STATUTORY RULES OF NORTHERN IRELAND

2006 No. 237

HEALTH AND SAFETY

TRANSPORT

THE RAILWAYS (SAFETY MANAGEMENT) REGULATIONS (NORTHERN IRELAND) 2006

Made - - - -	*25th May 2006*
Coming into operation	*30th June 2006*

The Department for Regional Development, being the Department concerned (**1**),makes the following Regulations in exercise of the powers conferred by sections 17(1), (2), (4), (5), and (6)(b) and 55(2) of, and paragraphs 1(1)(a) and (c),(2) 5, 6, 7(1), 13, 14(1) and 15, of Schedule 3 to, the Health and Safety at Work (Northern Ireland) Order 1978 (**2**)

In accordance with Article 46(1)(**3**) of that Order the Department has consulted with the Health and Safety Executive for Northern Ireland (**4**) and such other bodies as appeared to the Department to be appropriate.

PART I

INTRODUCTION

Citation and commencement

1. These Regulations may be cited as the Railways (Safety Management) Regulations (Northern Ireland) 2006 and shall come into force on 30th June 2006.

(**1**) See Article 2(2) of S.I.1978/1039 (N.I.9)

(**2**) SR 1978 No. (N.I.9); the general purposes of Part II referred to in Article 17(1) were extended by section 1 of the Railway Safety Act (Northern Ireland) 2002; Article 55 was amended by SI 1998/2795 (N.I. 18) Article 6(1) and Schedule 1 paragraph 19.

(**3**) Article 46 was amended by S.I. 1998/2795 (N.I. 18), Article 6(1) and Schedule 1, paragraph 18.

(**4**) Formerly known as the Health and Safety Agency for Northern Ireland which was established under Article 12 of the Health and Safety at Work (Northern Ireland) Order 1978 (S.I. 1978/1039 (N.I. 9)). Article 3(1) of the Health and Safety at Work (Amendment) (Northern Ireland) Order 1998 (S.I.1998/2795 (N.I. 18)) changed its name to the Health and Safety Executive for Northern Ireland.

Interpretation

2.—(1) In these Regulations—

"building operation" means—

(a) the construction, structural alteration, repair or maintenance of a building and maintenance shall include repointing, redecoration and external cleaning of the structure;

(b) demolition of a building; or

(c) preparation for and laying the foundation of an intended building,

but does not include any operation which is a work of engineering construction;

"common safety methods" (CSMs") means the methods to be developed, pursuant to article 6 of the Directive, to describe how—

(a) safety levels;

(b) achievement of safety targets; and

(c) compliance with other safety requirements,

are assessed, as revised and reissued from time to time;

"common safety targets" (CSTs") means the safety levels, to be developed pursuant to article 7 of the Directive, that must be reached by—

(a) different parts of the railway system; and

(b) that system as a whole,

expressed in risk acceptance criteria as revised and reissued from time to time;

"competent person" means, except for the purposes of Part 4, a person who—

(a) has sufficient skills, knowledge, experience and resources to undertake the safety verification in relation to which he is appointed;

(b) has not borne such responsibility in relation to any of the matters he has to consider in undertaking that safety verification that might compromise his objectivity; and

(c) is sufficiently independent of a judgment system, or a part thereof, which has borne responsibility for any of the matters he has to consider in undertaking the safety verification, to ensure that he will be objective in carrying out the safety verification for which he is appointed;

"conventional Directive" means Council Directive 2001/16 of the European Parliament and of the Council of 19th March 2001 on the interoperability of the conventional rail system (**5**);

"the Department" means the Department for Regional Development;

"engineering possession" means a section of track which is closed to normal traffic and where the closure is for the purpose of carrying out maintenance which shall include any repair, alteration, reconditioning, examination or testing of infrastructure;

"European Railway Agency" means the agency for railway safety and interoperability established by Regulation (EC) No.881/2004 of the European Parliament and the Council of 29th April 2004 establishing European Railway Agency(**6**)

"infrastructure" means fixed assets used for the operation of any railway which shall include, without prejudice to the generality of the foregoing—

(a) its permanent way;

(**5**) O.J. No.L 110, 20.4.2001, p1 as amended by Directive 2004/50/EC of the European Parliament and the Council of 29th April 2004 (O.J. L164, 30.4.2004, p114

(**6**) O.J. No.L164 of 30.4.04, p1

(b) any station; and

(c) plant used for signalling or exclusively for supplying electricity for operational purposes to the railway system;

"infrastructure manager" means the person who—

(a) in relation to infrastructure is responsible for developing and maintaining that infrastructure, except that it shall not include any person solely on the basis that he carries out the construction of that infrastructure or its maintenance, repair or alteration; and

(b) manages and uses that infrastructure, or permits it to be used, for the operation of a vehicle;

"Interoperability Regulations" means The Railways (Interoperability) Regulations 2006; (**7**)

"material" includes plant;

"national safety rules" means any legislation and other requirements—

(a) applicable to Northern Ireland; and

(b) which contain requirements (including common operating rules) relating to railway safety,

except that where the requirements in sub-paragraph (b) consist of common operating rules of the railway it shall not include such rules which regulate matters which are covered by a TSI;

"new" in relation to regulation 4 means new to any railway;

"Part A of a safety certificate" means that part of a safety certificate certifying the matters set out in regulation 7(4)(b)(i);

"Part B of a safety certificate" means that part of a safety certificate certifying the matters set out in regulation 7(4)(b)(ii);

"railway" means a system of transport employing parallel rails which—

(a) provide support and guidance for vehicles carried on flanged wheels, and

(b) form a track which is of a gauge of at least 350 millimetres,

except that it does not include any part which is located within a maintenance or goods depot.

"railway operator" means a person who is an infrastructure manager or who operates trains;

"railway safety application" means an application for—

(a) a safety certificate or an amended safety certificate; or

(b) a safety authorisation or an amended safety authorisation,

made in relation to an operation on any railway;

"railway system" means any railway and the management and operation of that railway network as a whole;

"relevant infrastructure manager" means the infrastructure manager for any infrastructure in relation to the operation in question;

"relevant infrastructure or vehicle" means any new or altered—-

(a) infrastructure; or

(b) vehicle,

falling within regulation 4(4) and related expressions shall be construed accordingly;

"responsible person" means in relation to any relevant infrastructure or vehicle, any person who—

(**7**) S.I.2006 No.397

(a) has contracted with another person for the manufacture or construction by that other person of that infrastructure or vehicle; or

(b) manufactures or constructs that infrastructure or vehicle for its own use, or for sale to, or use by, another person but not where he is contracted to do so by a person falling under sub–paragraph (a),

and includes an authorised representative established in Northern Ireland of such a person.

"risk" means in Parts 1 and 2 a risk to the safety of the person;

"rolling stock" means any carriage, wagon or other vehicle used on track and includes a locomotive;

"safety authorisation" means a safety authorisation issued by the Department in accordance with regulations 8 or 10;

"safety authority" means—

(a) as regards a Member State other than the United Kingdom, the authority established in that State in accordance with article 16.1 of the Directive; and

(b) as regards Great Britain, means the Executive; or

(c) as regards Northern Ireland, the Department for Regional Development established by article 3(1) of the Departments (Northern Ireland) Order 1999;

"safety certificate" means a safety certificate issued by the Department in accordance with regulations 5 or 7;

"safety management system" means the organisation and arrangements established by a railway operator to ensure the safe management of its operation;

"significant safety risk" means, in relation to new or altered infrastructure or a new or altered vehicle the design or construction of which incorporates significant changes compared to any infrastructure or vehicle already in use on any railway, the capability of significantly increasing an existing risk or creating a significant safety risk to—

(a) passengers on any railway; or

(b) members of the public in any location where the railway operates and to which the public have access (including a place to which the public has access only on making payment), except a location which is a crossing subject to an Order made under section 66(4) of the Transport Act (Northern Ireland) 1967(**8**)

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

"technical specifications for interoperability" ("TSIs") means technical specifications for interoperability which are published in the Official Journal of the European communities pursuant to—

(a) article 6.1 of the high–speed Directive; or

(b) article 6.1 of the Conventional Directive,

and in force;

"train" includes any rolling stock;

"vehicle" includes a mobile traction unit;

"work of engineering construction" means the—

(a) construction of any line or siding otherwise than on any existing railway; and

(**8**) 1967 c. 37 (N.I.); section 66 was substituted by S.I. 1984/1986 (N.I. 15) Art 15 and amended by S.I. 1990/994 (N.I. 7)Sch. 2

(b) construction, structural alteration, repair (including repointing and repainting) or demolition or any tunnel, bridge or viaduct except where carried on upon any railway; and

"writing" apart from its usual meaning includes any text transmitted using electronic communications that is received, or accessible by the person to whom it is sent, in eligible form.

(2) Any reference in these Regulations to a person operating a train or a vehicle is a reference to the person operating the train or vehicle 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 drives or otherwise controls the movement of a train or vehicle.

PART II

SAFETY MANAGEMENT, CERTIFICATION AND AUTHORISATION

Use of infrastructure

3.—(1) After 30th June 2006 no person shall operate a train in relation to any infrastructure unless—

(a) he has established and is maintaining a safety management system which meets the requirements set out in regulation 4(1) to (3); and

(b) he holds a current safety certificate in relation to that operation,

except to the extent that he is doing so within an engineering possession.

(2) After 30th June 2006 no person who is responsible for developing and maintaining infrastructure shall manage and use it, or permit it to be used, for the operation of trains unless—

(a) he has established and is maintaining a safety management system which meets the requirements referred to in regulation 4(4);

(b) he holds a current safety authorisation in relation to that infrastructure; and

(c) where he is using it or permitting such use, the person who is to use the infrastructure has complied with paragraph (1)(b)

(3) Paragraphs (1) and (2) shall not apply where the operation in question is only carried out on a railway on no part of which there is a permitted maximum speed exceeding 40 kilometres per hour and where the operator has furnished the Department with a risk assessment and the Department has approved that risk assessment.

Safety management system for railways

4.—(1) The requirements for a safety management system referred to in regulation 3(1)(a) are that—

(a) subject to paragraph (2), it is established to ensure that any railway system—

(i) can achieve the CSTs; and

(ii) is in conformity with relevant national safety rules and relevant safety requirements laid down in TSIs;

(b) it applies the relevant parts of CSMs;

(c) it meets the requirements and contains the elements set out in Schedule 1, adapted to the character, extent and other characteristics of the operation in question;