
STATUTORY INSTRUMENTS

2004 No. 915

POLICE, ENGLAND AND WALES

TRANSPORT, ENGLAND AND WALES

The Railway Safety Accreditation Scheme Regulations 2004

<i>Made</i>	- - - -	<i>24th March 2004</i>
<i>Laid before Parliament</i>		<i>2nd April 2004</i>
<i>Coming into force</i>	- -	<i>26th April 2004</i>

The Secretary of State, in exercise of the powers conferred upon him by sections 43 and 105(4) of the Police Reform Act 2002⁽¹⁾, having consulted such persons as he is required to consult and such other persons as he thought fit to consult in accordance with section 43(9) of that Act, hereby makes the following Regulations:

Citation and commencement

1. These Regulations may be cited as the Railway Safety Accreditation Scheme Regulations 2004 and shall come into force on 26th April 2004.

Interpretation

2. For the purposes of these Regulations—

“accredited person” means a person in relation to whom an accreditation under regulation 7 is for the time being in force;

“chief constable” means the chief constable of the Police Force;

“Police Force” means the constables of the British Transport Police Force appointed under section 53 of the 1949 Act;

“railway safety functions” means any functions the carrying out of which would be facilitated by the ability to exercise one or more of the powers mentioned in the Schedule to these Regulations;

“scheme” means a railway safety accreditation scheme established by virtue of these Regulations;

“the 1949 Act” means the British Transport Commission Act 1949⁽²⁾;

(1) 2002 c. 30.
(2) 1949 c. xxix.

“the British Transport Police Committee” means the British Transport Police Committee constituted under paragraph 4 of the British Transport Police Force Scheme; and

“the British Transport Police Force Scheme” means the scheme set out in the schedule to the British Transport Police Force Scheme 1963 (Approval) Order 1964⁽³⁾.

Establishment and Maintenance of a Scheme

3.—(1) The chief constable may, if he considers it to be appropriate for the purposes set out in paragraph (2), establish and maintain a scheme.

(2) Those purposes are—

- (a) contributing to railway safety and security; and
- (b) in co-operation with the Police Force, combating crime and disorder, public nuisance and other forms of anti-social behaviour.

Consultation

4. Before establishing a scheme, the chief constable shall consult with—

- (a) the British Transport Police Committee;
- (b) persons whom he considers to represent the interests of chief officers of police;
- (c) persons whom he considers to represent the interests of police authorities;
- (d) persons whom he considers to represent the interests of local authorities;
- (e) persons whom he considers to represent the interests of the rail industry;
- (f) persons whom he considers to represent the interests of rail passengers;
- (g) the Mayor of London; and
- (h) such other persons as he thinks fit.

Railways policing plan

5. Any railways policing plan made under section 52 of the Railways and Transport Safety Act 2003⁽⁴⁾ shall set out the proposed arrangements for the policing of policed premises during the year, and shall include a statement detailing—

- (a) whether a scheme is being maintained;
- (b) if not, whether there is any proposal to establish a scheme during the period to which the plan relates;
- (c) where there is a proposal to establish a scheme during the period to which the plan relates, details of that proposal; and
- (d) where a scheme has been established, details of any proposals to modify the scheme during the period to which the plan relates.

Arrangements with employers

6.—(1) A scheme must contain provision for the making of arrangements with an employer who—

(3) S.I.1964/1456, amended by S.I. 1992/364, 1994/609, 2003/1615. Following repeal of section 69 of the Transport Act 1962 the scheme continued to have effect as if made under section 132 of the Railways Act 1993 (1993 c. 43), by virtue of paragraph 3(2) of schedule 10 to that Act.

(4) 2003 c. 20.

(a) is in a transport police services agreement, made by virtue of paragraph 2A of the British Transport Police Force Scheme; or

(b) is carrying on business in relation to the whole or any part of policed premises,

for such an employer to supervise the carrying out by his employees of the railway safety functions which those employees are empowered to perform by virtue of an accreditation under regulation 7.

(2) It shall be the duty of the chief constable who establishes or maintains a scheme to ensure that the employers of those persons on whom powers are conferred by virtue of an accreditation under regulation 7 have established and maintain satisfactory arrangements for handling complaints relating to the carrying out by those persons of the functions for the purposes of which the powers are conferred.

Accreditation under a scheme

7.—(1) This regulation applies where the chief constable has, for the purposes of a scheme, entered into any arrangements with any employer for or with respect to the carrying out of railway safety functions by employees of that employer.

(2) The chief constable may, on the making of an application for the purpose by such person and in such manner as he might require, grant accreditation under this regulation to any employee of an employer described in regulation 6(1).

(3) The chief constable may confer upon any person granted accreditation under this regulation any of the powers listed in the Schedule.

(4) The chief constable shall not grant accreditation to a person under this regulation unless he is satisfied that—

(a) that person's employer is a fit and proper person to supervise the carrying out of the functions for the purposes of which the accreditation is to be granted;

(b) the person himself is a suitable person to exercise the powers that will be conferred on him by virtue of the accreditation;

(c) that person himself is capable of effectively carrying out the functions for the purposes of which those powers are to be conferred on him; and

(d) that person has received adequate training for the exercise of those powers.

(5) A person authorised or required to do anything by virtue of an accreditation under this regulation—

(a) shall not be authorised or required by virtue of that accreditation to engage in any conduct otherwise than in the course of his employment by the employer with whom the chief constable has entered into the arrangements referred to in paragraph (1); and

(b) shall be so authorised or required subject to such other restrictions and conditions, if any, as may be specified in his accreditation.

(6) An accreditation granted under this regulation, unless it ceases to have effect in accordance with paragraph (7), shall remain in force for such period of time as shall be specified in the accreditation, and may be renewed at any time with effect from the time when it would otherwise expire.

(7) An accreditation granted under this regulation shall cease to have effect if—

(a) the accredited person ceases to be an employee of the person with whom the chief constable has entered into the arrangements referred to in paragraph (1);

(b) the arrangements between the chief constable and the employer are terminated or expire; or

(c) it is withdrawn in accordance with regulation 8(3).

Supplementary provisions relating to accreditations

8.—(1) A person who exercises any power in relation to any person in reliance on his accreditation under regulation 7, or who purports to do so, shall produce that accreditation to that person if requested to do so.

(2) A power exercisable by any person in reliance on his accreditation under regulation 7 shall be exercisable only by a person wearing such—

(a) uniform as may be—

(i) determined or approved for the purposes of these regulations by the chief constable; and

(ii) identified or described in the accreditation; and

(b) badge as may be specified from time to time for the purposes of this regulation by the Secretary of State, and worn in such manner, or in such place, as may be so specified.

(3) Subject to paragraph (4) the chief constable may at any time, by giving notice to the accredited person, modify or withdraw an accreditation granted to any person under regulation 7.

(4) Any such notice given under paragraph (3) shall include reasons for the modification or withdrawal of the accreditation.

(5) Where the chief constable has modified or withdrawn an accreditation granted under regulation 7 he shall send a copy of the notice given under paragraph (3) to the employer responsible for supervising that person in the carrying out of the functions for the purposes of which the accreditation was granted.

(6) For the purposes of determining liability for the unlawful conduct of employees of an employer with whom the chief constable has made an arrangement referred to in regulation 7(1), conduct by such an employee in reliance or purported reliance on an accreditation under regulation 7 shall be taken to be conduct in the course of his employment by that employer and, in the case of a tort, that employer shall fall to be treated as a joint tortfeasor.

Offences against accredited persons

9.—(1) Any person who assaults—

(a) an accredited person in the execution of his duty; or

(b) a person assisting an accredited person in the execution of his duty,

is guilty of an offence and shall be liable, on summary conviction, to imprisonment for a term not exceeding 6 months, or to a fine not exceeding level 5 on the standard scale, or to both.

(2) Any person who resists or wilfully obstructs—

(a) an accredited person in the execution of his duty; or

(b) a person assisting an accredited person in the execution of his duty,

is guilty of an offence and shall be liable, on summary conviction, to imprisonment for a term not exceeding 1 month, or to a fine not exceeding level 3 on the standard scale, or to both.

(3) Any person who, with intent to deceive—

(a) impersonates an accredited person;

(b) makes any statement or does any act calculated falsely to suggest that he is an accredited person; or

(c) makes any statement or does any act calculated falsely to suggest that he has powers as an accredited person that exceed the powers he actually has,

is guilty of an offence and shall be liable, on summary conviction, to imprisonment for a term not exceeding 6 months, or to a fine not exceeding level 5 on the standard scale, or to both.

(4) In this regulation references to the execution by an accredited person of his duty are references to his exercising any power which is his by virtue of his accreditation.

Signed by authority of the Secretary of State for Transport

24th March 2004

Tony McNulty
Parliamentary Under-Secretary of State,
Department for Transport

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SCHEDULE

Regulation 7(3)

POWERS EXERCISABLE BY ACCREDITED PERSONS

Power to issue fixed penalty notices

1.—(1) An accredited person whose accreditation specifies that this paragraph applies to him shall have the powers specified in sub-paragraph (2) in relation to any individual who he has reason to believe has committed or is committing a relevant fixed penalty offence in, on or in the vicinity of policed premises.

(2) Those powers are the following powers so far as exercisable in respect of a relevant offence—

- (a) the power of a constable in uniform to give a person a fixed penalty notice under section 54 of the Road Traffic Offenders Act 1988⁽⁵⁾ (fixed penalty notices) in respect of an offence under section 72 of the Highway Act 1835⁽⁶⁾ (riding on a footway) committed by cycling;
- (b) the powers of a constable in uniform to give a penalty notice under Chapter 1 of Part 1 of the Criminal Justice and Police Act 2001⁽⁷⁾ (fixed penalty notices in respect of offences of disorder) except in respect of an offence under section 12 of the Licensing Act 1872⁽⁸⁾ or section 91 of the Criminal Justice Act 1967⁽⁹⁾;
- (c) the power of a constable to give a penalty notice under section 444A of the Education Act 1996⁽¹⁰⁾ (penalty notice in respect of failure to secure regular attendance at school of registered pupil);
- (d) the power of an authorised officer of a local authority to give a notice under section 4 of the Dogs (Fouling of Land) Act 1996⁽¹¹⁾ (fixed penalty notices in respect of dog fouling);
- (e) the power of an authorised officer of a local authority to give a notice under section 43(1) of the Anti-social Behaviour Act 2003⁽¹²⁾ (penalty notice in respect of graffiti or fly-posting); and
- (f) the power of an authorised officer of a litter authority to give a notice under section 88 of the Environmental Protection Act 1990⁽¹³⁾ (fixed penalty notices in respect of litter).

(3) In this paragraph “relevant fixed penalty offence”, in relation to an accredited person, means an offence which—

- (a) is an offence by reference to which a notice may be given to a person in exercise of any of the powers mentioned in sub-paragraph (2)(a) to (f); and
- (b) is specified or described in that person’s accreditation as an offence he has been accredited to enforce.

(4) In its application to an offence which is an offence by reference to which a notice may be given to a person in exercise of the power mentioned in sub-paragraph (2)(c), sub-paragraph (1) shall have effect as if for the words from “who he has reason to believe” to the end there were substituted “in, on or in the vicinity of policed premises who he has reason to believe has committed or is committing a relevant fixed penalty offence.”.

(5) 1988 c. 53.
 (6) 1835 c. 50.
 (7) 2001 c. 16.
 (8) 1872 c. 94.
 (9) 1967 c. 80.
 (10) 1996 c. 56.
 (11) 1996 c. 20.
 (12) 2003 c. 38.
 (13) 1990 c. 43.

Power to require giving of name and address

2.—(1) Where an accredited person whose accreditation specifies that this paragraph applies to him has reason to believe that another person has committed a relevant offence in, on or in the vicinity of policed premises, he may require that other person to give him his name and address.

(2) A person who fails to comply with a requirement under sub-paragraph (1) is guilty of an offence and shall be liable, on summary conviction, to a fine not exceeding level 3 on the standard scale.

(3) In this paragraph “relevant offence”, in relation to any accredited person, means an offence which is—

- (a) a relevant fixed penalty offence for the purposes of any powers exercisable by the accredited person by virtue of paragraph 1; or
- (b) an offence the commission of which appears to the accredited person to have caused—
 - (i) injury, alarm or distress to any other person; or
 - (ii) the loss of, or any damage to, any other person’s property;

but the accreditation of an accredited person may provide that an offence is not to be treated as a relevant offence by virtue of paragraph (b) unless it satisfies such other conditions as may be specified in the accreditation.

(4) In its application to an offence which is an offence by reference to which a notice may be given to a person in exercise of the power mentioned in paragraph 1(2)(c), sub-paragraph (1) of this paragraph shall have effect as if for the words “has committed a relevant offence in, on or in the vicinity of policed premises” there were substituted “in, on or in the vicinity of policed premises has committed a relevant offence”.

Power to require name and address of person acting in an anti-social manner

3. An accredited person whose accreditation specifies that this paragraph applies to him shall, in, on or in the vicinity of policed premises, have the powers of a constable in uniform under section 50 of the Police Reform Act 2002 to require a person whom he has reason to believe to have been acting, or to be acting, in an anti-social manner (within the meaning of section 1 of the Crime and Disorder Act 1998⁽¹⁴⁾ (anti-social behaviour orders)) to give his name and address.

Alcohol consumption in designated public places

4. An accredited person whose accreditation specifies that this paragraph applies to him shall, in, on or in the vicinity of policed premises, have the powers of a constable under section 12 of the Criminal Justice and Police Act 2001 (alcohol consumption in public places)—

- (a) to impose a requirement under subsection (2) of that section; and
- (b) to dispose under subsection (3) of that section of anything surrendered to him;

and that section shall have effect in relation to the exercise of those powers by that person as if the references to a constable in subsections (1) and (5) were references to the accredited person.

Confiscation of alcohol

5. An accredited person whose accreditation specifies that this paragraph applies to him shall, in, on or in the vicinity of policed premises, have the powers of a constable under section 1 of the Confiscation of Alcohol (Young Persons) Act 1997⁽¹⁵⁾ (confiscation of intoxicating liquor)—

⁽¹⁴⁾ 1998 c. 37.

⁽¹⁵⁾ 1997 c. 33.

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- (a) to impose a requirement under subsection (1) of that section; and
- (b) to dispose under subsection (2) of that section of anything surrendered to him;

and that section shall have effect in relation to the exercise of those powers by that person as if the references to a constable in subsections (1) and (4) (but not the reference in subsection (5) (arrest)) were references to the accredited person.

Confiscation of tobacco etc.

6.—(1) An accredited person whose accreditation specifies that this paragraph applies to him shall, in, on or in the vicinity of policed premises, have—

- (a) the power to seize anything that a constable in uniform has a duty to seize under subsection (3) of section 7 of the Children and Young Persons Act 1933⁽¹⁶⁾ (seizure of tobacco etc. from young persons); and
- (b) the power to dispose of anything that a constable may dispose of under that subsection,

and the power to dispose of anything shall be a power to dispose of it in such manner as the relevant employer of the accredited person may direct.

(2) In this paragraph “relevant employer”, in relation to an accredited person, means the person with whom the chief constable has entered into arrangements under regulation 7(1).

Abandoned vehicles

7. An accredited person whose accreditation specifies that this paragraph applies to him shall have all such powers in, on or in the vicinity of policed premises as are conferred on accredited persons by regulations made under section 99 of the Road Traffic Regulation Act 1984⁽¹⁷⁾ (removal of abandoned vehicles).

Power to stop vehicle for testing

8. A person whose accreditation specifies that this paragraph applies to him shall, in, on or in the vicinity of policed premises, have the power of a constable in uniform to stop a vehicle under subsection (3) of section 67 of the Road Traffic Act 1988⁽¹⁸⁾ for the purposes of a test under subsection (1) of that section.

Power to stop cycles

9.—(1) Subject to sub-paragraph (2), a person whose accreditation specifies that this paragraph applies to him shall, in, on or in the vicinity of policed premises, have the power of a constable in uniform under section 163(2) of the Road Traffic Act 1988 to stop a cycle.

(2) The power mentioned in sub-paragraph (1) may only be exercised by that person in relation to a person who he has reason to believe has committed an offence under section 72 of the Highway Act 1835 (riding on a footway) by cycling.

Power to control traffic for the purposes of escorting a load of exceptional dimensions

10.—(1) A person whose accreditation specifies that this paragraph applies to him shall have, for the purpose of escorting a vehicle or trailer carrying a load of exceptional dimensions either to or from policed premises, the power of a constable engaged in the regulation of traffic in a road to—

⁽¹⁶⁾ 1933 c. 12.

⁽¹⁷⁾ 1984 c. 27.

⁽¹⁸⁾ 1988 c. 52.

- (a) direct a vehicle to stop;
- (b) make a vehicle proceed in, or keep to, a particular line of traffic; and
- (c) direct pedestrians to stop.

(2) Sections 35 and 37 of the Road Traffic Act 1988 (offences of failing to comply with directions of constable engaged in regulation of traffic in a road) shall have effect in relation to the exercise of those powers for the purpose mentioned in sub-paragraph (1) by a person whose accreditation specifies that this paragraph applies to him as if the references to a constable engaged in regulation of traffic in a road were references to that person.

(3) In this paragraph “vehicle or trailer carrying a load of exceptional dimensions” means a vehicle or trailer the use of which is authorised by an order made by the Secretary of State under section 44(1)(d) of the Road Traffic Act 1988.

Power to issue fixed penalty notices for offences on the railway

11. An accredited person whose accreditation specifies that this paragraph applies to him shall, in, on or in the vicinity of policed premises, have the powers of a constable in uniform and of an authorised constable to give a penalty notice under Chapter 1 of Part 1 of the Criminal Justice and Police Act 2001 (fixed penalty notices in respect of offences of disorder) in respect of the following offences—

- (a) an offence under section 55 of the 1949 Act (trespassing on a railway); and
- (b) an offence under section 56 of that Act (throwing stones etc. at trains or other things on railways).

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations, which are made under powers contained in the Police Reform Act 2002 (“the 2002 Act”), empower the chief constable of the British Transport Police Force (“the Police Force”) to establish and maintain a railway safety accreditation scheme (“scheme”) in England and Wales. The scheme is modelled on the community safety accreditation schemes which, under section 40 of the 2002 Act, chief officers of Home Office police forces are permitted to establish and maintain. The purpose of the scheme is to accredit suitably skilled and trained non-police employees and grant them specific powers, which can be exercised within the jurisdiction of the Police Force. The scheme differs from community safety accreditation schemes for Home Office police forces only where this is necessary to meet the specific needs of the railways and the Police Force.

Regulation 3 permits the chief constable to establish and maintain a scheme for the purposes of contributing to railway safety and security, and assisting the Police Force in combating crime and disorder, public nuisance and other forms of anti-social behaviour. Regulations 4 to 6 set out the various requirements associated with the scheme including consultation, information to be included in any railways policing plan, and the arrangements to be made with appropriate employers.

Regulation 7 permits the chief constable to grant an accreditation to certain persons, sets out the procedure for granting an accreditation, and specifies the circumstances where such an accreditation shall cease to have effect. Regulation 8 sets out the supplementary provisions, including the

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requirements with regard to the identification of accredited persons, and that an accreditation may be modified or withdrawn. Regulation 9 sets out the various offences relating to assaulting, obstructing or impersonating accredited persons, and the maximum penalties for such offences.

The Schedule to the Regulations sets out the powers that may be made available to an accredited person, including in particular the powers of a constable in uniform and of an authorised constable to give fixed penalty notices for the offences contained in sections 55 and 56 of the British Transport Commission Act 1949 of trespassing on railways and throwing stones at trains or other things on the railway.