

**2006 No. 598**

**TRANSPORT**

**The Railways (Access to Training Services) Regulations 2006**

*Made* - - - - *9th March 2006*

*Laid before Parliament* *17th March 2006*

*Coming into force* - - *10th April 2006*

The Secretary of State makes the following Regulations in exercise of the powers conferred by section 2(2) of the European Communities Act 1972(a).

He has been designated(b) for the purposes of section 2(2) in relation to measures relating to railways and railway transport.

**Citation, commencement and extent**

1.—(1) These Regulations may be cited as the Railways (Access to Training Services) Regulations 2006 and shall come into force on 10th April 2006.

(2) These Regulations do not apply to—

- (a) the tunnel system as defined in section 1(7) of the Channel Tunnel Act 1987(c); or
- (b) Northern Ireland.

**Interpretation**

2.—(1) In these Regulations—

“the Council Directive” means Directive 2004/49/EC dated 29th April 2004 on safety on the Community’s railways(d) of the European Parliament and of the Council;

“infrastructure manager”, “railway system” and “railway undertaking” have the meanings given by article 3 of the Council Directive;

“safety certificate” and “safety critical task” have the same meanings as in the Safety Regulations(e); and

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(a) 1972 c.68. By virtue of the amendment of section 1(2) of the European Communities Act 1972 by section 1 of the European Economic Area Act 1993 (c.51) regulations may be made under section 2(2) of the European Communities Act 1972 to implement obligations of the United Kingdom created or arising by or under the Agreement on the European Economic Area signed at Oporto on 2nd May 1992 (Cm 2073) and the Protocol adjusting the Agreement signed at Brussels on 17th March 1993 (Cm 2183).

(b) S.I. 1996/266, to which there are amendments not relevant to these Regulations.

(c) 1987 c.53.

(d) O.J. No. L164. 30.04.04, p44. Added to Annex XIII of the EEA Agreement by Article 1 of the Decision of the EEA Joint Committee No. 151/2004 of 29th October 2004 (O.J. No. L102, 21.04.05, p27).

(e) See regulations 2(1) and 23 of the Safety Regulations.

“the Safety Regulations” means the Railways and Other Guided Transport Systems (Safety) Regulations 2006<sup>(a)</sup>.

(2) Any other words and expressions used both in these Regulations and in the Council Directive shall have the same meaning as in that Directive.

### **Scope**

3.—(1) These Regulations do not apply to training services provided—

- (a) in relation to the railway systems described in paragraph (2); or
- (b) by the operators of such systems.

(2) Those systems are—

- (a) metros, trams and other light rail systems;
- (b) networks that are functionally separate from the rest of the railway system and intended only for the operation of local, urban or suburban passenger services; or
- (c) privately owned railway infrastructure that exists solely for use by the infrastructure owner for its own freight operations.

### **Access to training services**

4.—(1) A railway undertaking applying for a safety certificate in accordance with Part 2 of the Safety Regulations is entitled to fair and non-discriminatory access to training services for train drivers and staff accompanying the trains, whenever such training is necessary for the fulfilment of requirements to obtain that safety certificate.

(2) The services offered under paragraph (1) must include training on—

- (a) necessary route knowledge;
- (b) operating rules and procedures;
- (c) the signalling and control command system; and
- (d) emergency procedures,

in respect of the routes operated.

(3) An infrastructure manager is, and those of his staff performing safety critical tasks are, entitled to fair and non-discriminatory access to training services.

(4) If the training services to which access is granted under this regulation are available only through the services of one single railway undertaking or infrastructure manager, that railway undertaking or infrastructure manager must make those services available to other railway undertakings or, as the case may be, infrastructure managers, at a reasonable and non-discriminatory price, which is cost-related and may include a profit margin.

(5) For the purpose of ensuring that training, qualifications and experience acquired by a member of staff of a railway undertaking can be taken into account by another railway undertaking to whom application for employment as a train driver, on-board staff or staff performing safety critical tasks is made by that staff member, that staff member must be granted access to all documents attesting to his relevant training, qualifications and experience, and is entitled to have copies of such documentation.

(6) For the purposes of this regulation, the entitlement to access to training services includes the right of access to such facilities as form a part of those training services, including where such facilities do not form part of a railway system.

### **Appeal to the regulatory body**

5.—(1) Any—

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(a) S.I. 2006/599.

- (a) railway undertaking;
- (b) infrastructure manager;
- (c) staff of an infrastructure manager performing safety critical tasks; or
- (d) employee of any railway undertaking,

who is denied the entitlements conferred on it or him by, as the case may be, regulation 4(1),(2), (3) or (5) has a right of appeal to the Office of Rail Regulation(a).

(2) In relation to training services to which regulation 4(4) applies a railway undertaking or infrastructure manager who considers that the price charged for access to those services is unreasonable or discriminatory has a right of appeal to the Office of Rail Regulation.

(3) An appeal made under paragraphs (1) or (2) must be lodged by way of an application in such form and manner as the Office of Rail Regulation may from time to time prescribe, and that Office must make that prescription and details of such manner and form publicly available.

(4) The Office of Rail Regulation must, within two months of the date of receipt of all relevant information in relation to an appeal to which this regulation applies—

- (a) make a decision on; and
- (b) where appropriate, issue a direction to the person against whose decision or action the appeal is brought to remedy the situation arising out of,

an appeal brought under this regulation.

(5) Without prejudice to the right of any person to make an application to the court under Part 54 of the Civil Procedure Rules 1998(b)—

- (a) a decision by the Office of Rail Regulation on an appeal brought under this regulation is binding on all parties affected by that decision; and
- (b) it is the duty of any person to whom a direction is given under this regulation to comply with and give effect to that direction.

Signed on behalf of the  
Secretary of State for Transport

9th March 2006

*Derek Twigg*  
Parliamentary Under Secretary of State,  
Department for Transport

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(a) The Office of Rail Regulation was established in accordance with section 15 of the Railways and Transport Safety Act 2003 (c. 20).  
(b) S.I. 1998/3132. Part 54 was inserted by S.I. 2000/2092, rule 22 and the Schedule.

## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations implement, in part, article 13 of Council Directive 2004/49/EC dated 29 April 2004 on safety on the Community's railways ("the Safety Directive"). The effect of these regulations is to confer on railway undertakings applying for a safety certificate, infrastructure managers, and staff performing safety critical tasks a right of access to training services provided by other bodies. Access must be provided in a fair and non-discriminatory fashion and, where the services are provided by only one railway undertaking or infrastructure manager, the price for the use of those services must be reasonable and non-discriminatory. Relevant experience gained with another employer must be able to be taken into account by railway undertakings recruiting certain categories of staff and, for that purpose, employees are granted access to, and the right to obtain copies of, the relevant documentation (*regulation 4*).

If railway undertakings, infrastructure managers or their employees are denied the access to which these regulations entitle them, or if the price charged for such access is contrary to the provisions in these regulations, a right of appeal to the Office of Rail Regulation is provided (*regulation 5*).

The remainder of the Safety Directive is transposed by the Railways and other Guided Transport Systems (Safety) Regulations 2006 (S.I. 2006/599) ("the safety regulations").

The Regulatory Impact Assessment for the safety regulations, which includes information relevant to these regulations, has been prepared by the Health and Safety Executive ("HSE") and copies can be obtained, until 1 April 2006, from the HSE, Rose Court, 1 Southwark Bridge, London, SE1 9HS ([www.hse.gov.uk](http://www.hse.gov.uk)), and thereafter from the Office of Rail Regulation, 1 Waterhouse Square, 138 – 142 Holborn, London EC1N 2TX ([www.rail-reg.gov.uk](http://www.rail-reg.gov.uk)). A copy has been placed in the Library of each House of Parliament.

A copy of the Transposition Note is also available from the HSE/ Office of Rail Regulation as indicated above.

Copies of the Regulatory Impact Assessment and of the Transposition Note may also be accessed on the OPSI website [www.opsi.gov.uk](http://www.opsi.gov.uk).

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