1) (“the 1974 Act”) and for the purpose of giving effect without modifications to proposals submitted to him by the Health and Safety Commission under section 11(2)(d) of the 1974 Act after the carrying out by the said Commission of consultations in accordance with section 50(3) of that Act; and being a Minister designated(2) for the purpose of section 2(2) of the European Communities Act 1972(3) in relation to measures relating to arrangements for access to rail infrastructure, in exercise of the powers conferred by the said section 2(2) and of all other powers enabling him in that behalf, hereby makes the following Regulations:

Citation and commencement

1. These Regulations may be cited as the Railways (Safety Case) Regulations 1994 and shall come into force on 28th February 1994.

Interpretation

2.—(1) In these Regulations, unless the context otherwise requires—

“audit report” means a report made pursuant to the arrangements referred to in paragraph 16 of Schedule 1;

“building operation” has the meaning assigned to it by section 176(1) of the Factories Act 1961(4);

(1) 1974 c. 37; sections 15 and 50 were amended by the Employment Protection Act 1975 (c. 71) Schedule 15, paragraphs 6 and 16 respectively; the general purposes of Part I referred to in section 15(1) were extended by section 117 of the Railways Act 1993 (c. 43).
(2) S.I. 1992/707.
(3) 1972 c. 68.
(4) 1961 c. 34.

“the Executive” means the Health and Safety Executive;

“factory” means a factory within the meaning of section 175 of the Factories Act 1961 and premises to which section 123(1) or (2) or 125(1) of that Act applies;

“harbour” and “harbour area” have the meanings assigned to them by regulation 2(1) of the Dangerous Substances in Harbour Areas Regulations 1987⁽⁵⁾;

“infrastructure controller” means a person who controls railway infrastructure;

“mine” and “quarry” have the meanings assigned to them by section 180 of the Mines and Quarries Act 1954⁽⁶⁾;

“notified” means notified in writing, and related expressions shall be construed accordingly;

“owner” in relation to a station means the person with the freehold interest in the premises comprising the station where those premises are situated in England or Wales and the proprietor of the *dominium utile* where those premises are situated in Scotland;

“railway” has the meaning assigned to it by section 67(1) of the Transport and Works Act 1992⁽⁷⁾ except that it does not include any part of a railway—

- (a) within a harbour or harbour area, or which is part of a factory, mine or quarry unless, in each case, it is being used or is intended to be used for the carriage of fare paying passengers;
- (b) used solely for the purpose of carrying out a building operation or work of engineering construction;
- (c) within a maintenance or goods depot;

“railway infrastructure” means fixed assets used for the operation of a railway including its permanent way and plant used for signalling or exclusively for supplying electricity for operational purposes to the railway, but it does not include a station;

“railway operator” means a person who is an infrastructure controller or operates trains or stations;

“revision” means proposed revision where by virtue of regulation 6(2) the revision has not been made;

“safety case” shall be construed in accordance with paragraph (2);

“safety representative” has the meaning assigned to it by regulation 2(1) of the Safety Representatives and Safety Committees Regulations 1977⁽⁸⁾;

“station” means a railway passenger station or terminal, but does not include any permanent way or plant used for signalling or exclusively for supplying electricity for operational purposes to the railway;

“train” includes any rolling stock (within the meaning of the Railways Act 1993⁽⁹⁾);

“work of engineering construction” has the meaning assigned to it by section 176(1) of the Factories Act 1961;

“workplace” has the meaning assigned to it by regulation 2(1) of the Safety Representatives and Safety Committees Regulations 1977.

(2) Any reference in these Regulations to a safety case is a reference to a document containing the particulars required by the provision of these Regulations pursuant to which the safety case is

(5) S.I. 1987/37.

(6) 1954 c. 90; section 180 was modified by S.I. 1974/2013.

(7) 1992 c. 42.

(8) S.I. 1977/500.

(9) 1993 c. 43.

prepared, and in so far as the document contains other particulars it shall not be treated as part of the safety case for the purposes of these Regulations; and a safety case may—

- (a) contain the particulars so required by reference to the same particulars contained in another safety case prepared by the same person if the first mentioned safety case is to be submitted for acceptance to the same person who has accepted the other safety case;
 - (b) be prepared by a person in respect of more than one operation intended to be undertaken by him if in the event of separate safety cases being prepared in respect of those operations they would have to be accepted by the same person pursuant to these Regulations.
- (3) Any provision of these Regulations requiring particulars to be included in a safety case—
- (a) which are also required to be included by virtue of a more general provision of the Regulations is without prejudice to the generality of the more general provision;
 - (b) (except in relation to the particulars specified in paragraph 14 of Schedule 1) shall require no more detail to be included than is necessary to enable the person to whom it is submitted for acceptance to satisfy himself on the matters referred to in paragraph (4) or (5) or regulation 10(8)(a).

(4) Any reference in these Regulations to an infrastructure controller accepting a safety case or revision (otherwise than by virtue of regulation 10(8)), is a reference to that controller notifying the person who prepared it that he is satisfied that the procedures and arrangements described in it which affect or are likely to affect the performance of his own health and safety duties will, when properly implemented with those described in any other safety case or revision thereof which that controller has prepared or accepted pursuant to these Regulations, be capable of ensuring compliance by that controller with those duties in relation to the operation to which the first mentioned safety case or revision relates.

(5) Any reference in these Regulations to the Executive accepting a safety case or revision is a reference to the Executive notifying the person who prepared it that it is satisfied with the case for health and safety made out in it.

(6) Any reference in these Regulations to the health and safety duties of an infrastructure controller is a reference to the duties imposed on him by the relevant statutory provisions (other than these Regulations).

(7) Where a railway operator is succeeded by a new railway operator, anything done in pursuance of these Regulations by the former railway operator shall, for the purposes of these Regulations, be treated as having been done by his successor; and for this purpose a person shall be treated as a successor in so far as control of the relevant railway infrastructure or the operation of the trains or stations concerned, as appropriate, has been transferred to him.

(8) Any reference in these Regulations to a person in control of any railway infrastructure is a reference to a person who, in the course of a business or other undertaking carried on by him (whether for profit or not), is in operational control of that infrastructure, except that where such control is for the time being exercised by a person undertaking maintenance, repair or alteration work on the infrastructure, it is a reference to a person who would be in operational control of the infrastructure if such work were not being undertaken.

(9) Any reference in these Regulations to a person operating a train or station is a reference to the person operating the train or station for the time being in the course of a business or other undertaking carried on by him (whether for profit or not), but it does not include a self-employed person by reason only that he himself drives or otherwise controls the movement of a train.

- (10) Unless the context otherwise requires, any reference in these Regulations to—
- (a) a numbered regulation or Schedule is a reference to the regulation or Schedule in these Regulations so numbered;

- (b) a numbered paragraph is a reference to the paragraph so numbered in the regulation or Schedule in which the reference appears.

Use of railway infrastructure

3.—(1) A person in control of any railway infrastructure shall not use or permit it to be used for the operation of trains or stations unless—

- (a) he has prepared a safety case containing the particulars specified in Schedules 1 and 2;
- (b) the Executive has accepted that safety case;
- (c) where he is not the person operating those trains or stations, the person undertaking that operation has agreed in writing to comply with any reasonable request he may make as respects any aspect of the operation which affects or is likely to affect the performance of the health and safety duties of the person in control of the railway infrastructure; and
- (d) the person operating those trains or stations has complied with regulation 4 or 5, as appropriate.

(2) A person in control of any railway infrastructure shall not accept a safety case pursuant to these Regulations unless his own safety case has been accepted pursuant to paragraph (1)(b).

Safety case for train operations

4.—(1) A person shall not operate a train in relation to any railway infrastructure unless—

- (a) he has prepared a safety case containing the particulars specified in Schedule 1, and
- (b) the safety case has been accepted—
 - (i) by the relevant infrastructure controller at least 28 days before the operation commences; or
 - (ii) where he is the relevant infrastructure controller, by the Executive.

(2) In this regulation “the relevant infrastructure controller” means the person in control of the railway infrastructure in relation to which the train is to be operated, and where there are different such persons for different parts of that infrastructure paragraph (1) shall apply separately in relation to each such part.

Safety case for station operations

5.—(1) A person shall not operate a station unless—

- (a) he has prepared a safety case containing the particulars specified in Schedule 1, and
- (b) the safety case has been accepted—
 - (i) where another person is the owner of the station and is the only relevant infrastructure controller, by that controller at least 28 days before the operation commences,
 - (ii) in any other case, by the Executive after taking account of any views given to it by the relevant infrastructure controller as respects matters which affect or are likely to affect the performance of his health and safety duties.

(2) In this regulation “the only relevant infrastructure controller” means the person in control of all the railway infrastructure serving the station and “the relevant infrastructure controller” means the only relevant infrastructure controller or where there are different persons in control of different parts of the railway infrastructure serving the station, it means each of them.

Revision of safety cases

6.—(1) A person who has prepared a safety case pursuant to these Regulations shall revise its contents whenever it is appropriate; but nothing in this paragraph shall require the revision to be sent to another person.

(2) Where a revision proposed to be made under paragraph (1) will render the safety case materially different from the last version sent to the person who accepted it pursuant to these Regulations, the revision shall not be made—

- (a) unless the revision has been sent to that person;
- (b) unless that person has accepted the revision or (where he is an infrastructure controller) has notified the person who prepared the safety case that the revision does not affect and is not likely to affect the performance of the health and safety duties of the infrastructure controller; and
- (c) where the person who accepted the safety case is an infrastructure controller, until 28 days after the revision has been accepted or until 28 days after a notification has been made under sub-paragraph (b),

and where the revision is to a safety case accepted pursuant to paragraph (ii) of regulation 5(1) (b) the Executive shall, before accepting the revision, take account of any views given to it by the relevant infrastructure controller referred to in that paragraph as respects the matters referred to in that paragraph.

(3) A person who has prepared a safety case which has been accepted pursuant to these Regulations shall make a thorough review of its contents at least every three years.

Duty to conform with safety case

7.—(1) Where a person has prepared and has had accepted a safety case pursuant to these Regulations he shall ensure that the procedures and arrangements described in the safety case and any revision thereof are followed.

(2) In criminal proceedings for a contravention of paragraph (1) it shall be a defence for the accused to prove that—

- (a) in the particular circumstances of the case it was not in the best interests of the health and safety of persons to follow the procedures or arrangements concerned and there was insufficient time to revise the safety case pursuant to regulation 6, or
- (b) the commission of the offence was due to a contravention by another person of regulation 8 and the accused had taken all reasonable precautions and exercised all due diligence to ensure that the procedures or arrangements were followed.

Co-operation

8.—(1) Every person to whom this regulation applies shall co-operate so far as is necessary with a railway operator (in this regulation referred to as “the duty holder”) to enable him to comply with the provisions of these Regulations.

(2) This regulation applies to—

- (a) any other railway operator whose operations affect or are affected by operations carried out by the duty holder;
- (b) an employer of persons or a self-employed person carrying out work on or in relation to premises or plant owned or controlled by the duty holder.

Notifications, consultations and documents

9.—(1) Where a safety case has been received by an infrastructure controller for acceptance pursuant to these Regulations or a revision thereof has been received by him pursuant to regulation 6(2), the controller shall notify the Executive of that fact forthwith, and, except in the case of a revision, of the address notified to him pursuant to paragraph (4)(a).

(2) Where an infrastructure controller accepts a safety case or revision pursuant to these Regulations (other than by virtue of regulation 10(8)) or sends a notification pursuant to regulation 6(2)(b) in relation to a revision (other than by virtue of regulation 10(9)), he shall send a copy of the safety case or revision and a copy of the notification referred to in regulation 2(4) or the notification referred to in regulation 6(2)(b), as appropriate, to the Executive forthwith.

(3) Where an infrastructure controller accepts a safety case or revision pursuant to these Regulations (other than by virtue of regulation 10(8)) he shall identify in the notification referred to in regulation 2(4) the procedures and arrangements described in the safety case or revision which affect or are likely to affect the performance of his health and safety duties and the extent to which they do so.

(4) A person who prepares a safety case pursuant to these Regulations shall—

- (a) when submitting that safety case to a person for acceptance, notify that person of an address in Great Britain for the purposes of sub-paragraphs (b) to (f) below, and, where the person submitting that safety case is an infrastructure controller, paragraph (7);
- (b) keep the accepted safety case and any revision thereof or a copy thereof at that address;
- (c) keep each audit report made by him or a copy thereof at that address;
- (d) ensure that a record is made of any action taken in consequence of such an audit report and keep that record or a copy thereof at that address;
- (e) ensure that a report is made of every review carried out pursuant to regulation 6(3) and ensure that a copy of it is sent to the person who has accepted the safety case; and
- (f) keep such report or a copy thereof at that address.

(5) A person who submits to the Executive a safety case for acceptance pursuant to regulation 5 or who submits to the Executive a revision to a safety case accepted under that regulation, shall send a copy of the safety case or revision to the relevant infrastructure controller referred to in that regulation.

(6) Where an infrastructure controller scrutinises a safety case submitted to him for acceptance pursuant to these Regulations or a revision submitted to him pursuant to regulation 6(2), he shall make a record of the steps he has taken in that scrutiny and of the results thereof.

(7) Where an infrastructure controller accepts a safety case or revision he shall keep a copy of that safety case or revision, every report sent to him pursuant to paragraph (4)(e) and the record referred to in paragraph (6) at the address he has notified pursuant to paragraph (4)(a).

(8) Each report and record required to be kept by this regulation shall be kept for a period of 3 years after it has been made, and the safety case and revision shall be kept for so long as it is current.

(9) It shall be sufficient compliance with paragraphs (4) and (7) for the information in the documents to be kept at the address notified on film or by electronic means provided that the information is capable of being reproduced as a written copy at that address and it is secure from loss or unauthorised interference.

(10) Where a person has notified an address pursuant to sub-paragraph (a) of paragraph (4), he may notify to the person who has accepted the safety case a different address in Great Britain for the purposes of the provisions referred to in that sub-paragraph, and where he does so references in those provisions and in paragraph (9) where applicable to the address notified shall be construed as the address in the last notification made under this paragraph.

(11) An employer who prepares in respect of a workplace a safety case or revision thereto pursuant to these Regulations shall consult safety representatives on its preparation.

(12) Regulation 7(1) of the Safety Representatives and Safety Committees Regulations 1977 shall have effect as if the reference to safety representatives being entitled to inspect and take copies of documents were, in a case where by virtue of paragraph (9) information is kept on film or in electronic form, a reference to them being entitled to be given appropriate facilities to enable them to read it and to take a copy of it.

Acceptance of safety cases by the Secretary of State

10.—(1) Where an infrastructure controller refuses to accept a safety case or revision thereof submitted to him by a person pursuant to these Regulations he shall notify that person of the reasons for that decision.

(2) A failure by an infrastructure controller to accept within a reasonable time a safety case submitted to him for acceptance pursuant to these Regulations or a revision submitted to him pursuant to regulation 6(2), shall, subject to paragraph (3), be treated as a refusal to accept it for the purposes of the following provisions of this regulation.

(3) Where an infrastructure controller has notified a person under regulation 6(2)(b) that a revision does not affect and is not likely to affect the performance of his health and safety duties, the refusal or failure to accept that revision shall not be treated as a refusal or failure for the purposes of this regulation.

(4) The person the acceptance of whose safety case or revision has been refused by an infrastructure controller may submit it for acceptance to the Secretary of State within 28 days of receiving the notification referred to in paragraph (1) or after the expiry of the time referred in paragraph (2), as appropriate, and where he does so submit it he shall—

- (a) send a copy of any such notification to the Secretary of State and to the Executive;
- (b) notify the infrastructure controller and the Executive that he has submitted the safety case or revision to the Secretary of State, and
- (c) send a copy of the safety case or revision to the Executive.

(5) On receiving the notification referred to in paragraph (4)(b) the infrastructure controller shall provide the Secretary of State with a copy of every safety case or revision thereof he has prepared or accepted pursuant to these Regulations and which it is necessary for the Secretary of State to see to come to a view on the matters referred to in paragraph (8)(a).

(6) Where a safety case or revision is submitted for acceptance pursuant to paragraphs (2) and (4), the Secretary of State may decline to deal with it if he considers that the infrastructure controller has not had reasonable time to scrutinise the safety case or revision, as appropriate.

(7) In performing his functions under this regulation the Secretary of State shall take account of any advice given to him with respect thereto by or on behalf of the Health and Safety Commission.

(8) The Secretary of State shall notify his decision in writing to the person who submitted the safety case or revision to him, the infrastructure controller and the Executive; if he decides to accept it—

- (a) the notification shall state that he is satisfied that the procedures and arrangements described in the safety case or revision which affect or are likely to affect the performance of the health and safety duties of the infrastructure controller will, when properly implemented with those described in any other safety case or revision thereof the infrastructure controller has prepared or accepted pursuant to these Regulations, be capable of ensuring compliance by that controller with his health and safety duties in relation to the operation to which the first mentioned safety case or revision relates;
- (b) these regulations shall have effect as if—

- (i) the safety case or revision had been accepted by the infrastructure controller, and
- (ii) the references in regulations 4 and 5 to “at least 28 days” did not apply and regulation 6(2)(c) did not apply.

(9) Where the Secretary of State decides not to accept a revision to a safety case because he is satisfied that the revision does not affect and is not likely to affect the health and safety duties of the infrastructure controller, the notification referred to in paragraph (8) shall state that fact and these Regulations shall have effect as if—

- (a) the infrastructure controller had sent to the person who prepared the safety case a notification pursuant to regulation 6(2)(b), and
- (b) regulation 6(2)(c) did not apply.

Exemptions

11.—(1) Subject to paragraph (2) and to any Community obligation of the United Kingdom the Executive may, by a certificate in writing, exempt any person or class of persons from any requirement or prohibition imposed by these Regulations and any such exemption may be granted subject to conditions and with or without limit of time and may be revoked by a certificate in writing at any time.

(2) The Executive shall not grant any such exemption unless, having regard to the circumstances of the case, and in particular to—

- (a) the conditions, if any, which it proposes to attach to the exemption; and
- (b) any other requirements imposed by or under any enactment which apply to the case,

it is satisfied that the health and safety of persons who are likely to be affected by the exemption will not be prejudiced in consequence of it.

(3) Subject to any Community obligation of the United Kingdom, the Secretary of State for Defence may, in the interests of national security, by a certificate in writing exempt any person or class of persons from the requirements of these Regulations and any such exemption may be granted subject to conditions and to a limit of time and may be revoked by the said Secretary of State by a further certificate in writing at any time.

Transitional provisions

12. The provisions of Schedule 3 shall have effect.

Revocations

13. The provisions of the Railways Regulations 1992(**10**) specified in column 1 of Schedule 4 shall be revoked to the extent specified in the corresponding entry in column 2 of that Schedule.

Signed by order of the Secretary of State

3rd February 1994

Roger Freeman
Minister of State,
Department of Transport

3rd February 1994

Michael Forsyth
Minister of State,
Department of Employment

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SCHEDULE 1

Regulations 3, 4 and 5

PARTICULARS TO BE INCLUDED IN A SAFETY CASE

1. The name and address of the person who has prepared the safety case (in this Schedule referred to as “the duty holder”).

2. A description of the operation intended to be undertaken by the duty holder.

3. A general description of the premises or plant intended to be used by the duty holder for the operation intended to be undertaken by him.

4. Particulars of any—

(a) technical specifications; and

(b) procedures or arrangements relating to operations or maintenance,

which the duty holder intends to follow in connection with the operation intended to be undertaken by him, in so far as they affect the health and safety of persons.

5. A statement of the duty holder’s general policy with respect to the health and safety of persons affected by the operation he intends to undertake, including the health and safety objectives he intends to achieve in relation to it.

6. A statement of the significant findings of the risk assessment the duty holder has made pursuant to regulation 3 of the Management of Health and Safety at Work Regulations 1992⁽¹¹⁾ and particulars of the arrangements he has made pursuant to regulation 4(1) thereof.

7. Particulars to demonstrate that the management system of the duty holder is adequate to ensure that the relevant statutory provisions will (in respect of matters within his control) be complied with in relation to the operation he intends to undertake.

8. Particulars to demonstrate that the duty holder has an adequate organisation for carrying out the policy referred to in paragraph 5 and adequate arrangements for ensuring the competence of his employees as respects health and safety.

9. Particulars to demonstrate that the duty holder has established adequate arrangements for the passing of information relevant to health and safety to persons within his undertaking and to other railway operators whose operations affect or are affected by the operation intended to be carried out by the duty holder.

10. Particulars of the arrangements the duty holder has established for consulting his employees on matters of health and safety.

11. Particulars to demonstrate that the duty holder has established adequate arrangements for investigating accidents and other incidents which could endanger persons, for co-ordinating such investigations with the investigations carried out by other railway operators and for participating in investigations carried out by other railway operators.

12. Particulars of the arrangements the duty holder has established with a view to securing the health and safety of persons, for managing work carried out by persons who are not his employees on or in relation to premises or plant which he owns or controls.

13. Particulars of the procedures the duty holder has established for dealing with accidents and with emergencies or other incidents which could endanger persons.

14. Where the safety case is prepared pursuant to regulation 5, particulars of the procedures and arrangements the duty holder has established—

(11) S.I. 1992/2051.

- (a) to prevent risks to the health and safety of persons arising from the movement or overcrowding of persons in the station; and
 - (b) for the evacuation of persons from the station in an emergency.
- 15.** Particulars of the safety procedures the duty holder has established for the design and procurement of premises and plant to be used by him or under his control.
- 16.** Particulars to demonstrate that the duty holder has established adequate arrangements for audit and the making of reports thereof.
- 17.** Particulars of the arrangements the duty holder has established to enable him to comply with regulation 8, including—
- (a) in a case where the duty holder is to submit the safety case to an infrastructure controller for acceptance pursuant to these Regulations, particulars to demonstrate that the duty holder has established adequate arrangements for enabling the controller to follow with respect to that safety case the arrangements described in his own safety case pursuant to paragraph 3 of Schedule 2;
 - (b) in a case where the duty holder is to submit a safety case to the Executive for acceptance pursuant to regulation 5, particulars to demonstrate that the duty holder has established adequate arrangements for enabling the relevant infrastructure controller referred to in that regulation to follow with respect to that safety case the arrangements described in his own safety case pursuant to paragraph 4 of Schedule 2.
- 18.** In this Schedule—
- (a) “audit” means systematic assessment of the adequacy of the management system to achieve the purpose referred to in paragraph 7 carried out by persons who are sufficiently independent of the system (but who may be employed by the duty holder) to ensure that such assessment is objective;
 - (b) “management system” means the organisation and arrangements established by the duty holder for managing his undertaking;
 - (c) any reference to an operation intended to be undertaken by a duty holder is—
 - (i) where the safety case is prepared pursuant to regulation 3, a reference to the operations he intends to carry out in relation to the railway infrastructure concerned;
 - (ii) where the safety case is prepared pursuant to regulation 4 or 5, a reference to the train or station operations concerned.

SCHEDULE 2

Regulation 3

ADDITIONAL PARTICULARS TO BE INCLUDED IN A SAFETY CASE OF AN INFRASTRUCTURE CONTROLLER

- 1.** Particulars of the arrangements established by the infrastructure controller who has prepared the safety case for scrutinising—
- (a) any safety cases or revisions thereof sent to him for acceptance pursuant to regulation 4, 5 or 6 and the criteria he will use for accepting them;
 - (b) copies of any safety cases or revisions thereof sent to him pursuant to regulation 9(5).
- 2.** Particulars to demonstrate that the arrangements and criteria referred to in paragraph 1(a) will enable him before accepting a safety case or revision thereof to be satisfied on the matters referred to in regulation 2(4).

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3. Particulars of the arrangements he has established for ensuring that railway operators who have had their safety cases accepted by him follow the procedures and arrangements described in them in so far as those procedures and arrangements affect or are likely to affect the performance of his health and safety duties.

4. Particulars of the arrangements he has established for ensuring that persons operating stations served by any railway infrastructure he controls who have had their safety cases accepted by the Executive pursuant to regulation 5, follow the procedures and arrangements described in them in so far as those procedures and arrangements affect or are likely to affect the performance of his health and safety duties.

SCHEDULE 3

Regulation 12

TRANSITIONAL PROVISIONS

1. Where a person is undertaking a relevant operation on 28th February 1994 it shall, to the extent that the operation is undertaken in the same place as it was on that date, be sufficient compliance by him with regulation 3(1)(a) and (b), 4 or 5 if the safety case referred to in that provision is prepared and accepted within 2 years after that date.

2. Where pursuant to regulation 4 or 5 a person submits in respect of a train or station operation to be carried out by him a safety case for acceptance to an infrastructure controller who by virtue of paragraph 1 has not had his own safety case accepted by the Executive, paragraph 1 shall, to the extent that it relates to regulation 3, cease to apply to that controller in respect of that operation.

3. Where a relevant operation is not being undertaken on 28th February 1994 in consequence of normal operating schedules, maintenance, repair or an emergency, the operation shall nevertheless be treated for the purposes of paragraph 1 as being undertaken on that date.

4. Where a safety case is prepared after the relevant operation has commenced references in regulation 2(2)(b) and Schedule 1 to the operation intended to be undertaken by the person or duty holder respectively, shall include references to the operation already commenced by him.

5. In this Schedule “relevant operation” in relation to regulation 3(1)(a) and (b), 4 or 5 means the activity which would, apart from this Schedule, be prohibited by that regulation.

SCHEDULE 4

Regulation 13

REVOCATIONS OF THE RAILWAYS REGULATIONS 1992

Column 1 Regulation	Column 2 Extent of revocation
Regulation 8	Paragraphs (6) to (11).
Regulation 9	In paragraph (4) the words “other than a dispute falling within paragraph (7)”. Paragraphs (7) and (8).
Regulation 14	In paragraph (1) the references to paragraphs (6), (7), (8), (9) and (10) of regulation 8 and paragraph (8) of regulation 9.

Column 1 Regulation	Column 2 Extent of revocation
Regulation 15	The whole regulation.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations provide for railway operators to prepare safety cases and to submit them to the relevant infrastructure controller or to the Health and Safety Executive (“the Executive”).

Regulation 2(2) defines a “safety case” as a document containing the particulars specified in the Schedule referred to in the provision of the Regulations under which the safety case is prepared. *Schedules 1 and 2* specify those particulars.

Regulation 3 prohibits the use of any railway infrastructure unless—

- (a) the infrastructure controller has prepared a safety case which has been accepted by the Executive; and
- (b) any person operating the trains or stations (if different from the infrastructure controller)—
 - (i) has agreed to comply with any reasonable request of the infrastructure controller concerning any aspect of the operation which affects or is likely to affect the controller’s performance of his health and safety duties; and
 - (ii) has complied with *regulation 4 or 5* as appropriate.

Regulation 4 prohibits a person from operating a train unless he has prepared a safety case which has been accepted by the relevant infrastructure controller or by the Executive as appropriate.

Regulation 5 prohibits a person from operating a station unless he has prepared a safety case which has been accepted, as appropriate, by the relevant infrastructure controller or by the Executive after taking account of any views given to it by the relevant infrastructure controller.

Regulation 6 requires a safety case to be revised as often as may be appropriate. A revision which renders the safety case materially different from the last version may not be made unless the infrastructure controller or the Executive, as appropriate, approves the amendment or the infrastructure controller indicates that the revision does not and is not likely to affect the performance by the controller of his health and safety duties. *Regulation 6* also requires a safety case to be revised at least every 3 years.

Regulation 7 requires that any procedures or arrangements described in a safety case are followed and provides specified defences for contravention of the requirement.

Regulation 8 imposes requirements on specified persons to co-operate with a railway operator to enable the railway operator to comply with the provisions of the Regulations.

Regulation 9(1) and (2) both require infrastructure controllers to notify the Executive on the receipt and acceptance of safety cases and revisions thereof and on a notification that a revision does not and is not likely to affect the performance by the controller of his health and safety duties. *Regulation 9* also imposes requirements with respect to the making and keeping of documents.

Regulation 9(11) requires safety representatives to be consulted on the preparation of safety cases.

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Regulation 10 provides that a person whose safety case has been refused by an infrastructure controller may submit it for acceptance to the Secretary of State. The notification by an infrastructure controller that a revision does not and is not likely to affect the performance by the controller of his health and safety duties is not treated as a refusal for this purpose. *Regulation 10(7)* requires the Secretary of State to take account of advice given by the Health and Safety Commission and *regulation 10(8)* sets out the consequences of the Secretary of State accepting a safety case.

Regulation 11 provides for the granting of exemptions from the Regulations by the Executive in certain circumstances.

Regulation 12 and Schedule 3 contain transitional provisions in respect of operations which continue to be undertaken in the same place as they were on the date of the coming into force of the Regulations.

Regulation 13 and Schedule 4 provide for consequential revocations to the Railways Regulations 1992 (S.I. 1992/3060).

These Regulations implement provisions of Council Directive 91/440/EEC of 29th July 1991 which were originally implemented by the provisions revoked by *regulation 13 and Schedule 4*.

An assessment of the cost to business of complying with these Regulations can be obtained from Railways Division 1A, Room S19/14, Department of Transport, 2 Marsham Street, London, SW1P 3EB, telephone number (071) 276 6718. Copies have also been placed in the libraries of both Houses of Parliament.