



Rail Accident Investigation Branch

Department for
Transport

**Guidance on the
Railways (Accident Investigation and Reporting)
Regulations 2005**

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Guidance on the Railways (Accident Investigation and Reporting) Regulations 2005

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Introduction

1. The Rail Accident Investigation Branch (RAIB) investigates railway accidents and incidents on the railways of the United Kingdom, including the Channel Tunnel in so far as it forms part of the UK.
2. The purpose of investigating an accident or incident is to improve the safety of railways and tramways, and to prevent further accidents. The RAIB does this by identifying the root causes of accidents and any other causal factors that contributed to the event or made the outcome worse. It then makes recommendations on what could be done by government, the industry or others to improve railway safety in future.
3. As a consequence of the collision at Ladbroke Grove on 5 October 1999, Lord Cullen was appointed by the Health and Safety Commission (HSC), with the consent of the Deputy Prime Minister, to conduct a Public Inquiry under section 14(2)(b) of the Health and Safety at Work etc Act 1974. His terms of reference were:
 - 1) To inquire into, and draw lessons from, the accident near Paddington station on 5 October 1999, taking account of the findings of the Health and Safety Executive's investigations into immediate causes.
 - 2) To consider general experience derived from relevant accidents on the railway since the Hidden Inquiry [into the 1988 Clapham rail crash], with a view to drawing conclusions about:
 - a) Factors which affect safety management.
 - b) The appropriateness of the current regulatory regime.

In the light of the above, to make recommendations for improving safety on the future railway"
4. Lord Cullen's Inquiry reported in two parts, the second of which looked at rail safety management and regulation. Lord Cullen made seventy-four recommendations in this part of his report. Seventeen of these concerned accident investigation, including the creation of an independent the RAIB, with appropriate powers and duties.
5. The Department for Transport published a consultation paper "Establishing a Rail Accident Investigation Branch" on 18 July 2002 on the policy proposals for implementing these recommendations. Following this consultation, and the passage through Parliament of the Railways and Transport Safety Act 2003 ("the 2003 Act"), the RAIB was established. The Railways (Accident Investigation and Reporting) Regulations 2005 (the Regulations) were laid before Parliament on 18 July 2005 and the RAIB and became operational on 17 October 2005 (31 January 2006 for the UK part of the Channel Tunnel). The 2003 Act enabled the Secretary of State for Transport to make detailed provision in regulations about the RAIB's powers and duties, the scope of its work and its dealings with other people and organisations that are involved in rail accidents. This document provides guidance on those regulations without which the RAIB could not operate.

6. The European Railway Safety Directive 2004/49/EC (the Directive) aims to secure continuous improvement of safety as Europe's railways are integrated. It sets out the principles of mandatory investigations of serious accidents and incidents, above a defined threshold level, and provides for the establishment of independent investigation bodies in the member states. The Regulations have been drafted so that they implement Chapter 5 (Articles 19 - 25) of the Directive which deals with accident and incident investigation (to the extent that relevant provision is not already made in the 2003 Act). The Regulations take into account Articles 1 - 3, which deal with the purpose and scope of the Directive and the definitions relevant to its interpretation. Articles are transposed either under Part 1 of the Railways and Transport Safety Act 2003, or Section 2(2) of the European Communities Act 1972.
7. The RAIB has been established with the aims, in exercising its functions and wherever relevant, of improving the safety of railways and preventing railway accidents. In order to achieve this it will undertake investigations that look for the causes of accidents and incidents without apportioning blame. It is independent of the railway industry and regulators. Like the Air and Marine Accident Investigation Branches (AAIB and MAIB) it forms part of the Department for Transport, but is functionally independent: the Chief Inspector reports, on accident investigations, directly to the Secretary of State.

The Regulations

8. This document provides guidance on the Railways (Accident Investigation and Reporting) Regulations 2005 (Statutory Instrument 2005/1992) (the Regulations), under which the RAIB operates. For the convenience of users of the guidance, the text of the Regulations has been reproduced in italics at the appropriate places in this document.
9. The combined powers set out in the 2003 Act and the Regulations permit the RAIB to conduct an investigation into the cause of an accident or incident, even if investigations by other bodies are taking place, and to publish its findings and recommendations.
10. The Regulations were amended by the Railways (Accident Investigation and Reporting) (Amendment) Regulations 2005 (Statutory Instrument 2005/3261). The amendments insert a definition of "working days" in regulation 2(1) (an expression used in regulation 4 to describe the time within which accidents or incidents must be reported). In addition the amendments inserted the word "reasonably" before "determine" in regulation 12(4) (providing for the time within which a safety authority may require a person to consider or act upon a recommendation of the Rail Accident Investigation Branch and to provide it with certain information).

Accident Investigation

11. Following an accident or incident on a railway or tramway, a number of investigations may be started by different organisations. The objectives of these investigations will be different. The RAIB provides a focus and lead for the technical investigation into the causes and consequences of the accident. However, the role of the police, the Crown Office and Procurator Fiscal Service (COPFS) in Scotland, and the Office of Rail Regulation is not changed by the existence of the RAIB. Each of these agencies may investigate to bring about a prosecution if there has been a breach of the law. The factual outcomes of the RAIB investigation on the cause of any accident or incident will often be a key input to the prosecuting bodies' investigations. If appropriate, the police and/or the safety authority may take action to enforce compliance with the law, and may begin the process of prosecution. In Scotland, procurators fiscal and the police will carry out criminal and deaths investigations as appropriate, which may result in a criminal prosecution and/or a fatal accident inquiry.
12. The RAIB's investigations are, however, independent of any other body. While the RAIB will share physical and documentary evidence relating to the investigation with other bodies, including the police, COPFS, the Office of Rail and Road (ORR) and other safety authorities, it will not disclose to anyone evidence from witnesses and other people who have given statements to its inspectors. This remains confidential to the RAIB, as required by regulation 10.
13. The purpose of the Regulations is to set out the conditions under which the RAIB operates. In particular, regulation 4 generates notifications to the RAIB of certain railway accidents and incidents. These notifications enable the RAIB to commence its investigations promptly and target its resources appropriately to fulfil its aims under Section 4 of the 2003 Act to:
 - a) improve the safety of railways; and
 - b) prevent railway accidents and railway incidents.

Summary of the main duties imposed by the Regulations

14. Railway industry bodies are required to notify the RAIB (regulation 4) about:
 - certain fatalities;
 - specified major injuries;
 - derailments;
 - collisions; and
 - other specified dangerous occurrences.
15. If the RAIB requests assistance from railway industry bodies in its investigation, such assistance must be provided (regulation 6).
16. Access to the site of an accident or incident that is grave enough to be immediately notifiable to the RAIB is restricted to (regulation 7):
 - the emergency services carrying out rescue duties;
 - police and safety authority inspectors whose exercise of their powers would be adversely affected by a delay and who have, where practicable, informed the RAIB of their intentions; and
 - other people who have obtained consent from the RAIB.
17. Railway industry bodies are required to preserve evidence relating to accidents and incidents for examination by the RAIB (regulation 8).
18. Railway industry bodies are, in some circumstances, restricted from using equipment that has been involved in an accident unless they have obtained prior consent from the RAIB (regulation 9).
19. The RAIB is required to (regulation 5):
 - conduct its investigations independently;
 - commence its investigations within seven days of being notified;
 - inform the European Railway Agency of its investigations;
 - co-operate with investigation bodies in other EU member states where necessary;
 - keep relevant interested parties informed about the progress of its investigations; and
 - conclude its investigation work at the site of an accident or incident in the shortest possible time.
20. The RAIB must not (regulation 10):
 - disclose statements or declarations provided to it to anyone else; or
 - disclose the names and addresses of people who have given statements to the RAIB,except in certain defined circumstances.
21. The RAIB must publish reports on the accidents and incidents it investigates, and must produce a report on a serious accident in the shortest possible time (regulation 11).
22. The RAIB must address recommendations arising from its reports to the safety authority or to other appropriate public bodies (regulation 12(1)).

23. Prior to publication, the RAIB must send its reports to people whose reputations the Branch considers may be adversely affected by the report, and other people and organisations concerned with the accident, and consider representations that they may make (regulation 13).
24. The RAIB must publish an annual report on its activities (regulation 14).
25. The safety authority to which recommendations are addressed must (regulation 12(2)):
 - ensure that recommendations are taken into consideration and where appropriate acted upon; and
 - report to the RAIB on the implementation of the recommendations.

Where the Regulations Apply

26. The 2003 Act defines the RAIB's aim as being to improve the safety of railways and prevent railway accidents and railway incidents. It requires the RAIB to investigate any serious railway accident, as defined in the 2005 Regulations (Regulation 2(3)), and enables the RAIB to investigate any non-serious railway accident or incident, provided it is judged by the RAIB to have the potential to result in formal recommendations for the improvement of safety. Regulations apply to railways (over 350 mm gauge) and tramways in the United Kingdom, including the Channel Tunnel concession area. They do not apply to tramways in Scotland, as these are excluded by section 14(2) of the 2003 Act. There are also certain exclusions covering industrial and other minor railways, which are set out in regulation 3.
27. The meaning of 'railway' in the 2003 Act is as defined by the Transport and Works Act 1992. This means that all systems of transport with a track gauge of 350 mm or greater, or systems of transport that cross a carriageway, are within the scope of the RAIB's investigation process (note that 'cross a carriageway' includes crossing it at any level - including over- and under-bridges, tunnels and level crossings).
28. The scope of the railways and tramways covered therefore includes:
 - the national railway networks in Great Britain and Northern Ireland;
 - private freight-only lines – but excluding railways within industrial premises such as factories, freight terminals and quarries (however, accidents that occur in exchange sidings where trains are entering or leaving industrial premises will be investigated);
 - the UK part of the Channel Tunnel;
 - metros – this includes the London Underground, Tyne and Wear Metro, Docklands Light Railway and Strathclyde Metropolitan Railway;
 - tramways;
 - heritage railways (including narrow-gauge systems) over 350 mm (14 inch) gauge or that cross a carriageway (where carriageway means a way where the public have a right of passage for motor vehicles); and
 - cable-hauled systems of 1 km or longer, for example the Cairngorm Mountain Railway and the Great Orme Tramway.
29. The inclusion of the term 'cross a carriageway' within the Transport and Works Act 1992 definition of railway has the effect of including railways with a track gauge of less than 350 mm but which do cross a public highway within the RAIB's scope (eg Wells & Walsingham Light Railway).
30. Certain other railways are specifically taken out of the RAIB's scope by specific regulations within the 2005 Regulations. As a result, the scope of the RAIB's investigation does not include:
 - railways that do not cross a public vehicular highway;
 - railways that run within an industrial curtilage such as a harbour, freight terminal, mine, quarry or factory (Regulation 3(1));
 - railways that do cross a carriageway, such as those which are, part of a museum, within a funfair or amusement park, or in private gardens (Regulation 3(3));

- worker accidents or incidents that are not associated with train movements and which are not relevant to the operation of the railway (Regulation 4(6));
- accidents or incidents involving trespass or suicide (Regulation 4(6)); and
- accidents or incidents on railways under construction (prior to dynamic testing – the Transport and Works Act 1992 definition of railway excludes systems that are not a means of transport).

31. Tramways in Scotland are currently exempt from the 2003 Act and the Regulations. Before operation of the Edinburgh Tram, Transport Scotland and DfT intend to identify a mechanism to repeal Section 14(2) of the 2003 Act to remove Scotland's exemption. This proposal was consulted upon in March 2010, during the Office of Rail Regulation's consultation on the Railway and Guided Transport (Miscellaneous Amendments) Regulations 2010 (ROGS).

Regulation 1: Citation and Commencement

1(1) These Regulations may be cited as the Railways (Accident Investigation and Reporting) Regulations 2005.

(2) These Regulations shall come into force-

(a) on 17th October 2005 in relation to the whole of the United Kingdom except the Channel Tunnel system, in so far as it forms part of the United Kingdom; and

(b) on 31st January 2006 in relation to the Channel Tunnel system, in so far as it forms part of the United Kingdom.

32. From 17 October 2005, all the duties and obligations set out in these Regulations became applicable (other than in the Channel Tunnel concession area, for which the commencement date was 31 January 2006). From these dates, railway operators and other railway industry bodies were required to notify the RAIB of certain accidents and incidents which occurred on their infrastructure or in which their property or staff were involved. This does not change any duties which they may have to report to the safety authority under other legislation such as the Reporting of Injuries, Diseases and Dangerous Occurrences Regulations 1995 (RIDDOR)(SI 1995/3163), in Great Britain, or in Northern Ireland under Statutory Rule 1997 no 455, the Reporting of Injuries, Diseases and Dangerous Occurrences Regulations (Northern Ireland). From the same dates, the RAIB has carried out investigations into accidents and incidents.

Regulation 2: Interpretation

2 (1) In these Regulations-

"the 2003 Act" means the Railways and Transport Safety Act 2003;

"accident" means a railway accident;

33. See Annex 3 of this document for the Directive definition of an accident.

"the Branch" means the Rail Accident Investigation Branch;

"carriageway" means a way over which there is a public right of passage for motor vehicles;

"Channel Tunnel system" has the meaning given by section 1(7) of the Channel Tunnel Act 1987¹ to the words "the tunnel system";

"Chief Inspector" means the Chief Inspector of Rail Accidents appointed under section 3(2) of the 2003 Act;

"constable" means any person who is-

(a) a member or special constable of any police force who has been attested as a constable under section 29 of the Police Act 1996², or declared a constable under section 16 of the Police (Scotland) Act 1967³; or

(b) a member of the Police Service of Northern Ireland or the Police Service of Northern Ireland Reserve;

"dangerous goods" has the meaning given by regulation 2(1) of the Carriage of Dangerous Goods and Use of Transportable Pressure Equipment Regulations 2004⁴;

34. In this definition, "dangerous goods" includes radioactive material.

"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 a European Railway Agency⁵;

"evidence" means anything involved in or relating to an accident or incident, whether at the site of the accident or incident or remote from it, including-

¹ 1987 c. 53.

² 1996 c. 16. By section 24(3) of the 2003 Act, section 29 of the Police Act 1964 applies to a constable of the British Transport Police Force appointed in England or Wales.

³ 1967 c. 77. By section 24(4) of the 2003 Act, section 16 of the Police (Scotland) Act 1967 applies to a constable of the British Transport Police Force appointed in Scotland.

⁴ S.I. 2004/568.

⁵ OJ no. L164, 30.04.04, p.1.

- (a) written, electronic, photographic or other records;
- (b) electronic or recording equipment;
- (c) rolling stock, infrastructure, equipment and signalling systems;
- (d) any personal, personnel, medical or other similar record or document;
and
- (e) anything else that an inspector identifies to-
 - (i) an owner of railway property;
 - (ii) a railway industry body; or
 - (iii) a manufacturer or supplier of equipment, components or services to an owner of railway property or to a railway industry body,
 as being relevant to the accident or incident;

35. The Regulations apply to evidence involved in or relating to an accident or incident. This includes the vehicles, equipment, material (including extraneous objects that may have been found on or near the line) and systems that were present at or associated with the event itself. It excludes similar equipment that may be in use elsewhere but was not involved in the event under investigation. The RAIB will identify any such evidence as soon as possible during investigations.

"extensive damage" means damage that can immediately be assessed by the Branch to cost at least 2 million Euros in total;

36. This definition is derived from the Directive. The cost of damage is considered, for the purposes of this regulation, to mean physical damage caused to the infrastructure and equipment involved in the accident or incident, or to the environment in and around the area where the accident or incident took place. It does not include any consequential losses (such as train delays) associated with the event, nor the costs of recovering equipment from the site. Where there is environmental damage (see schedule 1(8)), clean-up costs should be included in the calculation.

37. The following figures (2010 prices) were provided by the railway industry and may provide a guide for the calculation of costs:

Work Item and "unit of measurement"	Indicative Price (£), January 2010
Plain line track excluding earthworks, per mile	1,574,000
Re-railing, per mile	385,000
Re-ballasting and re-sleepering, per mile	1,376,000
Simple turnout (replacement)	467,000
DC third rail renewal, per mile	390,000
AC overhead line total renewal incl. Supports, per mile	1,127,000
AC overhead line, contact wire & dropper replacement per mile	100,000
Diesel Locomotive replacement	4,000,000
Passenger vehicle replacement electric multiple unit (single vehicle)	1,350,000
Passenger vehicle replacement diesel multiple unit (single vehicle)	1,600,000

The figures are for modern main-line equipment and were supplied by Network Rail in January 2011.

"incident" means a railway incident;

38. See the definition in Annex 3 for further information on what constitutes an incident.

"infrastructure" means railway infrastructure;

"infrastructure manager" means any person who is responsible for establishing and maintaining infrastructure or a part thereof, which may also include the management of infrastructure control and safety systems, but does not include a maintainer;

39. In this context "person" includes a company. Companies are normally responsible for the management and maintenance of railway infrastructure, and companies rather than individuals will generally be responsible for notifying accidents and incidents to the RAIB.

"inspector" means a person appointed as an inspector of rail accidents under section 3(1) of the 2003 Act;

40. Inspectors appointed under section 3(1) of the 2003 Act have powers given to them by section 8 of that Act. These powers, which may only be exercised for the purpose of conducting an investigation, permit an inspector to:
- enter railway property;
 - enter land (which may include a dwelling-house) which adjoins or abuts railway property;
 - enter a vehicle or structure which is on railway property or which is on adjoining or abutting land;
 - enter land which is not covered by the above paragraphs if:
 - (i) it is used wholly or partly for the purposes of or in connection with anything done on or with railway property, or
 - (ii) the inspector reasonably believes that it may contain evidence relating to an accident or incident;
 - in entering anything under the above paragraphs, be accompanied by one or more persons authorised by the Chief Inspector of Rail Accidents for that purpose (whether generally or specifically), and make arrangements to have with him equipment or materials.
41. When exercising all of the above powers, an inspector must produce evidence of his identity if asked to do so.
42. Inspectors may also:
- make a written, electronic, photographic or other record;

- remove and retain samples;
- arrange for anything to be removed and retained for the purpose of analysis or other examination (see regulation 9(4) below) or for the purpose of preserving evidence;
- require access to a record or to recording equipment;
- require a person to answer a question;
- require a person to provide information;
- require a person to disclose a record;
- require a person to provide a copy of a record;
- require disclosure of the result of an examination of a person, body or thing; or
- require a person to certify the truth, accuracy or authenticity of a statement made, of information or a document provided or of a record disclosed.

43. It is an offence under section 8(3) of the 2003 Act if without reasonable excuse a person:

- fails to comply with a requirement imposed by an inspector of rail accidents for the purpose of an investigation by virtue of section 7;
- makes a statement for the purpose of an investigation by virtue of section 7 knowing or suspecting that the statement is inaccurate or misleading;
- provides information or a record for the purpose of an investigation by virtue of section 7 knowing or suspecting that the information or record is inaccurate or misleading;
- obstructs an inspector of rail accidents in the course of his conduct of an investigation by virtue of section 7;
- obstructs a person accompanying an inspector of rail accidents; or
- obstructs a person exercising a power of an inspector by virtue of regulations (see regulation 6(1) below).

44. The penalties for persons found guilty of the above offences are imprisonment for up to 51 weeks, or a fine not exceeding level five on the standard scale (currently £5,000), or both.

"Intergovernmental Commission" has the meaning given to those words by section 49 of the Channel Tunnel Act 1987;

"level crossing" means any place where a railway crosses on a level a highway or other road or passageway, whether or not there is public access to such land;

"maintainer" means a person who maintains, repairs or renews railway property or constructs new works in relation to railway property;

45. In this context, "new works" refers to construction or renewal of existing railway assets. New railway construction generally is not covered (see guidance on regulation 3(5)(b), below) nor is construction of new rolling stock. However, maintenance of the whole of the existing railway (trains, track and signalling) is included in the definition.

"motor vehicle" has the meaning given by section 185 of the Road Traffic Act 1988⁶;

"railway" means a railway or tramway within the meaning given by section 67 of the Transport and Works Act 1992⁷;

46. The relevant parts of the Transport and Works Act 1992 are reproduced at Annex 3.

"railway accident" and "railway incident" have the meaning given in section 2(1) of the 2003 Act;

47. The definition in the 2003 Act is reproduced at Annex 3.

"railway industry body" means a person who is an infrastructure manager, a railway undertaking, a maintainer or an operator of rolling stock or railway assets;

"railway property" has the meaning given in section 1(1) of the 2003 Act;

48. The definition in the 2003 Act refers to section 83 of the Railways Act 1993, the relevant parts are reproduced at Annex 3.

"running line" means a railway line which is not a siding and is ordinarily used for the passage of trains or tramcars;

"safety authority"-

(a) in relation to Great Britain, excluding the Channel Tunnel system, means the Office of Rail Regulation⁸

(b) in relation to Northern Ireland, means the Department for Regional Development; and

(c) in relation to the Channel Tunnel system, means the Intergovernmental Commission; and

⁶ 1998 c. 52

⁷ 1992 c. 42.

⁸ amended by The Health and Safety (Enforcing Authority for Railways and Other Guided Transport Systems) Regulations 2006

"Safety Directive" means Directive 2004/49/EC of the European Parliament and the Council of 29th April 2004 on safety on the Community's railways and amending Council Directive 95/18/EC on the licensing of railway undertakings and Directive 2001/14/EC on the allocation of railway infrastructure capacity and the levying of charges for the use of railway infrastructure and safety certification⁹

"Working days" shall be taken to exclude Saturdays, Sundays, Christmas Day, Good Friday and, in relation to an accident or incident that occurs in England and Wales, any day which, under the Banking and Financial Dealings Act 1971¹⁰ is a bank holiday in England and Wales, in relation to an accident or incident that occurs in Scotland, any other day which, under that Act, is a bank holiday in Scotland and, in relation to an accident or incident that occurs in Northern Ireland, any day which, under that Act, is a bank holiday in Northern Ireland.

(2) The following words have the meaning given to them in section 83 of the Railways Act 1993¹¹ or the meaning which would be given to them by an equivalent definition in relation to a tramway-

- (a) operator;*
- (b) railway asset;*
- (c) railway services;*
- (d) rolling stock;*
- (e) station;*
- (f) track; and*
- (g) train.*

49. The relevant definitions from section 83 of the Railways Act 1993 are reproduced at Annex 3.

(3) "Serious accident" means an accident involving a derailment or collision of rolling stock which has an obvious impact on railway safety regulation or management of safety and includes such an accident that results in-

- (a) the death of at least one person;*
- (b) serious injuries to five or more persons; or*
- (c) extensive damage to rolling stock, the infrastructure or the environment.*

⁹ OJ No. L164, 30.04.04, p.44.

¹⁰ 1971 c.80

¹¹ 1993 c.43

50. "Serious accidents" have a particular legal status and under the requirements of the 2003 Act, the RAIB are required to conduct an investigation into any collisions or derailments of rolling stock with such consequences. Provided this is judged by the RAIB to have potential safety lessons to be learnt. Note "extensive damage" means damage that can immediately be assessed by the Branch to cost at least 2 million Euros in total.
51. In this context, the Regulations limit the type of serious accident where an investigation is required to those which involve collisions and derailments of rolling stock which have an obvious impact on railway safety regulation or the management of safety.
52. The Directive definition of "serious accidents" (see Annex 3) also requires an investigation for other similar accidents with an obvious impact on railway safety regulation or the management of safety. Here, the 'other' refers to accidents which are not collisions or derailments of rolling stock, but which lead to the same consequences (death of at least one person or serious injuries to five or more persons or extensive damage). They include level crossing accidents, collisions with objects other than at level crossings, accidents to persons caused by rolling stock in motion, fires and others (see Annex 3)¹².
53. This requirement is met by Regulations 5 which enables the RAIB to commence an investigation to determine the seriousness of any accident notified to the Branch and to assess its impact on railway safety regulation or the management of safety.
54. For all accidents, other than collision between trains or a derailment of trains, which result in the death of at least one person, or serious injuries to five or more persons, or extensive damage to rolling stock, the infrastructure or the environment, the RAIB will always gather sufficient details and evidence to enable it to make an informed decision about whether the accident was the result of failures within the railway system. Where this is the case, excluding those involving suicide or trespass, the RAIB will conduct an investigation.

(4) "Serious injury" includes-

- (a) a fracture other than to fingers, thumbs or toes;*
- (b) amputation;*
- (c) dislocation of the shoulder, hip, knee or spine;*
- (d) loss of sight, whether temporary or permanent, in one or both eyes;*
- (e) a chemical or hot metal burn or any penetrating injury to one or both eyes;*
- (f) an injury leading to hypothermia or heat-induced illness;*
- (g) an injury requiring resuscitation of the injured person;*

¹² Railway Safety Directive - Guidance on the decision to investigate accidents and incidents Articles 3(l), 19 and 21(6) - ERA Reference - ERA/GUI/04/2010/SAF-EN

(h) an injury requiring admittance to hospital for more than 24 hours;

(i) an injury directly leading to loss of consciousness; or

(j) an injury resulting from the absorption of a substance by inhalation, ingestion or through the skin that causes acute illness requiring medical treatment.

(5) Any expression used both in these Regulations and the Safety Directive and not otherwise defined in these Regulations has the same meaning for the purposes of these Regulations as it has for the purposes of the Safety Directive.

55. The relevant definitions from Article 3 of the Directive are reproduced in Annex 3 for the following terms:

- railway undertaking;
- safety management system;
- accident;
- incident;
- investigation;
- causes.

Regulation 3: Accidents and incidents excluded from the application of Part 1 of the Railways and Transport Safety Act 2003

56. The RAIB is concerned with the investigation of accidents and incidents on the national railway networks in Great Britain and Northern Ireland, the London and Glasgow Underground systems, other metro systems, tramways and heritage railways (including narrow-gauge railways over 350 mm (14 inch) gauge). It is not part of the RAIB's role to investigate accidents that occur in industrial railway systems, museums, or funfairs, or on private railways that are not open to the general public and whose operation is not likely to affect the safety of the public. This regulation defines the excluded systems.

3(1) An accident or incident that occurs within an industrial curtilage shall not be treated as an accident or incident for the purposes of Part 1 of the 2003 Act except where the accident or incident-

(a) involves a train being used within an industrial curtilage for the purpose of carrying passengers for reward; or

(b) occurs on track that-

(i) is not used for any purpose connected with the industrial activity within that curtilage other than to facilitate the entry to or exit from that curtilage; or

(ii) is directly controlled or operated by the person who controls or operates the railway outside the industrial curtilage to which the track within the curtilage is connected.

57. Railway systems within industrial premises, which are normally used in connection with the industrial processes that take place within those premises, are generally excluded from the application of the 2003 Act. The definition of industrial premises (see below) includes factories, harbours, freight terminals, mines and quarries. However, there are exceptions to this. If a train conveying passengers for reward (ie not just involving the transport of staff around the site) is involved in an accident or incident while in the industrial area, this event will be notifiable to the RAIB and may be investigated. The passengers may have paid a fare for the journey on the industrial system or may have been charged indirectly, for example as part of a railtour or other travel package, such as a holiday cruise including train travel to or from a harbour or dockside.
58. The RAIB is also concerned with accidents and incidents involving trains that are entering or leaving industrial premises and freight terminals. Within the application of the 2003 Act are significant faults (notifiable under regulation 4(3)) found on trains that have arrived or are being prepared for departure in exchange sidings, whether or not they are controlled or operated by the main line network, and accidents and incidents (notifiable under regulation 4(1) or 4(2)) that occur in those sidings. Exchange sidings include locations where wagons bound for a private terminal or factory are placed and collected/returned by an industrial locomotive.

(2) An accident or incident that occurs on a railway which is operated by a cable haulage system and has a track of a length not exceeding 1 kilometre shall not be treated as an accident or incident for the purposes of Part 1 of the 2003 Act.

59. A cable-hauled system (funicular) is included in the application of the 2003 Act if the overall length of the system is over 1km, even if the cable haulage is split into lengths which are individually shorter than 1km. This means that all the cliff lifts in the UK are excluded. Cable-car systems, on which the car is suspended from the cable, are not railways and are not within the application of the 2003 Act.

(3) Subject to paragraph (4), an accident or incident that occurs on a railway, no part of which crosses a carriageway (whether or not at the same level), shall not be treated as an accident or incident for the purposes of Part 1 of the 2003 Act.

(4) Paragraph (3) shall not apply to an accident or incident occurring on a railway operated by a cable haulage system that is not excluded under paragraph (2).

60. Regulation 3(4) has the effect of bringing cable systems such as the railway operated by CairnGorm Mountain Ltd within the application of the 2003 Act. Other rail systems which make use of or exhibit railway equipment are excluded by regulation 3(3) if they do not cross a carriageway. "Carriageway" has the specific meaning defined in regulation 2(1) (a road or track over which there is a public right of way for motor vehicles). The crossing of the railway and the carriageway may be by a level crossing, or over or under the railway by means of a bridge or tunnel.
61. As noted above, only railways with a track gauge greater than 350 mm can be within scope of the 2003 Act. Regulations 3(3) and 3(4) are intended to have the effect of excluding systems using large (more than 350 mm gauge) railway equipment which are:
- part of a museum;
 - within a funfair or amusement park; or
 - in private gardens.
62. This will also exclude some of the smallest heritage railways, where the risks are different and not generally applicable to the main railway network. On such systems the track may cross public footpaths, or private roads and paths, but such crossings are not of carriageways and will not bring the systems within scope even if the trains on them carry passengers. The excluded systems may still be investigated by the safety authority.
63. Nevertheless, the inclusion of the term 'cross a carriageway' within the Transport and Works Act 1992 means that railways with a track gauge of less than 350 mm but which do cross a public highway (eg Wells & Walsingham Light Railway) are included within the RAIB's scope.
64. Operators who are uncertain whether or not their systems are within scope should contact the RAIB to discuss individual cases.

(5) In this regulation-

(a) "factory" means a factory within the meaning of section 175 of the Factories Act 1961¹³ and premises to which section 123(1) or (2) or 125(1) of that Act apply unless such premises are used for the purposes of inspection, servicing, maintenance or repair (excluding construction or re-construction) of railway property;

(b) "industrial curtilage" means a curtilage of a harbour, freight terminal, mine, quarry or factory;

(c) "mine" has the same meaning as in section 180 of the Mines and Quarries Act 1954¹⁴; and

(d) "quarry" has the same meaning as in regulation 3 of the Quarries Regulations 1999¹⁵.

65. Not all premises that are factories (as a general guide, those that have been registered as a factory in accordance with the requirements of section 137 of the Factories Act 1961) are excluded. The RAIB will be concerned with incidents (particularly significant failures of rolling stock) which occur, or are discovered, in depots where railway rolling stock and equipment is inspected, maintained and repaired (including factories carrying out heavy overhauls). Factories where new equipment and rolling stock is manufactured are excluded. The curtilage of a factory is the area within the walls or fences that fix its boundaries, and it may be under cover or in the open air.
66. Freight terminals are outside the application of the 2003 Act (but see guidance on regulation 3(1) (b) above in relation to exchange sidings). Such locations are considered by the RAIB to include premises where trains and vehicles are loaded and unloaded in a facility that is segregated from the remainder of the railway.
67. Accidents or incidents on new railways under construction are only notifiable if:
- the infrastructure is being commissioned with moving trains (ie test running has started) or electrical traction supplies are switched on; or
 - the accident or incident involves rolling stock that can also operate on operational railway lines.

¹³ 1961 c. 34. Section 175(2)(n) was amended by regulation 3(1) of and Schedule 1 to the Factories Act 1961 etc. (Metrication) Regulations 1983 (S.I. 1983/978).

¹⁴ 1954 c. 70.

¹⁵ S.I. 1999/2024

Regulation 4: Duty to notify the Rail Accident Investigation Branch of accidents and incidents

What is notifiable?

68. The Regulations apply when railway accidents or incidents (as defined by the 2003 Act) occur. Railway accidents are unwanted or unintended sudden events, or specific chains of such events, which have harmful consequences, and which occur on railway property, in so far as they are or may be relevant to the operation of trains or trams. A railway incident is any occurrence, other than an accident, associated with the operation of trains or trams and affecting the safety of operation.
69. Railway accidents and incidents of the types listed in schedules 1, 2, 3, 4 and 5 to the Regulations are notifiable to the RAIB in the time scales defined in regulation 4:
- Schedule 1 and 4 incidents must be notified immediately, by the quickest means available;
 - Schedule 2 and 5 incidents must be notified within three working days;
 - Schedule 3 incidents may be notified in bulk up to ten days after the end of the month in which they occur.
70. Detailed guidance on the types of incidents which are notifiable in particular situations is given in the sections of this guide dealing with the schedules to the Regulations, beginning at paragraph 213 below.

Who should notify?

71. The obligation to notify is upon those railway industry bodies (railway infrastructure managers, railway operators, or maintainers) whose staff or property is involved in an accident or incident. The following examples are intended to illustrate the ways in which staff or property may be considered to be "involved".
72. If, for example, staff of a maintenance contractor, of either rolling stock or infrastructure, during the course of their work were to find a cracked axle or broken rail, then the RAIB would regard that member of staff as having been 'involved' in an incident, and his employer, as a railway industry body, as being under a duty to notify the Branch accordingly. If the failure were to be discovered by the staff of the train operator while the train was in service, then the train operator would be under the duty to notify. Where integrated control centres exist, it is acceptable for one immediate notification to be made on behalf of the duty holders concerned. This does not affect the individual duty holders' obligations to submit a notification form (RAIBN1, see Annex 1) or to provide follow-up information.
73. If staff of a railway industry body are witnesses to an accident or incident, or travel past the scene of one shortly after it has happened, but are not involved in the events leading to it, then their employer would not be under any duty to notify the RAIB. Nothing in these Regulations is intended to affect the rules and conventions within the rail industry that cover such situations - for example, a passing driver will continue to notify the local signal box if he sees an accident or incident. But if the accident or incident affects the infrastructure, then, having learned of the occurrence, the infrastructure manager would have a duty to notify the RAIB.
74. Guidance on what to do when staff are not at work or are off duty can be found in the guidance to regulation 4(11) below.

Who to make notification to

4(1) Subject to paragraph (6), a railway industry body whose property or staff have been involved in an accident or incident of a type listed in Schedule 1 on a railway or on railway property other than within the Channel Tunnel system shall notify the Branch of its occurrence immediately it learns of the occurrence and by the quickest means available.

75. Notifications should be made to:

Rail Accident Investigation Branch
The Wharf
Stores Road
Derby
DE21 4BA

76. Immediate notifications of events listed in schedule 1 (and schedule 4 for events on the Channel Tunnel system) should be made by telephone (01332 253333). The RAIB considers this to be the "quickest means available" as specified in regulation 4(1) and will not consider notification by any other means as fulfilling the requirements of the Regulations. **Duty Holders should always check whether notification should be made under Schedule 1 before considering Schedules 2 or 3, and notify under the highest applicable schedule.**

77. During working hours, 01332 253333 is connected to the RAIB's office team, who will alert the RAIB duty co-ordinator when it is necessary for the RAIB to respond to the notification. Outside working hours, calls to this number will be answered by the Department for Transport duty officer, who will take summary details of the incident and pass them to the duty co-ordinator. At all times, the RAIB will respond to the notifier as quickly as possible to advise on what action the RAIB intends to take and any requirements that it has for preservation of evidence.

78. It is important that, for events listed in schedules 1 and 4, contact with the RAIB is made as soon as the railway becomes aware of the occurrence, as required by the Regulations. Any delay at this stage may result in the loss of important evidence. The essential items in the immediate notification are:

- **the location of the accident; and**
- **what has happened.**

The RAIB should be contacted as soon as these are available, rather than waiting until all the information listed in regulation 4(7) is to hand. Once contact is made, the RAIB will request further information as appropriate.

79. Where an occurrence is of a type listed in schedule 1(7) or 1(9), it may not at first be obvious that an immediately notifiable event has occurred. Notification should take place as soon as the implications of the event are apparent, even if it is several hours after the circumstances of the event begin to unfold. For instance, it may take some time to establish that a SPAD is sufficiently serious to be notifiable as an event falling within schedule 1(9).

80. Following a telephone notification, the information required by regulation 4(7) should still be forwarded as soon as possible to the RAIB on form RAIBN1 (see Annex 1) (or in any other format previously agreed with the RAIB).

(2) Subject to paragraph (6), a railway industry body whose property or staff have been involved in an accident or incident of a type listed in Schedule 2 on a railway or railway property other than within the Channel Tunnel system shall notify the Branch of its occurrence as soon as reasonably practicable and in any event within three working days of its occurrence.

81. Notifications of events listed in schedule 2 (and schedule 5 for events on the Channel Tunnel system) may be made in writing on form RAIBN1 (see Annex 1) to the address above or by fax to 01332 253338, or by e-mail to notify@raib.gov.uk, to arrive within three working days of the accident or incident occurring. To avoid confusion, these notifications should not be made by telephone. "Working days" do not include Saturdays and Sundays, or public holidays in the country in which the event took place.

(3) Where staff or property of a railway industry body have in any month been involved in an accident or incident of a type listed in Schedule 3 on a railway or railway property other than within the Channel Tunnel System, the body shall notify the Branch of every such occurrence during that month no later than 10 days after the end of the month and in accordance with paragraph (9).

82. Notifications of events listed in schedule 3 (bulk reporting) should be made in writing on form RAIBN2 (see Annex 2) up to 10 days after the end of the month in which the event occurred. Only one report is required per month, normally by the infrastructure controller, covering all the relevant events that occurred during that month. Train operating companies, who normally operate on Network Rails infrastructure, should themselves report any notifiable events that occur on their own infrastructure eg SPADs on their sidings or depots. A nil return (see guidance on regulation 4(9) below) is not required but may be submitted if desired. Returns may be made four weekly rather than monthly, or in a different format, if agreed in advance with the RAIB.

(4) Subject to paragraph (6), a railway industry body whose property or staff have been involved in an accident or incident of a type listed in Schedule 4 within the Channel Tunnel system shall notify the Branch of its occurrence immediately it learns of the occurrence and by the quickest means available.

(5) Subject to paragraph (6), a railway industry body whose property or staff have been involved in an accident or incident of a type listed in Schedule 5 within the Channel Tunnel system shall notify the Branch of its occurrence as soon as practicable and in any event within three working days of its occurrence.

83. This schedule of events that must be notified to the RAIB immediately and by the quickest means available is consistent with that agreed by the Infrastructure Manager, Eurotunnel, for notifications to the National Safety Authority for the Channel tunnel System, the Intergovernmental Commission.
84. For all accidents in the Channel Tunnel, regardless of the national territory in which the event occurs, it has been agreed that both the national investigation body for the UK, the RAIB and the national investigation body for France, BEA-TT, shall be notified.

(6) The duty in paragraphs (1), (2), (4) and (5) to notify the Branch of an accident or incident involving the death or serious injury of a person in circumstances described in Schedules 1, 2, 4 or 5, respectively, shall not arise where the railway industry body reasonably believes that-

(a) the death or serious injury of that person was a result of natural causes, assault, suicide or attempted suicide;

(b) the accident or incident-

(i) caused the death of or serious injury to a member of staff; and

(ii) did not involve the movement of rolling stock; or

(c) the accident or incident caused the death or serious injury of a person who at the time of the accident or incident was on railway property involved in the accident or incident without lawful authority.

85. Detailed guidance on the types of event which are notifiable under the various Schedules to the Regulations is at page 47 and the tables which follow it. Accidents and incidents which:

- do not involve moving trains or tramcars (other than failures of infrastructure and rolling stock listed in schedules 2 to 5);
- and which are not relevant to the operation of the railway; or
- do not affect the safety of operation of trains or tramcars (such as slips, trips and falls in stations or depots, whether they involve passengers or staff),

are not notifiable to the RAIB, although they may be reportable to the ORR under Reporting of Injuries, Diseases and Dangerous Occurrences Regulations 1995 (RIDDOR).

86. Deaths or serious injuries to railway staff are only notifiable if they arise from an accident involving moving rolling stock. If, for example, a track worker is injured tripping over an object in the cess, the accident is not notifiable to the RAIB but may be reportable to the safety authority. For clarity, incidents involving passengers on stations who fall and come into contact with moving trains or tramcars are notifiable.
87. In addition, the duty to notify does not arise in the other situations listed in regulation 4(6), where passengers or staff have died from natural causes, have been injured or killed in assaults, or where people trespassing on the railway have been injured or killed (including suicides and attempted suicides).
88. Where there is doubt about whether a particular incident is within the application of this regulation (if, for instance, it is not clear whether or not a person struck on a level crossing was intending to commit suicide, or where it has not been established if a person struck on the line was a member of railway staff on duty), notification should be made immediately and further information should be supplied when it becomes available. The decision to notify in this instance is based on the railway industry body's "reasonable belief". This means the best judgement of the person with a duty to notify the RAIB, given the information available to them at the time, in the immediate aftermath of the accident or incident. These types of incidents are also likely to be reportable to the safety authority, and may be investigated by them.

89. If further information comes to light later on which suggests that a change to the decision on notification is necessary, the railway industry body should inform the RAIB.

What to include in a notification

(7) A notification given under paragraph (1), (2), (4) or (5) shall contain as much of the following information relating to the accident or incident as the railway industry body is reasonably able to provide at the time of the notification-

90. The amount of information that can reasonably be provided in any given situation will vary widely. For delayed notifications of events listed in schedules (2) or (5), information about access points, site contacts and emergency services attending will often be superfluous because these will have been either non-existent in the first place, or have ceased to function by the time the notification is made. In these circumstances the appropriate response would be "nil" or "not applicable". The RAIB recognises that there will be other situations where particular elements of the list below are also inappropriate, and will take this into account.

(a) the geographical position of the accident or incident and the nearest point of access to that position;

91. The location should, as far as possible, be described by reference to places which are easily identifiable (such as stations, eg "one mile north of Tring"), rather than by using local names which may not be marked on maps. Access points should be named and accompanied by a grid reference. If there is initial doubt about a location, then, to avoid delay, the first notification may be given in general terms (eg "between Tring and Cheddington") to enable the RAIB to mobilise its inspectors. More specific details can follow when available.

(b) the date and time of the accident or incident;

(c) the point of departure and intended destination of any rolling stock involved in the accident or incident;

92. Where timetabled trains are involved, the time of departure, origin and destination (eg 10:30 hrs Paddington to Penzance) should be given. Where appropriate, the train reporting number should also be provided.

(d) brief details of the accident or incident and the sequence of events leading to it;

93. This should consist of a very brief classification of the type of occurrence (eg derailment, collision, fire) and whatever information is known about how it happened.

(e) in the case of an accident, an estimate of the number of people seriously or fatally injured;

94. Information on casualties may be unreliable in the immediate aftermath of an accident. The notification should be based on whatever sources are available and should not be delayed by attempts to confirm the numbers involved.

(f) an estimate of the number of passengers on board any rolling stock involved at the time of the accident or incident;

95. It is unlikely that accurate information will be available immediately, but an estimate of the loading should be provided as soon as possible.

(g) the extent of damage caused to any railway, railway property or the environment by the accident or incident;

96. The RAIB may need to consider whether or not the event being notified falls within the definition of a "serious accident" (see guidance on regulation 2(3) above). If there are no casualties but there is "extensive damage" (see the definition in regulation 2(1) and associated guidance), then this may bring the event into the "serious" category. It will therefore be very helpful to the RAIB to have an early indication if there has apparently been a lot of damage in cases where no-one has been hurt. Estimates of the length of track requiring replacement (or other infrastructure damage), the number of vehicles and the extent of damage to them, and any spillages that may cause environmental damage, should be included in the notification wherever possible.

(h) the weather conditions at the time of the accident or incident;

97. Information on the weather conditions is not generally required for accidents on underground sections of railways, unless it is in some way relevant.

(i) the type, and an estimate of the quantity, of any dangerous goods on board the rolling stock involved at the time of the accident or incident;

98. This information is only of interest to the RAIB where such quantities of dangerous goods are involved that the emergency services have had to implement emergency plans or otherwise take action to contain the hazards from them. A copy of the train list will usually be acceptable.

(j) the number of crew on board the rolling stock involved at the time of the accident or incident;

(k) the name of the railway industry body whose property is involved in the accident or incident;

99. This will usually be the name of the company making the notification. Other companies should be identified as far as possible, where their details are known at the time of notification. For instance, an infrastructure manager should normally be able to provide the identity of the train operating company(s) involved in an incident.

(l) the names and roles of staff with responsibility for the movement of rolling stock involved in the accident or incident;

100. The RAIB will sometimes need to know the identity of staff who had a role in rolling stock movements associated with the accident, such as drivers, signallers, shunters or controllers. There is no need to provide details of catering staff, cleaners or others who may have been on the train if they had no part to play in the accident. The RAIB recognises that this information may not be required or be available immediately and notification should not be delayed because of this.

(m) the vehicle numbers and type of any rolling stock involved;

101. Brief details should be provided. Where the accident or incident has occurred, other than on the national network or a metro system, vehicles may be described in general terms if finding details would otherwise delay notification. Unusual motive power (such as a steam locomotive) which may require specialist knowledge should be identified to the RAIB.

(n) details of any emergency service attending the site of the accident or incident; and

(o) contact details of the person in command or control of the accident or incident site.

102. If the RAIB deploys inspectors to the site of an accident, it is very important that contact details of the Rail Incident Officer (or equivalent, depending on the operator) are provided as quickly as possible to enable inspectors to respond effectively and avoid delay.

(8) The railway industry body that notifies the Branch in accordance with paragraph (1), (2), (4) or (5) shall provide-

(a) as soon as reasonably practicable after the notification, such of the information referred to in paragraph (7) that it has not supplied with it; and

(b) within such time as the Branch specifies, such further information about the accident or incident as the Branch may reasonably require.

103. Despite telephone notification, the RAIB still requires the duty holder to collate details of the event on form RAIBN1 and forward the information to the RAIB once all entries on the form are completed (or when there is no further information to add). The RAIB may however, for investigation purposes, seek further information following the initial notification and prior to receipt of the form RAIBN1.

(9) A notification referred to in paragraph (3) shall contain a list of every occurrence during the month in question and shall specify the date, time and place of each occurrence.

104. Bulk returns of events listed in schedule 3 should be made on form RAIBN2 (or in any other format previously agreed with the RAIB). A single return should be made for each month, listing all relevant events. If no qualifying events have occurred in a calendar month, a 'nil' return is not required but may be submitted if desired.
105. This information will be used by the RAIB to help its understanding of trends and frequencies of similar occurrences.
106. Heritage railways and LRT systems may report individual events. Four-weekly rather than monthly reporting is acceptable if agreed in advance by the RAIB. In either case the returns must be received within ten days of the month or period end.

(10) Where the railway industry body does not know the extent of a person's injuries, it shall regard that person as having suffered a serious injury if-

(a) the person has been removed from the site of the accident or incident to a hospital; and

(b) the railway industry body suspects that the person has sustained a serious injury.

107. When a person has been taken to hospital and the extent of that person's injuries is not known, the notifying body should assume that the injuries are serious and notify the RAIB accordingly, unless they have good reason to believe that the injury is not serious.

(11) In this regulation "staff" means a person engaged in work for the railway industry body where such work was connected with the operation of the railway or railway property involved in the accident or incident at the time of its occurrence.

108. If staff are not working, but are travelling in the course of their duty (for example, a driver travelling to take over a train), or are not on duty and travelling on private business, they are not considered to be "involved" in an incident for the purposes of the regulations, and should be considered to be passengers for the purposes of any notification.

(12) A railway industry body that fails to notify the Branch of an accident or incident in accordance with paragraphs (1) to (5) and (7) to (9) shall be guilty of an offence.

Regulation 5: Conduct of Investigations by the Rail Accident Investigation Branch

5(1) The Branch shall conduct every investigation of an accident or incident in a manner that will not undermine its independence from-

(a) an infrastructure manager;

(b) a railway undertaking;

(c) a charging body;

(d) an allocation body

(e) a notified body; or

(f) any other party whose interests might conflict with the tasks of the Branch.

109. The RAIB is required to maintain its independence from all the listed bodies and organisations. It is also functionally independent from the police and the safety authority. This does not mean that the RAIB is unable to work with these organisations during an investigation. However, the RAIB must not allow others to decide what and how it investigates, or inappropriately influence its conclusions as to cause, or its recommendations arising from the investigation.
110. The 2003 Act provides for situations where other agencies are conducting parallel investigations and a question arises as to the desirability of an action by another person. In such circumstances, the 2003 Act enables the Chief Inspector of Rail Accidents to determine the way forward. Recognising that all statutory parties have duties to perform in relation to investigating rail accidents and incidents and to minimise circumstances where the RAIB and the other agencies may have different requirements, the RAIB has agreed memorandums of understanding with the prosecuting agencies in England and Wales, and Scotland. These take into account the respective roles and responsibilities and set out the principles for effective liaison, communication and co-operation between the parties. The memoranda can be viewed in the library section on the RAIB website at: www.raib.gov.uk.
111. The RAIB is not a prosecuting body. Its investigations are focused solely on improving safety and do not apportion blame or liability. Breaches of legislation are dealt with by other organisations; primarily the police and safety authorities, none of whose statutory duties have been changed by the creation of the RAIB.

(2) The Branch shall not investigate occurrences other than accidents or incidents if such investigation could undermine its independence from the parties referred to in paragraph (1).

112. This paragraph is derived from Article 21(4) of the Directive.

(3) The Branch shall make the necessary arrangements to commence an investigation of an accident or incident-

(a) where the accident is a serious accident; or

(b) where it is not a serious accident but is an accident or incident which, under slightly different conditions, might have led to a serious accident and the Branch has determined that it will conduct an investigation,

within seven days of being notified of the accident or incident.

113. Section 7 of the 2003 Act requires the RAIB to investigate all serious accidents (as defined: see paragraph 50), investigation of which is likely to bring improvement to rail safety, and gives it the discretion to investigate a non-serious accident or incident. When an investigation is to take place, the RAIB will make arrangements for it to start as soon as possible. The RAIB will do this by informing the body or bodies which made the notification of its intention to investigate, and will indicate when its investigation will start and what level of response it intends to deliver. The RAIB will also notify (as it considers appropriate) other interested parties (such as the safety authority, the police, or procurator fiscal) when it intends to investigate.

(4) In making a determination under paragraph (3) (b) the Branch shall take into account-

(a) the seriousness of the accident or incident;

(b) whether it forms part of a series of accidents or incidents;

(c) its impact on railway safety;

(d) requests from railway industry bodies, the safety authority, or other member States;

(e) the extent to which an investigation will improve the safety of railways and prevent accidents and incidents; and

(f) any other matter that the Chief Inspector considers to be reasonable in the circumstances.

114. The RAIB must take these factors into account when deciding whether to investigate a non-serious accident or incident. The RAIB may consider the impact of an accident or incident on safety in other member States, as well as the UK. If an industry body requests that a particular accident or incident is investigated, the RAIB will consider the request but will also take into account the other factors listed in this regulation when deciding whether to begin an investigation. Requests under this regulation, and inquiries about investigations should be made to 01332 253300 during office hours.

(5) The Branch may undertake a preliminary examination of the circumstances surrounding an accident or incident to determine-

(a) whether it is a serious accident; or

(b) where it is not a serious accident, whether an investigation is to be conducted.

115. On being notified of an accident or incident, the RAIB's normal approach is to obtain sufficient detail to confirm that it is within the scope of the Regulations. For accidents or incidents that are within its scope and where there is perishable evidence or evidence that needs to be secured before releasing the site back to the industry, inspectors may be deployed to conduct a preliminary examination of the accident or incident on site.
116. The purpose of a preliminary examination is to gather sufficient details and evidence to enable the RAIB to make an informed decision about the accident or incident and whether or not to conduct a full investigation. In making this decision, the RAIB takes into account the actual or potential seriousness of the accident or incident, the potential for recurrence, and whether an investigation by the RAIB would meet its aim of improving the safety of railways, and preventing similar railway accidents. If it is concluded that an investigation will not achieve this aim, the RAIB's involvement is ended, except where there has been a fatality. In such circumstances, and if requested, the RAIB will produce, for the Coroner or Procurator Fiscal, a summary note of the key facts identified by the RAIB during the preliminary examination.

(6) Within seven days of its determination to investigate an accident or incident the Branch shall provide the European Railway Agency with details of the date, time, place and type of the accident or incident, the number of persons injured or killed and the damage caused as a result of the accident or incident.

117. This is a requirement of the Directive. The European Railway Agency collects data on railway safety in the EU and co-ordinates the development and harmonisation of the European rail network.

(7) Where an accident or incident of a type described in paragraph (3) occurs on or close to a border installation between the United Kingdom and another member State, the Branch-

(a) shall use its best endeavours to agree with the investigating body of the other member State which accident investigating body will conduct the investigation;

(b) shall permit the investigating body of the other member State to participate in an investigation of such accident or incident conducted by the Branch;

(c) shall share the results of the investigation of such accident or incident by the Branch with the investigating body of the other member State; and

(d) may agree to carry out the investigation of the accident or incident in co-operation with the investigating body of the other member State.

(8) Where an accident or incident of a type described in paragraph (3) involves a railway undertaking established and licensed in another member State the

Branch shall invite the investigating body in the other Member State to participate in an investigation of that accident or incident.

(9) Where the accident or incident occurs within the part of the Channel Tunnel system which forms part of the United Kingdom and is either a serious accident or one which the Branch has determined it will investigate, the Branch shall invite and permit the rail accident investigating body in France to participate in the investigation of such accident or incident.

118. The arrangements for investigating accidents and incidents which occur in the Channel Tunnel concession area have been agreed with the French Bureau d'Enquêtes sur les Accidents de Transport Terrestre (BEA-TT). A Protocol of Co-operation has been agreed. Similarly a Memorandum of Co-operation for investigating accidents and incidents on the Belfast - Dublin railway (and any other future lines between Ireland and Northern Ireland) has been agreed between the RAIB and the Railway Accident Investigation Unit of the Railway Safety Commission (in the Republic of Ireland).

(10) During the course of its investigation, the Branch shall-

(a) keep the persons referred to in regulation 13(2)(b) informed of its progress; and

(b) so far as is reasonably practicable, take account of opinions relating to the investigation expressed by such persons.

119. Regulation 13(2) lists a wide range of people and organisations that the RAIB may judge need to be kept informed. Details of those whom the RAIB will inform and consult can be found in the guidance on regulation 13, below. Members of the public who have an interest in an accident should make themselves known to the RAIB if they wish to receive information on the progress of the investigation and do not have access to the RAIB web site (www.raib.gov.uk), where progress reports will normally be published.

120. In most cases the parties who need to be kept informed will be known to the RAIB. However, any person or organisation, within the context of regulation 13(2)(b), who would like their opinions to be taken account of under this regulation should submit them in writing to the RAIB at The Wharf, Stores Road, Derby DE21 4BA or enquiries@raib.gov.uk.

(11) The Chief Inspector shall determine the extent of, and the procedure to be followed in carrying out, an investigation conducted by the Branch or by a person appointed pursuant to regulation 6(1); and in making this determination he shall take into account the principles and the objectives of articles 20 and 22 of the Safety Directive.

121. The RAIB's investigations may take a number of forms, and will be of a nature and extent which is appropriate and proportionate, taking account of the seriousness of the accident or incident and the significance of any safety issues arising from it. When the RAIB appoints a person to assist in an investigation (see guidance on regulation 6(1)), the terms of that appointment make it clear what procedure is to be followed. While the Chief Inspector may take account of opinions expressed by interested parties, the decision on the extent and nature of any investigation is for the RAIB alone.

(12) The Branch shall conclude its examination at the site of an accident or incident in the shortest possible time in order to enable the infrastructure that is closed as a result of the accident or incident to be restored and opened to railway services as soon as possible.

122. The RAIB will carry out its work at the site of an accident as quickly as possible, to enable train services to be restored. Where possible the RAIB will progressively release parts of the site and items of equipment to the railway industry for recovery and reinstatement. However, the RAIB will consult with the safety authority, the police and the Crown Office and Procurator Fiscal Service (COPFS) where appropriate before giving up its interest in the site. If any of those bodies require further work on the site for the purposes of searches or their own investigations into possible breaches of law, they may take over all or part of the site from the RAIB.

(13) The Chief Inspector may discontinue an investigation conducted by the Branch at any time and shall publish his reasons for doing so.

123. Circumstances may arise during an investigation when it becomes evident that the nature of the accident or incident is such that there are no safety lessons to be learned, and to continue with the investigation will not further the RAIB's statutory aims of improving safety and preventing further accidents. In such cases the RAIB will let all interested parties know that it is discontinuing the investigation and will give its reasons for doing so. The safety authority and/or the police or procurator fiscal in Scotland may, however, still pursue investigations into possible breaches of the law.

(14) The Branch may undertake an investigation into the circumstances of an accident or incident where it has previously determined that no investigation will be conducted.

124. The RAIB may initially decide, on the basis of information given to it at the time of an accident that it will not investigate (see regulation 5(4) above for the factors which the RAIB must take into account in making this decision). However, if new information emerges some time after an accident has occurred, which suggests that there may be lessons to be learned from it, the RAIB may decide to begin an investigation. In such cases, the RAIB will inform all interested parties and will obtain from the safety authority or police (under regulation 8(1)(f)) copies of, or access to, any evidence which has already been collected for their investigation.

Regulation 6: Persons conducting, participating in or assisting with an investigation by the Rail Accident Investigation Branch

6(1) The Chief Inspector may appoint a person who is not an inspector to conduct or participate in an investigation by the Branch.

125. The RAIB is a relatively small organisation with limited resources. Although a team of inspectors is always on call, the RAIB may need assistance in undertaking an investigation, particularly to ensure a rapid response to accidents requiring attendance on site. This may include the appointment of:

- 'Accredited Agents' - people from the rail industry who will be among the first to respond to accidents or incidents as part of their normal employment. They will not investigate or take statements from witnesses. The RAIB trains and authorises them to record perishable evidence and identify other evidence that needs to be protected before RAIB inspectors arrive on site.
- An individual or organisation with particular expertise to participate in, or to conduct part of, a particular investigation.
- An individual or organisation with specialist capabilities to carry out specific tasks, such as testing pieces of equipment.

(2) A person appointed under paragraph (1) may exercise such powers of an inspector as are necessary to enable him to perform his functions under the terms of his appointment.

126. When the RAIB appoints an individual to assist in an investigation, the terms of that appointment make clear the scope of the work the person is being appointed to do and the powers they are entitled to exercise when doing this work. 'Accredited Agents', for instance, are empowered only to do what is necessary to secure and record perishable evidence. They are not able to exercise any powers beyond those needed for this specific role. In particular, the RAIB does not use anyone other than its own inspectors to interview witnesses and take statements. Companies who are contracted to provide facilities and services connected with an investigation also work to a clearly defined remit and specific instructions set out by the RAIB.

(3) In relation to an investigation of an accident or incident that the Branch is conducting, the Chief Inspector may-

(a) request assistance from a constable, the safety authority, any public body, or any other person acting under a power conferred on him by an enactment, or a constable, a procurator fiscal or the Lord Advocate acting under a power conferred on him at common law in Scotland, or from an accident investigating body of another member State or the European Railway Agency; or

(b) request assistance (including assistance with the retrieval, delivery, storage, disposal or destruction of evidence) from a person other than a person mentioned in sub-paragraph (a),

at such times and in such manner as the Chief Inspector may reasonably determine.

(4) Where the Chief Inspector reasonably requests assistance from a person referred to in sub-paragraph (3)(b), that person shall assist him.

(5) Subject to paragraph (6) the Secretary of State may pay reasonable compensation to a person who assists the Chief Inspector pursuant to paragraph (3).

(6) Where a person who assists the Chief Inspector pursuant to paragraph (3) is-

(a) an owner of railway property, a railway industry body, or a manufacturer or supplier of equipment, components or services to an owner of railway property or to a railway industry body, whose property or staff have been involved in the accident or incident being investigated; and

(b) under a statutory duty or other legally enforceable requirement to investigate the causes of the accident or incident, including any duty or other legally enforceable requirement arising by virtue of his being authorised to control infrastructure or operate trains or stations,

in determining whether or not to pay compensation, the Secretary of State shall take account of whether the assistance concerned any matter to which the duty or other legally enforceable requirement to investigate referred to in sub-paragraph (b) relates.

(7) A person who fails to assist an inspector when required to do so in accordance with paragraph (4) shall be guilty of an offence.

127. In addition to the appointment of individuals and companies to carry out specific tasks, the RAIB may also require assistance from a large number of bodies in order to carry out a thorough, efficient and effective investigation. For example, at a major accident, the police may be needed to provide:

- site security and access control services;
- staff to search for and collect physical evidence; and
- specialist forensic examination services.

At the scene of a less serious accident or incident, the services of the infrastructure controller may be needed to provide site protection and access control (see guidance on regulation 7(2) below).

128. If the police are not present at the site and it is considered necessary, the RAIB may employ private contractors to provide site security.

129. Investigations at an accident site will often interact with and be dependent on the recovery of damaged rolling stock and equipment. The railway industry has well-established processes for recovery of equipment and these are used by the RAIB to assist in its investigation, supervised by the RAIB in order to ensure evidence is not compromised.

130. Where the RAIB requires assistance from someone other than a public body, that person is under a duty to assist the RAIB, provided the request is reasonable. Costs involved in such assistance are dealt with as described in paragraphs 131 to 133 below.

131. Where the person providing assistance is a duty holder in relation to the accident being investigated, they will have in place a safety management system defined under an accepted Safety Certificate (in accordance with the requirements of the Railways and Other Guided Transport Systems (Safety) Regulations 2006). They will have a duty, as part of this safety management system, to carry out an investigation into accidents and incidents that occur during or as a consequence of their operations.
132. Investigations by such duty holders will necessarily include tasks such as the recovery of damaged rolling stock or the testing of systems and equipment which are part of their own obligation to investigate the accident. Where a duty holder is required to carry out these tasks to assist the RAIB in its investigation, no compensation will be paid. To make a payment in such circumstances would be, in effect, a subsidy for performing a statutory obligation, and therefore inappropriate.
133. Where the work required by the RAIB goes beyond what the duty holder could reasonably be expected to do in carrying out their own investigation (and recovery after the accident or incident), the reasonable cost of the additional work may be met by the Secretary of State. If such work is also required by other agencies, such as the safety authority and the police, all the public bodies involved will share the costs, and have agreed between them the arrangements for doing this.

Regulation 7: Access to the site of an accident or incident

7.(1) Subject to paragraph (2), no person other than an inspector or a person appointed under regulation 6(1) shall-

(a) have access to the site of an accident or incident of a type described in Schedules 1 or 4, including the rolling stock, infrastructure or traffic control and signalling systems involved in such accident or incident; or

(b) remove from or interfere with, or cause to be removed from or interfered with, anything at the site of an accident or incident of a type described in Schedules 1 or 4,

without the consent of an inspector until such time as the Branch has concluded its examination or removal of evidence at the site or determined that it will not conduct an investigation.

134. Access to the site of an accident or incident needs to be strictly controlled if evidence is not to be lost or destroyed, thereby making investigation of the cause more difficult. This regulation therefore prohibits anyone from entering the site of an accident or incident that is notifiable under schedule 1 or 4 without the permission of the RAIB. However, there has to be provision for the work of the emergency services at the site and for any other actions that may be necessary to make the area safe. Therefore the rest of regulation 7 sets out a framework for controlling access to the site. It does not affect the established role of the Rail Incident Officer (RIO) in controlling safety on the site, but may affect the broader role of the RIO in relation to site access.

(2) A person may have access to, or remove anything described in paragraph (1), only in so far as may be necessary for the purpose of-

(a) saving life or preventing further injury or suffering;

(b) preventing further damage or destruction;

(c) preventing danger, including from dangerous goods;

(d) protecting the site; or

(e) exercising a power conferred on that person by an enactment, or a power conferred on a constable, a procurator fiscal or the Lord Advocate at common law in Scotland.

135. "Protecting" in railway parlance means action taken to prevent a failed, derailed or damaged train or trains, or other obstructions, from being run into by a train, and involves various actions including placing signals to danger, putting track circuit operating clips and detonators on the rail, discharging the traction current on electrified lines, and exhibiting hand danger signals.

136. All of these actions may be appropriate and necessary in relation to an accident site in which the RAIB may have an interest, and they will of necessity have to be taken before the RAIB is in a position to give consent to them.

137. The exceptions to the general prohibition on access, set out in regulation 7(2), are intended to enable the emergency services to carry out their functions, and to permit railway staff to take the action set out in their Rule Book or other operating procedures to protect the site from danger, by stopping trains and isolating electrical supplies.
138. The provisions of this regulation apply to the place where the accident took place and also to signalling and control systems at locations remote from the accident (such as the controlling signal box, and other signalling locations), where the equipment may have played a part in the course of events.
139. At major accidents, access is controlled by the police as part of their response to the event. If the police do not remain at the site, the infrastructure manager becomes responsible for controlling access on behalf of the RAIB unless the RAIB considers that it is necessary to employ private contractors to provide security. The police will give the RAIB notice of their intention to withdraw so that the alternative arrangements can be put in place.

(3) Subject to regulation 17 where a constable, the safety authority or any other person intends to enter a site referred to in paragraph (1) in exercise of a power conferred on him by an enactment, -

(a) he shall, where practicable, notify an inspector of his intention to do so, together with details of any action he proposes to take while on the site; and

(b) where it is not practicable to notify an inspector in accordance with subparagraph (a), he shall inform an inspector as soon as practicable after he has entered the site and provide details of any action he has taken while on the site.

(4) In determining whether it is practicable to notify an inspector under paragraph (3)(a) a person intending to enter a site referred to in paragraph (1) shall have regard to whether the delay that would occur by giving such notification would, or would be likely to, affect adversely the result sought to be obtained from the exercise of his power.

(5) Where an inspector receives notification under paragraph (3) (a) of action proposed by a person referred to in paragraph (3) and a question arises as to the desirability of the proposed action to be taken, the inspector shall refer the question without delay to the Chief Inspector or an inspector acting on behalf of the Chief Inspector for determination pursuant to section 8(6) of the 2003 Act.

(6) A person who fails to comply with the requirements of paragraph (1) shall be guilty of an offence.

140. In England, Wales and Northern Ireland, a police officer or a member of the safety authority who needs to enter an accident site for a specific purpose in order to fulfil their statutory duties, must consider whether it is practicable to inform RAIB of their intention, ie whether the delay caused by doing so will prevent them from achieving the result of the action they wish to take.

141. If it is practicable, they must inform the RAIB beforehand of their intention to enter the site and of what they propose to do. If it is not possible for them to contact the RAIB beforehand, they must do so as soon as practicable afterwards, and they must also tell the RAIB what they have done on site.
142. Different legal requirements apply in Scotland, and a Memorandum of Understanding (MoU) has been agreed between the RAIB and the Scottish police and the Crown Office and Procurator Fiscal Service (COPFS) which will ensure that there are equivalent arrangements for investigations north and south of the border. MoUs have been agreed between the RAIB, the police, COPFS and the safety authority covering all aspects of the relationship between these statutory bodies, including access to accident sites, control of evidence, and resolution of any disputes.
143. In some circumstances it will be appropriate for the Chief Inspector of the RAIB to use the power given by section of 8(6) of the 2003 Act to resolve what action will best serve the public interest. The details of the MoUs differ slightly between England and Wales, Northern Ireland and Scotland because of the different legal systems in each country.

Regulation 8: Preservation of evidence

8.(1) *For the purpose of enabling him to carry out an investigation into an accident or incident in the most efficient way and within the shortest time, an inspector may, where appropriate in cooperation with the authorities responsible for the judicial inquiry, require a person to supply a list of all evidence relating to the accident or incident which is within his possession or control.*

(2) *Subject to paragraph (3) and regulation 17, a constable, the safety authority or any other person acting in exercise of a power conferred on him by an enactment, who is investigating an accident or incident shall-*

(a) preserve any evidence that he obtains in the course of his investigation into an accident or incident;

(b) where practicable, notify an inspector of his intention to collect, examine or analyse evidence, or interview a witness, for his investigation;

(c) where it is not practicable to notify an inspector in accordance with subparagraph (b), inform an inspector as soon as practicable after he has taken that action;

(d) provide to the Branch details of the action he has taken under this paragraph;

(e) upon request by the Branch, provide the Branch with access to or copies of any evidence he has taken or information he has obtained under this paragraph.

(3) *Paragraph (2) shall apply until such time as the Branch has concluded its investigation, no longer requires the evidence referred to in paragraph (2) or has determined that it will not conduct an investigation.*

(4) *In determining whether it is practicable to notify an inspector under paragraph (2)(b) a person intending to collect, examine or analyse evidence or interview a witness for his investigation pursuant to paragraph (2)(b) shall have regard to whether the delay that would occur by giving such notification would, or would be likely to, adversely affect the result sought to be obtained from the exercise of his power.*

(5) *Where an inspector receives notification under paragraph (2)(b) of action proposed by a person referred to in paragraph (2) and a question arises as to the desirability of the proposed action the inspector shall refer the question without delay to the Chief Inspector or an inspector acting on behalf of the Chief Inspector for determination pursuant to section 8(6) of the 2003 Act.*

(6) *An owner of railway property, a railway industry body, or a manufacturer or supplier of equipment, components or services to an owner of railway property or to a railway industry body, shall preserve all evidence over which he has control and-*

(a) which is, or which he reasonably considers may be, relevant to an investigation of an accident or incident of a type described in Schedules 1 or 4 by the Branch; or

(b) that the Branch directs him to preserve,

until the Branch has concluded its investigation, no longer requires the evidence or has determined that it will not conduct an investigation.

(7) A person who contravenes paragraph (6) shall be guilty of an offence.

144. 134. It is fundamental to the Branch's effectiveness and the efficiency of its operation that the system for the management of evidence relating to an investigation is clearly defined.
145. Article 20 of the Directive sets out the type of evidence to which the Branch as the independent investigator must have access, or have the right to see. This includes:
- the site of the accident or incident;
 - the rolling stock involved;
 - the related infrastructure;
 - traffic control and signalling installations;
 - contents of on-board recorders and equipment for recording of verbal messages and of the operation of the signalling and traffic control system;
 - any relevant information or records held by the railway undertakings involved and the safety authority.
146. Section 8(2) of the 2003 Act sets out the powers of an inspector to acquire evidence. Sections 8(5) and 8(6) of the 2003 Act provide that, where the Branch is conducting an investigation and a question arises as to the desirability of action which a person proposes to take in furtherance of their own investigation, the Chief Inspector can determine the question of whether the proposed actions are desirable.
147. Regulations 8(1) to 8(5) relate to action taken by the police or the safety authority. Application of Regulation 8(2) in Scotland is limited by Regulation 17, and a MoU agreed between the RAIB and the Scottish police and prosecuting authorities ensures that similar arrangements exist for investigations north and south of the border. Regulation 8(1) implements the requirement in article 20(2)(b) of the Safety Directive for an investigator to have an immediate listing of evidence.
148. Regulation 8(6) applies to railway industry bodies, including manufacturers and suppliers. Those who are duty holders may be investigating because of the requirements of their own Railway Safety Cases (see guidance on regulation 6 above). The obligation under this regulation is to preserve evidence which is related to accidents which are immediately notifiable to the RAIB, or where the RAIB specifically requires that something be preserved.
149. Where accidents are notified immediately, the RAIB decides as quickly as possible what action it is taking and let the duty holder know what the RAIB's response is going to be, what can or cannot be moved at the scene of the event, and what evidence must be preserved. In some cases, this may mean leaving trains or material undisturbed on site, even if to do so disrupts railway services. Failure to comply with this regulation is an offence (see regulation 8(7)).

150. Some of the evidence relevant to the investigation may be under the control of the maintenance contractor, manufacturer or supplier of the rolling stock, infrastructure or other equipment involved. They too have a duty to preserve evidence. As far as possible, the RAIB alerts such bodies to its potential interest in material under their control. However, this does not affect their statutory duty to preserve evidence which they reasonably can be expected to have identified as relevant to an accident investigation. In particular, train operators should ensure that the maintenance organisation(s) responsible for the rolling stock involved in the event are immediately made aware of the need to preserve maintenance records and related information.
151. What may be relevant evidence will differ significantly depending on the type of accident, and a judgment will have to be made by the companies concerned. Some material, such as data tapes from the signalling system or maintenance records for the trains involved, is always relevant. If the accident could have been caused by component failure, then the component concerned as well as design, installation and maintenance information and records relating to it will be relevant.
152. Preservation of evidence implies that the material is kept in a place and form that will enable it to be examined and/or analysed for the purposes of investigation. Where evidence is associated with railway infrastructure or rolling stock, use of the equipment in service may have the effect of destroying any evidence. For guidance on the continued use of equipment associated with an accident, see regulation 9.
153. Failure to comply with this regulation is an offence. However, in deciding whether to take action following a failure to preserve evidence, the RAIB considers whether, on the information available at the time, it was possible to recognise, by the use of experience and knowledge that the individual or organisation might reasonably be expected to have, that the material concerned was likely to be relevant.
154. If the RAIB directs that a particular item is to be preserved, there is still a duty on the railway industry bodies concerned to preserve other relevant evidence, unless the RAIB directs otherwise.

Regulation 9: Use of evidence

9(1) Except in so far as paragraph (2) or (3) applies, an owner of railway property, a railway industry body, or a manufacturer or supplier of equipment, components or services to an owner of railway property or to a railway industry body, shall not move or use any evidence that is, or may become, relevant to an investigation by the Branch except where it is necessary to do so for the purpose of-

- (a) saving life or preventing further injury or suffering;*
- (b) preventing further damage or destruction;*
- (c) preventing danger, including from dangerous goods; or*
- (d) protecting the site,*

until the Branch has concluded its investigation, no longer requires the evidence or has determined that it will not conduct an investigation.

(2) An owner of railway property, a railway industry body, or a manufacturer or supplier of equipment, components or services to an owner of railway property or a railway industry body, may-

- (a) with the consent of the Branch, move or use evidence relating to an accident or incident of a type described in Schedules 1 or 4; and*
- (b) unless the Branch gives notice to the contrary, move or use evidence relevant to an accident or incident of a type described in Schedules 2, 3 or 5 provided that there is no practicable alternative to the movement or use of that evidence and such movement or use is essential for the safe operation of the railway.*

155. This regulation sits alongside regulation 8 (preservation of evidence). Moving or using a piece of equipment which has been involved in an accident (such as a length of track, or a signalling system) will often be essential to enable railway services to be restored. For example, something that has obstructed the line may have to be shifted out of the way. As far as possible, any such evidence which may be relevant to an investigation should be collected or recorded before the equipment is put back into use (see below).
156. Where the accident being investigated is immediately notifiable to the RAIB under regulation 4(1) or 4(4), the consent of the RAIB is required before equipment involved in it can be moved or put back into use. In other cases, ie those incidents notifiable under regulation 4(2), 4(3) and 4(5), the RAIB will notify railway companies when it intends to investigate and requires items of equipment to be held for examination by the RAIB inspectors. In the absence of advice from the RAIB, equipment involved in such incidents can be put back into use.
157. It may be necessary to use or change the state of the infrastructure or equipment in the immediate aftermath of an accident or incident in order to save life, prevent further injury, prevent danger or protect the site. This may, for example, mean putting a signal to Danger to prevent other trains from running into the wreckage, or sending lifting equipment to the site of the accident to assist in the rescue of casualties. This regulation permits this to be done. A record should be kept of what is done in these circumstances.

158. The RAIB would not consider the continued use of a piece of equipment that had been involved in an accident to be justified, before being examined by investigators, if an acceptable alternative was available.
159. Whenever a notifiable accident or incident takes place, the continued fitness for service of the equipment involved must be actively considered. Continued use would still require compliance with railway industry standards or with any regulatory requirement, such as a Prohibition Notice issued by the safety authority.

(3) An owner of railway property, a railway industry body, or a manufacturer or supplier of equipment, components or services to an owner of railway property or a railway industry body who moves or uses evidence pursuant to paragraph (2) shall make and retain a record of the condition, position and location of the evidence before it was moved or used and supply that record on demand to the Branch.

160. It is important that a record is made of the condition of equipment before it is recovered, and of other evidence before it is cleared away. Such a record (a photograph, sketch, or notes) should include the location, position and condition of the evidence and as much other relevant information about it as possible. The RAIB expects this to be no more than a duty holder would normally do in carrying out its own investigation into an accident or incident. Making such a record will normally eliminate the need to keep equipment out of service for an extended period.

(4) Subject to paragraph (5), in the course of an investigation into an accident or incident, an inspector or a person appointed under regulation 6(1) may, for the purpose of examining or analysing an article, dismantle or alter the composition of it, whether or not such dismantling or altering has the effect of destroying it.

(5) Where an inspector or a person appointed under regulation 6(1) decides to dismantle or alter the composition of an article under paragraph (4), and the inspector or person appointed under regulation 6(1) has reason to believe that a constable, the safety authority or any other person exercising a power conferred on him by an enactment, a constable, a procurator fiscal or the Lord Advocate exercising a power conferred on him at common law in Scotland, would be entitled to analyse or examine that article for the purpose of his own investigation into that accident or incident, the inspector or person appointed under regulation 6(1) shall-

- (a) before commencing such dismantling or alteration, give notice to each of those persons of his intention to do so;*
- (b) permit those persons to be present during such examination or analysis;*
- (c) consider any reasonable representations those persons may make as to the impact such dismantling or alteration may have on their own investigation; and*
- (d) provide those persons with access to all records and reports relating to the examination or analysis.*

(6) Where an inspector or a person appointed under regulation 6(1) considers that it would not be detrimental to an investigation he may-

(a) inform a person of his intention to analyse or examine an article; or

(b) permit a person to be present during the analysis or examination.

161. Investigation of an accident often involves tests on systems and equipment, either the actual items which were involved in the event or other similar examples. Tests are carried out to establish how equipment behaves, under normal or degraded conditions, and for any other purposes that may be relevant in a wide range of circumstances. They may take place at the scene of the accident, at a depot, in a laboratory or test house, or any other appropriate place.
162. Equipment may need to be dismantled or tested to destruction. Regulation 9(4) gives the RAIB power to do this. Where the equipment is obtained by the RAIB from a railway industry body as a result of a request for assistance, compensation may be paid in accordance with the provisions of regulation 6(5).
163. The RAIB must inform other bodies with statutory duties to investigate (eg the police and the safety authority and in Scotland, constables, the procurators fiscal and the Lord Advocate exercising common law powers) of its intention to carry out any dismantling or testing (including destructive testing), consider any effects this may have on their investigations, and permit them to be present during the process. It may also inform railway industry bodies or any other persons, and allow them to be present, if it considers that this will not be detrimental to the investigation. The RAIB will normally invite relevant parties to witness its tests, particularly if their presence may aid understanding of the behaviour of the item being tested.

(7) A person other than a person referred to in paragraph (5) whom the Branch allows to be present during an analysis or examination shall not disclose to anyone except a constable, the safety authority or any other person acting under a power conferred on him by an enactment, or to a constable, a procurator fiscal or the Lord Advocate acting under a power conferred on him at common law in Scotland, any information he obtains in connection with that analysis or examination without the consent of the Chief Inspector.

164. Information on test results may be disclosed to the police and the safety authority without the consent of the RAIB being required. However, in some circumstances, disclosure of the results of a test to anyone else could interfere with a continuing investigation, and the RAIB will expect the results to be kept confidential in accordance with this regulation and specific permission for disclosure will be needed in every case. It will be made clear to those attending at the time of the test whether this requirement is likely to be invoked.

(8) The Branch may retain any evidence that it no longer requires for the purposes of the investigation for which it was obtained if that evidence may be required for the purposes of another investigation being conducted by the Branch.

165. The RAIB will normally release any retained equipment to its owners at the conclusion of an investigation (unless required by another body as defined in regulation 9(9) below). However, there may be occasions when the RAIB needs to retain equipment because it is relevant to another investigation that is being conducted. This is not expected to happen often. In such cases the RAIB will inform the owner of the equipment and will explain why it is keeping it. The RAIB will take into account any views expressed by the owners.

(9) The Branch shall release to a constable, the safety authority or any other person exercising a power conferred on him by an enactment, or to a constable, a procurator fiscal or the Lord Advocate acting under a power conferred on him at common law, in Scotland, any evidence that it no longer requires, where-

(a) the Branch has reason to believe that person would be entitled to collect that evidence for the purpose of his own investigation; and

(b) that evidence-

(i) is not prohibited from being disclosed by regulation 10(2) or any other enactment; or

(ii) is not evidence to which regulation 10(3) applies.

166. If other bodies with a statutory duty to investigate and in Scotland, constables, the procurator fiscal and the Lord Advocate exercising common law powers, require items of evidence which have been taken into possession by the RAIB and for which it has no further use, the RAIB must release the evidence to them (provided they have a right to collect it - see guidance on regulation 10(1) below) rather than to the owner. In such circumstances the RAIB will tell the owners what it is doing and where their property has been sent.

(10) The Branch shall release to its owner evidence that it no longer requires for the purposes of the investigation for which it was obtained or which it is not retaining under paragraph (8) and which the Branch is not required to release to a person referred to in paragraph (9) provided that before it does so the Branch shall consult with any person known to it to be leading an investigation under statutory or common law powers into the accident or incident in respect of which the evidence was obtained by the Branch .

(11) Where evidence is released to the owner pursuant to paragraph (10), the owner shall be responsible for the storage, destruction or disposal of it from the date of its release.

(12) Before releasing evidence under paragraphs (9) or (10) the Branch shall give seven days notice of its intention to do so to the intended recipient of such evidence.

167. When the RAIB has checked that the other investigating bodies no longer require items of evidence, and that they have no objection to them being released, the RAIB will release the items to their owner or the person from whom they were originally seized. They will be released from the location where they have been examined, tested or stored, which may be a RAIB office, or another government or commercial facility. The RAIB will give seven days notice of release to enable the recipient to make arrangements to remove the items. At the end of this period the owner or recipient will become responsible for the items and for any storage charges incurred after the release date.
168. Where items are of no further use (because of damage or dismantling) the RAIB may discuss with the owner how they are to be disposed of. In general, the owner will be expected to arrange for disposal. However, in some circumstances the RAIB may, with the agreement of the owner, arrange for items to be disposed of, to avoid causing unnecessary distress to individuals.

(13) An owner of railway property, a railway industry body, or a manufacturer or supplier of equipment, components or services to an owner of railway property or to a railway industry body, that moves or uses evidence relating to an accident or incident other than for a purpose specified in paragraph (1) shall be guilty of an offence unless the movement or use of the evidence by that body is in compliance with paragraph (2).

(14) An owner of railway property, a railway industry body, or a manufacturer or supplier of equipment, components or services to an owner of railway property or to a railway industry body, that-

(a) moves or uses evidence that is relevant to an accident or incident of a type described in Schedule 1 or 4 without the consent of the Branch under paragraph (2)(a); or

(b) moves or uses evidence that is relevant to an accident or incident of a type described in Schedule 2,3 or 5 where the Branch has given notice to the contrary under paragraph (2)(b),

shall be guilty of an offence unless that movement or use of such evidence is for a purpose specified in paragraph (1).

(15) An owner of railway property, a railway industry body, or a manufacturer or supplier of equipment, components or services to an owner of railway property or a railway industry body, that fails to make and retain a record as required by paragraph (3) shall be guilty of an offence.

(16) A person who discloses information that he obtains during an analysis or examination in contravention of paragraph (7) shall be guilty of an offence.

Regulation 10: Disclosure of evidence

169. Regulation 10 provides both for the disclosure of factual technical information and for the protection of witnesses who give evidence in confidence.
170. The Directive requires an investigation to be carried out with as much openness as possible so that all parties can be heard and share the results. It is important that safety-critical information gathered in the course of an investigation is shared promptly with those responsible for managing safety on the railways. Regulation 10(1) facilitates this, and information about how the RAIB puts it into practice can be found in the guidance to regulation 11(1).
171. The success of an investigation will in a large part depend on witnesses feeling confident that they can tell the truth openly without the fear of incriminating themselves or others. The aim of regulation 10(2) is to make this possible.

10(1) Except as provided in paragraphs (2) and (3) the Branch-

(a) may publish or make available for inspection any evidence or information it may acquire during the course of an investigation where such disclosure would not obstruct it in its general aims contained in section 4 of the 2003 Act; and

(b) shall provide to a constable or the safety authority investigating an accident or incident, or any other person exercising a power conferred on him by an enactment, or to a constable, a procurator fiscal or the Lord Advocate exercising a power conferred on him at common law in Scotland to investigate an accident or incident, access to and copies of any evidence obtained by the Branch in the course of an investigation of that accident or incident, but only where the recipient would be entitled by an enactment, or in Scotland, at common law, to collect that evidence for the purpose of his own investigation.

172. Under Regulation 10(1)(a), The RAIB may publish, or make available for inspection any evidence that it has acquired where such disclosure would not obstruct the RAIB's general aims (Section 8(6), Railways and Transport Safety Act 2003).
173. Under Regulation 10(1)(b), the RAIB must share with other statutory bodies (eg the police and the safety authority) involved in investigating the same event, all evidence that they would be able to obtain using their own statutory powers, unless it is prohibited by way of regulation 10(2). The evidence shared can include:
- (a) physical evidence;
 - (b) facts;
 - (c) raw data and facts derived from measurements, examination or testing (& explanation of how tests and examination were carried out); and
 - (d) technical reports of experts commissioned by the RAIB (with disclaimer that the views and analysis contained within it are the author's and do not necessarily reflect the opinion of the RAIB).

174. The RAIB also shares such evidence with the stakeholders involved, where they need access as part of their continuing management of safety. The RAIB cannot share: witness statements; witness details or medical records, and will not share inspector's opinions unsubstantiated by evidence; or inspector's working notes or working documents.

175. The RAIB will not act as technical experts in litigation, criminal prosecutions or coroners courts as to do so might place the RAIB in breach of its statutory obligation not to apportion blame or liability, and could create the perception that the RAIB was not independent.

(2) Except by order of a relevant court and subject to paragraph (7) the Branch shall not disclose to anyone-

(a) a statement or declaration provided to the Branch or any recording or other note or record relating to such statement or declaration unless the person who has provided such statement, declaration, recording, note or record consents to its disclosure;

(b) the name, address or other information relating to a person-

(i) who has provided to the Branch a statement or declaration or other note or record relating to such statement or declaration; or

(ii) who has indicated to an inspector or person appointed under regulation 6(1) that he intends to provide a statement or declaration or other note or record to the Branch;

unless that person consents to such disclosure; or

(c) a medical record relating to a person involved in the accident or incident.

176. The RAIB will not disclose any evidence obtained under Regulation 10(2).

177. It is important that witnesses are able to speak to the RAIB in confidence. People must be able to speak freely about an accident that they have witnessed or been involved in, in the knowledge that their words will not be passed to anyone else, or used against them or their colleagues in court, or for disciplinary purposes. This regulation gives witnesses that protection. The RAIB will always inform witnesses whom it interviews that their statements and identity are confidential in accordance with regulation 10.

178. It is permissible for people who are being interviewed by the RAIB to be accompanied by another person, for support. However, this person may not take any part in the interview itself, nor seek to influence the interviewee or interview. They may take notes if the witness wishes them to. If the witness is an employee of any company involved in the accident, then the person providing the support cannot be anyone who is also there to represent the interests of the company (for example a manager or company legal advisor). The RAIB's obligation to maintain the confidentiality of its interviews with witnesses means that it will normally exclude such persons from the interview. There is, however, no need for a witness to have anyone else present if they do not want to. It is their choice.

179. During interviews the RAIB Inspector will make an audio recording or take notes. If, following the preliminary examination, the RAIB decides to conduct further investigation, and a witness was able to provide information that the RAIB considers relevant to the investigation, then a written summary of the key information will be prepared. A copy of this will usually be sent, by post, to the witness with a request that they sign the document to confirm the accuracy of the information, and then return it to the RAIB. If the witness is dissatisfied with the summary or has recalled additional facts, they can include the observations or the additional facts they recall on the summary before returning it to the RAIB. Depending on the nature of the proposed amendments, or as an investigation progresses, the RAIB Inspector may ask a witness to attend a further interview.
180. There is an exception to this policy where the RAIB has obtained information from an expert witness that it had contracted to undertake a specific task. Normally, the RAIB does not regard any submission to it by an expert, and made specifically in that capacity, whether or not the person was appointed under regulation 6(1), as being a confidential statement or declaration that should be prohibited from disclosure under regulation 10(2)(a). Consequently such reports will be provided to the RAIB on the basis that they are disclosable. However, it may be necessary for some reports or part of them, to be kept confidential, particularly if disclosure would impede the RAIB's general aims, or they contain information that is prohibited from disclosure (eg medical records), or they contain information that if released would prejudice the commercial interests of the owner of the information.

(3) Except by order of a relevant court and subject to paragraph (7), the Branch shall not be required to disclose to anyone-

(a) personal information relating to a person involved in the accident or incident or with the investigation of that accident or incident (other than personal information protected by paragraph (2));

(b) the opinion of an inspector or a person appointed under regulation 6(1) which is unsubstantiated by evidence;

(c) the notes made by an inspector or person appointed under regulation 6(1), whether written or held electronically;

(d) any trade secret or other information, the release of which, in the opinion of the Chief Inspector would, or would be likely to, prejudice the commercial interests of the person holding it; or

(e) working documents of the Branch.

181. It may be necessary and helpful in the aftermath of an accident for other agencies (such as the police, COPFS and the safety authority) to know who has been an eye-witness or has been involved in an accident. Therefore this regulation makes provision for the RAIB to share details of people if the details have been collected by the RAIB in the course of preliminary (usually on-site) inquiries following an accident, and if such people give their consent.

182. The RAIB carries out its accident investigations in as open a manner as possible. However, there are some aspects of its work that must remain confidential while the investigation is in progress. This is so that inspectors are able freely to discuss aspects of the investigation with one another, make notes, and deal in confidence with commercially sensitive matters.
183. The RAIB has the legal discretion under Regulation 10(3) to release certain types of information, but is unlikely to exercise this discretion where:
- a matter would clearly affect the RAIB operations;
 - the material is clearly prejudicial to third parties;
 - the material is unsubstantiated;
 - the material relates to the RAIB working papers, and draft documents, setting out preliminary opinions, analysis, or conclusions made during the investigation or unsubstantiated by evidence; or
 - the material would require significant additional review or new work by the RAIB.
184. The RAIB would consider releasing information referred to in Regulation 10(3) only where the Chief Inspector considers it is in the public interest or the aims of the RAIB are not affected¹⁶. Such a public interest test would take account of, but clearly not be limited to, the affect that such a release would have on the investigation, and on future investigations. This would include consideration of the potential damage to the RAIB's reputation for confidentiality and independence, and the negative impact on co-operation in future investigations, which could obstruct the RAIB in delivering its general aim of improving railway safety.
185. The exercising of the RAIB's discretion under Regulation 10(3) is the sole responsibility of the Chief Inspector.
186. The RAIB will withhold information if it considers that its disclosure might not be appropriate because it is incomplete or unsubstantiated and would result in inappropriate speculation, or because it is of a commercial nature and its disclosure would adversely affect the interests of the company concerned. The RAIB can be required to disclose such information by an appropriate court order (see below).

(4) Except by order of a relevant court a person who assists the Branch under regulation 6(1), 6(3)(b) or 15(2)(b) shall not disclose to anyone any of the evidence or information described in paragraphs (2) or (3) which the Branch is precluded from disclosing save by order of a relevant court. This paragraph shall similarly apply to evidence or information provided to such a person if it is such that, if provided to the Branch, would be subject to paragraphs (2) or (3).

187. The same prohibitions on disclosure apply to Accredited Agents and anyone else who assists the RAIB with an investigation, whether as a contractor or otherwise. The RAIB will not permit anyone working on its behalf, other than inspectors, to interview witnesses.

¹⁶ Section 4 of the Railways and Transport Safety Act 2003 states:

In exercising their functions the Rail Accident Investigation Branch shall, wherever relevant, aim—

(a) to improve the safety of railways, and

(b) to prevent railway accidents and railway incidents.

(5) No order may be made under paragraphs (2) or (3) unless the court is satisfied that disclosure is in the public interest, having regard in particular to any adverse impact such disclosure may have on the investigation by the Branch to which the evidence relates, upon any future investigation and upon public safety.

188. It is possible for prosecuting authorities to apply to the Crown Court (the Court of Session in Scotland) or the High Court for an order requiring the RAIB to disclose witness statements or other information that it holds. The court must judge whether the interests of justice in making such evidence available are sufficient to outweigh the adverse impact disclosure would have on the investigation being undertaken by the RAIB to which the evidence relates, and the implications for future investigations and public safety if witnesses no longer feel able to speak freely and openly. Similar arrangements apply in respect of the operations of our sister branches, the Marine Accident Investigation Branch and the Air Accident investigation Branch.

(6) Paragraphs (2)(a) and (b) shall not be construed as placing a duty on the Branch to seek consent to disclose from a person referred to in those subparagraphs or compelling the Branch to disclose where the Branch has not sought consent at the time of the making of the statement.

189. Once the RAIB has taken a statement, made an audio recording, or made notes, during an interview they are immediately confidential and will not be disclosed.

(7) Nothing in paragraphs (2) or (3) shall preclude the Branch from-

(a) publishing the opinion of a person in a report of the accident or incident in so far as it is relevant to the conclusions in the report;

(b) publishing in a report of the accident or incident information based on matters contained in a statement, declaration, recording or other note referred to in paragraph (2)(a) or in a medical record referred to in paragraph 2(c);

190. The RAIB publishes reports on accidents and incidents that it investigates. This regulation permits the report to contain, anonymised as appropriate, information gained from witness interviews (but not the statements themselves) and the opinions of witnesses where these are relevant to the report.

191. The RAIB will consider carefully the balance of the public interest in the timing of publication and the extent to which anything in the report can be linked to evidence provided by an individual or organisation. As far as possible, confidentiality will be respected but the nature of the railway industry means that it may be possible for people reading the report to deduce where a piece of information came from.

(c) providing a person who makes a statement or declaration with a copy of such statement or declaration;

192. The RAIB will not provide a witness with a written statement or summary if it does not intend carrying out further investigation, or if the interview did not provide any key information that is directly relevant to the investigation.

(d) sharing the results of the investigation of an accident or incident with an investigating body in another member State;

(e) disclosing or discussing information based on a matter contained in a statement, declaration, recording, or other note it has obtained during the course of an investigation with a person providing assistance, evidence or information to the Branch; or

(f) disclosing the name or address of a person to a person providing assistance, evidence or information to the Branch but only in so far as is necessary for the purpose of obtaining evidence or information in furtherance of the Branch's investigation.

(8) A person who assists the Branch under regulation 6(1), 6(3)(b) or 15(2)(b) shall not disclose to anyone other than a constable, the safety authority or any other person exercising a power conferred on him by an enactment, or a constable, a procurator fiscal or the Lord Advocate exercising a power conferred on him at common law in Scotland, evidence or any other information, to which paragraph (4) does not apply, that he acquires about an investigation through the giving of such assistance, without the consent of the Chief Inspector or an inspector acting on behalf of the Chief Inspector.

193. Information shared by the RAIB, and other information about the investigation, remains confidential while the investigation is in progress, and afterwards unless it forms part of the final report. People and organisations who assist the RAIB with the examination, testing and analysis of evidence must not disclose the results, to anyone other than to the police, COPFS and the safety authority, without the permission of the RAIB. This is to ensure that confidential and sensitive information is not released in a way which might hinder further investigation, cause distress, or provoke ill-informed speculation. The RAIB will not prohibit such disclosure unless there are good reasons for doing so.

(9) A person who discloses evidence in contravention of paragraphs (2), (4) or (8) shall be guilty of an offence.

(10) In this regulation "relevant court" means-

(a) the Crown Court or High Court in England and Wales or Northern Ireland; or

(b) the Court of Session or the High Court of Justiciary in Scotland.

194. When requested by a prosecuting body for a potential prosecution, the RAIB will review its evidence for particular areas of interest and, subject to the legislation, share the evidence which can be disclosed.

195. If as a result of a review the RAIB identifies that additional evidence or information (but not opinions or analysis unsubstantiated by evidence) is held by the RAIB, which cannot be released without an order from the relevant court, the prosecuting body will be advised of this in relation to the specific points they are trying to prove or disprove. Depending on the circumstances and on a case-by-case basis, if the RAIB became aware that it held evidence that would potentially undermine a prosecution case, the police would be advised, if this was necessary to avoid a miscarriage of justice. If the RAIB investigation report is available, the prosecuting body will also be directed to any relevant sections of the report.

Regulation 11: Reports etc. of accidents and incidents investigated by the Rail Accident Investigation Branch

196. Article 23 of the Directive requires the final investigation report to be made public, in the shortest possible time and normally not later than 12 months from the date of the accident or incident. The Directive provides a model report structure, which is replicated in Schedule 6 to these regulations. The RAIB takes account of this in determining how to present and structure its reports so that they provide clear explanations and aid understanding to the broadest audience.
197. The 2003 Act allows the RAIB to report on the cause of an accident or incident, whether or not blame or liability is likely to be inferred from the report, and to make a report regardless of whether civil or criminal proceedings are in progress, or may be instituted, subject to the normal operation of the law of contempt of court. The Chief Inspector will always consider the balance of the public interest in publishing a report when criminal proceedings are contemplated or are in progress.

11(1) Subject to the requirements in the following paragraphs the Branch may at any time provide a report (including an interim report), advice, recommendations or information relating to an accident or incident to such persons, and in such form and in such manner, as the Chief Inspector considers appropriate in the circumstances, taking account of-

(a) the nature and seriousness of the accident or incident;

(b) the speed at which the report, advice, recommendations or information needs to be given or acted upon;

(c) the stage which the investigation has reached; and

(d) the relevance or importance of the examination or investigation findings.

198. When major accidents occur, there is often a need for an early, authoritative account of the event, to prevent ill-informed speculation and needless public alarm. It may also be necessary for urgent safety-related information to be disseminated through the industry. The RAIB may make such reports at any time, and in a manner appropriate to the circumstances, taking account of the type and seriousness of the accident or incident. This allows the RAIB to provide information necessary for the industry to deal with immediate safety issues that may have been identified and to produce interim reports, to keep the industry and public informed, prior to the publication of the final investigation report.

(2) Upon the conclusion of an investigation conducted by the Branch into a serious accident or an accident or incident which under slightly different conditions might have led to a serious accident, the Branch shall report to the Secretary of State and publish a final report-

(a) in the shortest time possible and normally not later than twelve months after the date of the occurrence; and

(b) shall include in it such of the information described in Schedule 6 as is relevant to the accident or incident.

(3) Upon the conclusion of an investigation conducted by the Branch, other than one to which paragraph (2) applies, the Branch shall report to the Secretary of State and publish a report in such form as may be determined by the Chief Inspector.

199. The RAIB aims to publish all its investigation reports as soon as possible, and normally within twelve months of the accident occurring.

(4) A report published under this regulation may relate to more than one accident or incident.

(5) In relation to a report referred to in paragraph (2), the Branch shall provide a copy of the report to the European Railway Agency and to every person referred to in regulation 13(2).

Regulation 12: Recommendations of the Rail Accident Investigation Branch

12(1) The Branch shall address a recommendation contained in a report prepared under regulation 11(2) or (3)-

(a) to the safety authority; and

(b) to such other member State, public body or authority as it considers it appropriate to do so by reason of the character of the recommendation.

200. Regulation 12(1) requires that all the RAIB's safety recommendations be addressed to the relevant safety authority and any other appropriate public body, even though the actual recommendation may be often directed at another party (ie the organisation that will have to implement it). In this context, 'authorities' are public bodies. Additionally, the end implementers are sent a copy of the report.

(2) A public body or authority to whom a recommendation is addressed under paragraph (1) shall, in relation to that recommendation-

(a) ensure that the recommendation is duly taken into consideration and where appropriate acted upon;

(b) report to the Branch without undue delay or within such other period, not exceeding twelve months, as may be agreed with the Chief Inspector-

(i) giving full details of any measure taken to implement the recommendation;

(ii) giving full details of any proposed measure to implement the recommendation and the proposed timetable for securing that implementation; or

(iii) giving a full explanation as to why the recommendation is not to be the subject of measures to be taken to implement it; and

(c) give notice to the Branch if at any time the information provided to the Branch pursuant to sub-paragraph (b) is rendered inaccurate.

(3) The requirement to report under paragraph (2)(b) or to give notice under paragraph (2)(c) shall only apply to the extent that it is reasonably practicable for the authority that is required to report to have the specified information or for it to become aware that the information has been rendered inaccurate.

201. The RAIB's safety recommendations are not mandatory upon either the addressee or the end implementer. They must be considered within the framework of health and safety legislation, which places duties upon companies in respect of ensuring safety of their employees and others, and gives the relevant safety authority the powers to enforce these duties.

202. The action of formally addressing the recommendations to the safety authorities or other public bodies enables them to discharge their duty of ensuring that the end-implementer considers the recommendation and where appropriate takes action in response to the recommendation. The safety authority or the public body is then required to report back to the RAIB on the details of the consideration and the action taken or planned, or the reasons why no measures are to be taken to implement the recommendation.
203. The public body or authority to whom a recommendation is addressed under 12(1) will confirm to the RAIB when a recommendation reported under 12(2)(ii) has been fully implemented. Where implementation will take over 12 months, RAIB expects the proposed timetable for implementation to include the provision of an annual progress report until the recommendation has been implemented.
204. Regulation 12(2) only applies to a public body or authority to whom the recommendation is addressed. However where relevant, the Branch will provide a copy of any response received from another member state, public body or authority to the safety authority for information.
205. In responding to the RAIB, the ORR will publish its response on its website. The ORR will consult with end-implementers on the factual accuracy of what it is proposing to report to the RAIB, before reporting and publishing on its website.
206. The RAIB will liaise with the ORR after receipt of a report, as soon as practicable, where it has outstanding concerns, particularly where it believes that the actions taken have not effectively addressed the risk. This will enable the ORR to consider the issues raised and follow up with the end implementer in a timely manner, if appropriate.
207. The requirement to give notice to the RAIB under 12(2)(c) only applies to 12(2)(b)(ii) until the recommendation has been implemented.

(4) Having regard to the nature of a recommendation addressed to it, the safety authority may require any person, within such period as the safety authority may reasonably determine, to-

(a) take that recommendation into consideration and where appropriate act upon it;

(b) send to the safety authority-

(i) full details of any measure that body has taken to implement the recommendation;

(ii) full details of any measure proposed by that body to implement the recommendation and the proposed timetable for securing that implementation; and

(iii) a full explanation as to why the recommendation is not to be the subject of a measure to be taken by that body to implement the recommendation; and

(c) give notice to the safety authority if at any time any information provided to the safety authority under sub-paragraph (b)(ii) above is rendered inaccurate.

(5) A person who fails to comply with a requirement imposed on him by the safety authority in accordance with paragraph (4) shall be guilty of an offence.

208. This regulation gives the safety authority power to require any person to consider the recommendation and to require them to inform the safety authority about what they have done or are doing to implement the recommendation, or reasoning as to why no action is to be taken to deliver the recommendation. Information on the way in which the various safety authorities are using this power is available from the individual authorities.
209. A person to whom a recommendation is addressed under 12(4) will confirm to the safety authority when a recommendation reported under 12(4)(b)(ii) has been fully implemented. Where implementation will take over 12 months, the safety authority expects the proposed timetable for implementation to include the provision of an annual progress report until the recommendation has been implemented.

Regulation 13: Duty of the Rail Accident Investigation Branch to consider representations

13(1) Before publishing a report under regulations 11(2) or (3) the Branch shall serve a notice in writing on every person referred to in paragraph (2) of its intention to publish the report, supply a copy of the report or the relevant part of the report to each person and invite each person to make representations to the Branch in response to its contents.

(2) The persons referred to in paragraph (1) are-

(a) any person whose reputation the Branch considers may be adversely affected by a report, or, if that person is deceased, such person as appears to the Chief Inspector, at the time he proposes to serve notice pursuant to paragraph (1), as best able to represent the interest and reputation of the deceased in the matter; and

(b) any of the following persons whom the Branch considers to be relevant-

(i) the owner of railway property;

(ii) a railway industry body, or a manufacturer or supplier of equipment, components or services to an owner of railway property or a railway industry body;

(iii) the safety authority;

(iv) victims and their relatives;

(v) owners of damaged property;

(vi) the emergency services involved;

(vii) representatives of staff and users of the railways; and

(viii) a person falling within the descriptions in sub-paragraphs (b) (i) to (vii) in other member States.

(3) A person upon whom notice is served under paragraph (1) may make representations in response to the report within fourteen days from service of the notice or within such longer period as may be determined by the Chief Inspector.

210. As part of the process of investigating and preparing reports and recommendations, the RAIB will normally discuss the progress of the investigation with those parties who can make a useful contribution to the results, including those involved in the accident or incident.

211. The regulation requires the RAIB both to conduct its investigations with as much openness as possible and also to keep people listed in regulation 13(2) informed of the progress of the investigation, and, as far as practicable, give them an opportunity to submit their views to the investigation and be allowed to comment on the information in draft reports. The RAIB uses its web site to provide information about its investigations, and also maintains contact as necessary with the various stakeholders. It also sends copies of the draft report, or relevant parts, before publication, to relevant parties listed in regulation 13(2)(b) to ensure they have an opportunity to review the factual correctness of the report, to make them aware of its contents, and to enable them to comment.
212. Normally, in respect of regulation 13(2)(b), the relevant parties will be those people and companies who were involved in the accident or incident, trade unions, organisations representing passengers, the emergency services and the safety authority. In the case of victims and their relatives, the RAIB will use its best endeavours, normally by making inquiries through the police casualty bureau, to identify the right people to receive the report. If the person concerned is deceased, the RAIB may decide on the most appropriate person to represent their interests.
213. It will be of assistance to the RAIB in discharging this duty if people and organisations who wish to receive information and reports about a particular accident or incident register their interest with the RAIB at the address given above (see paragraph 69).
214. The normal period for consultation with the people and organisations listed in regulation 13(2) is fourteen days. The RAIB will consider whether the circumstances of the accident, the technical complexity of the report, or the unavailability of key persons, make a longer period appropriate in a particular case. This is likely to be appropriate when the issues are particularly complex or when consultees will require time to draw a number of views together into a single response. It is however important that the RAIB's reports are published in a timely manner. Although the RAIB is required to invite comments, there is no requirement for those consulted to respond.

(4) The Branch shall consider any representations it receives under paragraph (3) and may amend the report in consequence of any such representation.

215. The responsibility for the content of a report rests with the RAIB. Factual corrections will always be made where necessary. The Chief Inspector will consider representations about other aspects of the report and will amend it if it is appropriate to do so. The RAIB is not obliged to amend the report or to include any comments made.

(5) A person to whom a report or part of a report has been supplied under paragraph (1) shall not disclose its contents without the permission of the Branch.

(6) A person who discloses the contents of a report in contravention of paragraph (5) shall be guilty of an offence.

216. Reports or parts of reports that have been sent out for consultation remain confidential and the property of the RAIB.

Regulation 14: Annual report of the Chief Inspector

14(1) The Chief Inspector shall publish a report on the activities of the Branch-

(a) on or before 30th September 2006 in respect of the period from the coming into force of these Regulations to 31st December 2005; and

(b) thereafter on or before 30th September each year in respect of the previous calendar year.

(2) Every report under paragraph (1) shall contain in respect of the period to which it relates-

(a) a summary of the investigations conducted by the Branch;

(b) a list of the recommendations issued; and

(c) details of the measures that have been reported to the Branch as having been taken in response to its recommendations.

(3) A report may contain such other information relating to the activities and aims of the Branch specified in section 4 of the 2003 Act as the Chief Inspector may determine.

(4) The Branch shall send to the European Railway Agency a copy of each report published under paragraph (1).

Regulation 15: Miscellaneous functions

15(1) The Branch may conduct studies into, monitor and analyse any matter it considers may be relevant to the effective investigation of accidents or incidents including-

(a) the responses of those persons to whom the recommendations of the Branch are addressed;

(b) technological and other developments; and

(c) statistics and trends relating to the railway industry including those relating to accidents and incidents.

(2) In order to assist the Branch in carrying out the activities described in paragraph (1), the Chief Inspector may request assistance or information from-

(a) a constable, the safety authority, any public body, or any other person exercising a power conferred on him by an enactment, or a constable, a procurator fiscal or the Lord Advocate exercising a power conferred on him at common law in Scotland, an accident investigating body of another member state or the European Railway Agency; or

(b) any other person,

at times and in a manner the Chief Inspector may reasonably determine.

(3) The Secretary of State may pay reasonable compensation to a person who assists the Chief Inspector pursuant to paragraph (2).

217. The RAIB has a general power to conduct studies into matters relating to accident investigation, accident prevention, and accident statistics and trends as long as it believes that it may be relevant to the effective investigation of accidents and incidents. Such studies could cover areas that could lead to improvement of the effectiveness of investigations. This could include for example maintaining the currency of knowledge of its staff relating to railway operation and technology, and enabling it to be able to look into matters generally relating to investigation.
218. Such work may require the assistance of the railway industry and Regulation 15(2) provides for this by enabling the Branch to request assistance or information to assist in work under Regulation 15(1). Requests for assistance made by the RAIB under the terms of this regulation may involve the provision of information, statistics and other data; training, instruction and briefing in developments in the railway industry; and any other reasonable matters.
219. Regulation 15(3) enables the RAIB to pay if costs are incurred by other people or organisations in the provision of such assistance.

(4) The Chief Inspector may arrange for the publication, in such form and in such manner as he considers appropriate, of such information and advice as is relevant to the general aims of the Branch referred to in section 4 of the 2003 Act.

(5) The Branch shall use its best endeavours to conduct an active exchange of information and views with the investigation bodies established in other member States under the Safety Directive for the purpose of -

(a) developing common investigation methods;

(b) drawing up common principles for the follow-up of safety recommendations; or

(c) adapting to the development of technical and scientific progress.

Regulation 16: Offences

16(1) A person guilty of an offence under regulation 4(12), 7(6), 8(7) and 9(13) to 9(16) shall be liable-

(a) on summary conviction to imprisonment for a term not exceeding six months, or to a fine not exceeding £20,000, or both; and

(b) on conviction on indictment, to imprisonment for a term not exceeding six months, or a fine, or both.

(2) A person guilty of an offence under regulation 6(7) shall be liable-

(a) on summary conviction to a fine not exceeding £20,000; and

(b) on conviction on indictment to a fine.

(3) A person guilty of an offence under regulation 10(9), 12(5) or 13(6) shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale.

220. The RAIB is not a prosecuting body and the investigations into offences under the regulations will be conducted either by the safety authority or by the police after consultation with the Crown Prosecution Service, or in Scotland the Crown Office and Procurator Fiscal Service.

Regulation 17: Scotland

17. Nothing in regulations 7(3) or 8(2) shall apply to-

(a) The procurator fiscal or the Lord Advocate, or

(b) a constable acting in accordance with directions given by the appropriate chief constable under section 17(2) of the Police (Scotland) Act 1967¹⁷

in pursuance of lawful instructions received by him from the appropriate prosecutor under section 17(3) of that Act.

221. This regulation is needed because of the differences between the legal systems in England and Wales and Northern Ireland, and Scotland.

222. The RAIB has a Memorandum of Understanding with the Crown Office and Procurator Fiscal Service and the Association of Chief Police Officers (Scotland), which puts arrangements in place which are similar to the rest of the United Kingdom.

¹⁷ 1967 c.77

Schedules to the Regulations

223. This section gives guidance on what events are notifiable under the various Schedules to the Regulations. For guidance on how and when to notify, see the guidance to regulation 4 above.
224. For each Schedule, a table has been provided to give guidance on categories of notifiable events (in the left-hand column), and possible non-notifiable events (in the right-hand column) that may appear to be relevant to the Schedule. Examples of notifiable and non-notifiable events are given. The examples are each matched to the relevant sections of each schedule so as to provide clarity. These are not comprehensive, and there will be situations in which doubt may arise as to whether an event is notifiable. Examples of non-notifiable events only relate to that specific schedule- these events may still be reportable under other headings.
225. The RAIB has provided some examples as a guide to the areas in which different types of accident or incident may fall. Overall the RAIB is not concerned as to the correct classification of an event at the outset provided this does not impede notification. It is more important that all relevant events are notified to the RAIB as soon as possible. If there are any doubts, it is better to ensure that the notification is made. **If in doubt, notify.**
226. **Always check whether notification should be under Schedule 1 before considering Schedules 2 or 3.**
227. Some events will fall into more than one category (eg a derailment leading to a collision, or a suicide which causes a derailment leading to other casualties). In such cases the event should be considered as a whole, and a single notification made.
228. The RAIB's duty staff can classify events into the individual schedules and will give guidance in individual cases.

Schedule 1: Types of accidents and incidents other than any occurring within the Channel Tunnel System which must be notified to RAIB immediately and by the quickest means available.

Note: The examples of non-notifiable accidents or incidents, given below, relate only to the specific part of the schedule under which they are given. Consideration still needs to be given to such events to check whether they would still be reportable under a different part of the schedule eg 1(9).

1.1 An accident resulting in the death of a person or the serious injury of two or more persons.

Notifiable	Not Notifiable
<p>An accident, involving moving rolling stock or directly related to the operation of a train (which is not a schedule 1(2) level crossing accident), which results in:</p> <ul style="list-style-type: none"> ■ the death of one person; <p><i>Example 1: A passenger train runs into the back of a stationary freight train. The passenger train driver is killed and six passengers receive injuries as a result of which they are taken to hospital.</i></p> <p><i>Example 2: Train driver is killed by electric shock after contacting the conductor rail while inspecting the train.</i></p> <p>or</p> <ul style="list-style-type: none"> ■ serious injury of two or more persons; <p>including deaths or multiple serious injuries:</p> <p><i>Example 3: A moving train strikes a scaffolding pole which has become dislodged from a structure adjacent to the railway resulting in a serious injury to passengers.</i></p> <ul style="list-style-type: none"> □ as a result of derailment or collision; □ to pedestrians on street running and segregated sections of tramway caused by a moving tram; □ as a result of electric shock from a moving train or tram; <p><i>Example 4: Overhead line breaks as pantograph is raised causing</i></p>	<p>Death or serious injury:</p> <ul style="list-style-type: none"> ■ of a member of the public or staff of a railway industry body, resulting from an accident which does not involve moving rolling stock; <p><i>Example 1: An elderly passenger falls down an escalator and knocks over another person. Both people suffer broken limbs (no moving train involved).</i></p> <p><i>Example 2: A track worker comes into contact with the conductor rail and dies of electric shock (no train involved).</i></p> <p><i>Example 3: While carrying out a work activity, a maintenance worker falls from the elevated platform of a stationary road rail vehicle (does not involve a train).</i></p> ■ of a person, as a result (in the opinion of the organisation notifying the event) of: <ul style="list-style-type: none"> □ Suicide; □ Attempted suicide; □ Intentional trespass; □ Assault; □ Natural Causes. <p><i>Example 4: Two youths have trespassed on the railway and are spraying graffiti on an embankment wall. They are struck by a train</i></p>

Notifiable	Not Notifiable
<p><i>fatal injury.</i></p> <ul style="list-style-type: none"> □ to passengers who fall under or against moving trains or trams; □ to railway staff who are hit by a moving train or tram or engineer's on-track plant. 	<p><i>(trespass).</i></p> <p><i>Example 5: A passenger is taken ill and dies of natural causes whilst on a moving train (not an accident).</i></p> <p><i>Example 6: A member of the public is struck by a train while on railway property without authority (intentional trespass).</i></p>

1.2 An accident on a level crossing involving rolling stock, resulting in the death of a person or serious injury to a person.

Notifiable	Not Notifiable
<p>An accident at a level crossing involving a train or tram, and</p> <ul style="list-style-type: none"> ■ a vehicle, or ■ a cyclist, or ■ a pedestrian; <p>resulting in</p> <ul style="list-style-type: none"> ■ the death of a person; or ■ serious injury to a person; <p><i>Example 1: a train hits a farmer's vehicle on a user worked crossing. The vehicle driver is killed and his passenger suffers a serious injury.</i></p> <p><i>Example 2: A train strikes and kills a person using a foot crossing over the railway.</i></p> <p><i>Example 3: A train strikes a road vehicle on a level crossing and is derailed, leading to passenger and/or staff fatalities.</i></p> <p><i>Example 4: A tram hits a pedestrian, on a level crossing.</i></p> <p><i>Example 5: A person passes a red light and walks onto a footpath crossing as a train approaches. They are seriously injured.</i></p> <p><i>Example 6: Two passengers inadvertently walk in front of a train on a footpath crossing.</i></p>	<ul style="list-style-type: none"> ■ Road traffic accidents at level crossings which do not involve a train or tram; <p><i>Example 1: Two cars collide on a level crossing there is no damage to the level crossing equipment and the safety of the line is not compromised (road traffic accident).</i></p> <ul style="list-style-type: none"> ■ Suspected or attempted suicides. <p><i>Example 2: A man walks around the barriers at an AHB crossing and stands on the track, where he is struck and killed by a train. Enquiries made at the scene by police indicate that the man told a passer by that he intended to kill himself (suspected suicide).</i></p>

1.3 A collision between rolling stock on a running line which causes damage or blocks a running line that was open to railway traffic at the time of the collision.

Notifiable	Not Notifiable
<p>All collisions which cause damage¹⁸ to rolling stock (including those between engineer's rail mounted equipment and road/rail machinery) or infrastructure or block a running line; including collisions which occur in possessions (including collisions of road-rail vehicles) which cause damage to rolling stock or infrastructure or block a line open to traffic.</p> <p><i>Example 1: A passenger train runs into the back of a freight train, which has not pulled sufficiently into a passing loop to be clear of the main line during temporary block working after a signal failure. There are no fatalities or serious injuries, but the locomotive and two coaches on the passenger train and eight wagons on the freight train are damaged to the extent that they will need repair before they can be moved or used.</i></p> <p><i>Example 2: Two road-rail machines collide in a possession. One is damaged and has to be removed using a crane.</i></p>	<ul style="list-style-type: none"> ■ Normal coupling or decoupling of trains except where an accident or incident described in schedule 1 arises out of such activity. <p><i>Example 1: A collision takes place between two road- rail machines in a possession. Neither machine suffers damage which requires repair before the machine can be used or moved (minor collision in possession).</i></p> <p><i>Example 2: Two multiple units collide in station platform during normal splitting or joining activity. Minor damage is caused and no injury (normal coupling or decoupling).</i></p> ■ Collisions in sidings which do not block running lines.¹⁹ <p><i>Example 3: An engineers train in a siding is moved and collides with the last wagons of a train just leaving. The collision was at slow speed and does not block any running lines. The wagons suffered some minor dents which did not prevent them being used or moved (minor collision in siding).</i></p>

¹⁸ Damage in this context means damage that prevents the item concerned being used for its intended purpose until it is fully repaired.

¹⁹ If a collision in a siding blocks a running line this may be reportable under Schedule 1.9

1.4 A derailment of rolling stock on a running line that was open to railway traffic at the time of the derailment or which blocks a running line that was open to railway traffic at the time of the derailment.

Notifiable	Not Notifiable
<ul style="list-style-type: none"> ■ Derailments on running lines open to traffic; ■ Derailments where the derailed vehicle(s) obstruct a running line open to traffic; ■ Derailments of an engineers train or on-track plant travelling within a possession, not caused by the engineering activity itself <p>including derailments which occur in possessions and which block a line open to traffic, including derailments of road/rail machinery, on-track plant, and cranes.</p> <p><i>Example 1: A road rail machine is derailed in a possession and comes to rest foul of the adjacent line which is open to traffic.</i></p> <p><i>Example 2: A passenger train runs through some incorrectly set points whilst leaving a station and derails at slow speed. There are no injuries, but the derailment is on a running line.</i></p> <p><i>Example 3: During a shunting operation on a running line two wagons are derailed and the running line is blocked.</i></p>	<ul style="list-style-type: none"> ■ Derailments in sidings where the derailed vehicle(s) does not obstruct a running line. <p><i>Example 1: Two wagons of a freight train are derailed in sidings when the points move underneath the train. There are no injuries and no running lines are blocked (siding derailment).</i></p> <p><i>Example 2: A freight train leaving sidings and moving onto a running line has three wagons derailed. The front portion of the train, which is on the running line, is not derailed. The derailed wagons are within the sidings and do not foul a running line (siding derailment).</i></p> <ul style="list-style-type: none"> ■ Derailments in engineering possessions in which the derailed vehicle(s) do not obstruct a running line open to traffic, including: <ul style="list-style-type: none"> □ Derailment of ballast hopper wagons during the discharge of ballast; □ Derailment of road/rail or rail mounted maintenance machinery not permitted to operate outside the limit of the possession; □ Derailment of on-track maintenance machines; □ Derailment of a rail mounted crane while lifting or travelling; □ Derailment due to temporary track condition associated with the engineering work being done; □ Derailment due to incorrect operation of points. <p><i>Example 3: a tamping machine derails itself in a possession but does not foul the adjacent line which is open to traffic. The machine is re-railed within the possession and no damage is caused to the infrastructure or tamping machine (possession derailment).</i></p>

1.5 A collision of rolling stock with an arrestor mechanism or buffer stop, other than in a siding, that causes damage to the rolling stock.

Notifiable	Not Notifiable
<p>A collision with a buffer stop or train/tram arrestor mechanism which causes physical damage to rolling stock resulting in the train being taken out of service, or the buffer stop or arrestor mechanism is so damaged as to no longer be functional.</p> <p><i>Example 1: A train enters a terminus station at excessive speed and despite braking strikes the buffer stop breaking the coupler, the headlights and damaging the cab at the front of the train.</i></p> <p><i>Example 2: A tram collides with an arrestor system. There are no injuries but the tram suffers physical damage as a consequence of the impact.</i></p>	<p>Collisions with buffer stops etc, which cause zero or minor damage, eg paint scrapes to rolling stock or buffer stops.</p> <p><i>Example 1: On entering a terminus station a train brakes to a stop but comes into contact with the buffer stops. There is minor damage to the paint work on the train.</i></p> <p><i>Example 2: A tram is stopped by the arrestor mechanism but there is no significant damage to the tram.</i></p> <p><i>Example 3: While standing in a station a train rolls back and collides with the buffers at low speed.</i></p>

1.6 An accident involving the release or combustion of dangerous goods being carried on rolling stock that necessitates the evacuation of the area.

Notifiable	Not Notifiable
<p>An accident:</p> <ul style="list-style-type: none"> ■ resulting in the release of dangerous goods; or ■ in which dangerous goods catch fire; or ■ involving release or combustion of radioactive material; and <p>the area around the accident site is evacuated for reasons of safety and this requires the closure of the railway.</p> <p><i>Example 1: A freight train is stopped because there is a leak from a damaged tank wagon. The leaking wagon contains hydrofluoric acid and the immediate area around the train is evacuated.</i></p> <p><i>Example 2: A train derails in a siding. A wagon is damaged causing a leakage of aviation fuel. The adjacent line is blocked and a local school evacuated.</i></p> <p><i>Example 3: A nuclear flask wagon derails on the running line. Water is seen dripping from around a loading hatch.</i></p>	<p>Accidents involving dangerous goods, including radio-active material, where it is not necessary to evacuate the area, and which are not notifiable under any other heading.</p>

1.7 An accident or incident that is likely to result in suspension of a railway service for a period in excess of 6 hours.
The RAIB only requires to be notified of such events if there are safety implications (eg stranded trains in tunnels).

Notifiable	Not Notifiable
<p>An accident or incident involving a train that is expected to require complete closure of a route for longer than 6 hours in real time.</p> <p><i>Example 1: A failure of the overhead electrification equipment causing a number of trains to become stranded for many hours. It is a hot day and distress is caused to many passengers, some passengers break windows and leave the trains. The line is re-opened after 8 hours.</i></p> <p><i>Example 2: A freight train is stopped because of a fire involving a consignment of explosives. The incident occurs in a rural area but the opposite line is closed and no one can approach the train because of the threat of explosion until the fire has burnt out.</i></p>	<ul style="list-style-type: none"> ■ Accidents or incidents, not notifiable under any other heading, where it is expected individual lines will be closed for longer than 6 hours in real time, but the route remains open because traffic is diverted onto adjacent tracks. ■ Accidents or incidents where cumulative delay minutes amount to more than 6 hours.²⁰ <p><i>Example 1: A train fails on a multiple track line and cannot be moved for longer than 6 hours. However, the adjacent pair of lines remains open to traffic.</i></p> <p><i>Example 2: A train failure is resolved after two hours disruption of service on a route. However, cumulative train delays are in excess of 720 minutes.</i></p> <p><i>Example 3: Heavy rain causes a river to burst its banks. Water rises above rail level on a third rail electrified route and services are suspended for 24 hours until the water recedes. No damage is caused.</i></p> <p><i>Example 4: A train fails on a multiple track route because the brakes will not release, resulting in one line being blocked for more than 6 hours.</i></p> <p><i>Example 5: A large fire occurs in premises near the railway (but not involving railway property), for which a 24 hour exclusion zone is imposed, closing the railway.</i></p>

²⁰ Disruption caused by adverse weather conditions is not required to be reported under this heading, but where such weather conditions cause damage to infrastructure the event may be reportable under schedule 1.8 or schedule 2.3, depending on the extent of the damage.

Disruption caused by external events away from the railway but where the railway is included in an exclusion zone is not notifiable.

1.8 An accident that causes extensive damage to rolling stock, the infrastructure or the environment.

Notifiable	Not Notifiable
<p>An accident which causes extensive damage²¹ (ie where the cost of replacing or repairing the damaged equipment would be more than €2 million) to:</p> <ul style="list-style-type: none"> □ trains or trams; and/or □ track, associated structures and buildings forming part of the railway infrastructure; and/or □ the environment in the immediate vicinity of the railway. <p><i>Example 1: A failure of an engine component leads to the fuel tank of a diesel train catching fire and causes damage to the locomotive, one carriage and some track damage. It can be immediately assessed that the locomotive and carriage will either need complete rebuilding or replacement. The cost of doing this will be in excess of €2 million at current prices.</i></p> <p><i>Example 2: A washed out track where no accident occurs but a train comes to a stand still at or approaching the affected area. To restore the site would cost in excess of €2 million.</i></p> <p><i>Example 3: A diesel tank on a locomotive is punctured by a piece of debris from a passing train, and fuel leaks into a watercourse which is a site of Special Scientific Interest. Much of the wildlife in the watercourse and its immediate surroundings is killed. To restore the site would cost in excess of €2 million.</i></p>	<ul style="list-style-type: none"> ■ Accidents, not notifiable under any other heading, which cause damage to trains, infrastructure or the environment but the damage does not cost more than €2 million. <p><i>Example 1: A fire occurs on non-operational railway land which results in extensive damage to buildings and infrastructure which will require remedial action but does not affect the safe running of the railway.</i></p> <p><i>Example 2: A diesel locomotive is damaged by fire but there are no serious injuries, and the damage is minor and can be readily repaired.</i></p> <p><i>Example 3: A washed out track is identified and preventative measures are taken so that no trains reach [or are in the vicinity of] the affected area. To restore the site would cost less than €2 million Euros.</i></p>

²¹ Guidance on the costs involved in damage to equipment is given under the definition of "extensive damage" in regulation 2.1

1.9 An accident or incident which under slightly different conditions might have led to a death, serious injury or extensive damage to rolling stock, the infrastructure or the environment.

Notifiable	Not Notifiable
<p>An accident or incident which falls into one or more of the following categories²²:</p> <ul style="list-style-type: none"> ■ Serious instances of trains or trams running onto a level crossing when the barriers are open; <i>Example 1: A train runs onto a level crossing with the crossing open to road traffic, although no collision occurs.</i> ■ Serious equipment failures at level crossings resulting in a narrowly avoided accident; <i>Example 2: All the telephones fail at a user worked crossing where the vehicular users of the crossing are required to telephone the signaller before they cross, a vehicle crosses in front of a train and the driver applies full service or emergency brakes to avoid a collision and a collision is narrowly avoided.</i> ■ Serious incidents of Signals Passed at Danger; <i>Example 3: A train passes a signal at danger but is stopped at the first conflict point, with a train on a conflicting path stopped by action of the driver.</i> ■ Serious fires; <i>Example 4: A fire starts in the underfloor engine of a Diesel Multiple</i> 	<p>Accidents and incidents which are unlikely to have resulted in death, serious injury or extensive damage if circumstances had been slightly different²³.</p> <p><i>Example 1: An equipment failure at a level crossing causes the barriers to fail in the down position.</i></p> <p><i>Example 2: After a SPAD (of a type notifiable under schedule 3.5) a train is stopped more than 50m in rear of the first potential conflict point by the actions of the driver²⁴.</i></p> <p><i>Example 3: A failure of a track circuit leads to the signals controlling the entry to the area being turned to red.</i></p> <p><i>Example 4: A tram is in a queue of stationary traffic which moves off and then stops again rapidly. The tram strikes the rear of a car after braking. There is no indication of any fault with the tram, there is no damage or injuries on the tram or in the car and the car itself only receives minor damage to the bumper.</i></p> <p><i>Example 5: A car driver loses control of his vehicle and collides with a tram waiting at a tram stop.</i></p> <p><i>Example 6: A powered door of a passenger compartment opens unexpectedly and independently of the others whilst the train is</i></p>

22 To determine such events a risk ranking mechanism such as that used by RSSB and Network Rail may be used, with the prior approval of RAIB, to identify the most serious incidents which should be reported under this category.

Notification should take place as soon as the implications of the event are apparent; even if this is several hours after the events began to unfold (See guidance to regulation 4(1)).

Note 2: If there is any doubt as to the seriousness of an accident or incident, it should be notified to RAIB.

Note 3: If subsequent information identifies an incident as being notifiable under Schedule 1.9 it should be notified to RAIB as soon as this becomes known making reference to any notification made already under another heading.

23 Some of the events which are not notifiable under this heading may be notifiable under Schedules 2 or 3.

24 Any SPAD's not identified as serious enough to be reported under Schedule 1.9 should be reported as a bulk return under Schedule 3.5.

Notifiable	Not Notifiable
<p><i>Unit and spreads to the vehicle itself. The fire is put out by the fire brigade. The unit is not so badly affected that extensive damage (as defined) has been caused and there are no injuries amongst passengers or crew. However, the location of the fire on the vehicle, the presence of a long tunnel on the route the train was travelling and the difficulty of accessing parts of the route mean that in slightly different circumstances the event could have been very serious.</i></p> <ul style="list-style-type: none"> ■ Serious failures of rolling stock which create an imminently dangerous situation; <p><i>Example 5: The parking brake fails on a diesel multiple unit and it runs away. The unit travels half a mile before coming to a stop, running through some points and a station but not derailling.</i></p> <p><i>Example 6: A safety related defect occurs on a train which is considered, in the opinion of the duty holder, to have represented a high risk to the safety of the rolling stock and the people travelling on it.</i></p> ■ Serious failures of the signalling system resulting in a narrowly avoided accident; <p><i>Example 7: On a single line a train enters a section without the necessary authority, with another train already travelling towards it. Two trains are now in the same section at once on a single track. There is no accident as both trains are stopped when the mistake is realised.</i></p> <p><i>Example 8: A failure of a track circuit, which allows a second train to enter a section before the preceding train has left it.</i></p> ■ Collisions between trains travelling at speed and road vehicles which have come to rest on the line. ■ Accidents where trams come into contact with road vehicles and failings in the infrastructure or the control of the tram may have contributed to the accident. <p><i>Example 9: A tram running down a hill on a street running section has problems braking and collides with a road vehicle but does not derail.</i></p> 	<p><i>stationary at a platform and a passenger falls onto the platform and suffers a bruised forearm.</i></p>

Notifiable	Not Notifiable
<p><i>There is damage to the tram but no serious injuries.</i></p> <ul style="list-style-type: none"> ■ Accidents where large road vehicles hit a tram on a street running section and it is probable that with a slightly different set of circumstances fatalities, multiple serious injuries or extensive damage could have resulted. ■ Power failure causes delays to five trains stopped between stations on the London Underground. The conditions in the trains and during evacuation endangers passengers ■ Near miss events in which staff on or near the line have to take rapid action to avoid being hit by: an item of rolling stock, a RRV; or a trolley that is moving along the track. <p><i>Example 10: A train approaches staff working on the track. There appears to be no appointed look out. The train sounds its horn and applies its brakes. As the staff working on the track become aware of the train they scatter, only 2-3 seconds before the train arrives.</i></p> <ul style="list-style-type: none"> ■ Runaways of an item of rolling stock, RRV or trolley. <p><i>Example 11: A RRV runs away in a freewheel, unbraked, condition during the on- or off-tracking process, with or without its operator on board.</i></p> <p><i>Example 12: A RRV runs away following braking where the rails were wet and/or contaminated.</i></p> <ul style="list-style-type: none"> ■ Failure of overhead line as the pantograph of a train is raised. Injuries are narrowly avoided; ■ Doors opening when a powered or locked door on a passenger vehicle comes open on a moving train sufficiently that; <ul style="list-style-type: none"> 1. A passenger falls, but is not injured, or 2. There is a risk that a passenger, could fall from the train, but none do eg the door opened in excess of 500 mm. <p>This includes incidents where a passenger door opens in excess of 500 mm while the train is conducting an empty coaching stock (ECS)</p>	

Notifiable	Not Notifiable
<p>movement.</p> <p>In all such incidents the train must be withdrawn from traffic for investigation unless the RAIB consent is obtained to do otherwise. The train may, however, proceed to its depot as ECS without consultation with the RAIB.</p> <p><i>Example 13: The sliding doors of a passenger train or empty coaching stock open while the train is moving.</i></p> <p><i>Example 14: A powered passenger door opens while a train is travelling at 3 mph on approach to a halt at a platform and a passenger falls onto the platform but is uninjured.</i></p> <p><i>Example 16: A powered passenger door opens whilst a train is travelling to sufficient width (500 mm) that an adult or child may have fallen out of the carriage while the train was in motion.</i></p> <p>In all cases, the event must have been such that, with minor changes to the circumstances, death, serious injuries or extensive damage would have occurred.</p>	

Schedule 2: Accidents and Incidents other than any occurring within the Channel Tunnel System which must be notified to RAIB as soon as reasonably practicable and in any event within 3 working days of occurrence.

2.1 A collision of rolling stock with an object on or adjacent to a running line which under slightly different conditions might have caused a derailment, except-

- (a) if it is notifiable under regulation 4(1);
- (b) if the object was an animal; or
- (c) where the obstruction was caused by an obvious act of vandalism.

Notifiable	Not Notifiable
<p>A collision²⁵ of a train including engineer's rail mounted equipment or a tram occurring on a running line with an object other than:</p> <ul style="list-style-type: none"> □ an animal (live or dead); or □ something put on the running line by vandals, <p>which is of sufficient, size, shape or weight to have caused a derailment if conditions had been slightly different (but no derailment occurs).</p>	<ul style="list-style-type: none"> ■ Collisions with animals; <i>Example 1: Some cows break through a lineside fence and start walking about the track. A passing train strikes three cows but is not derailed.</i> ■ Collisions with objects placed on the track where it is clear that this has been done deliberately by vandals²⁶. <i>Example 2: A shopping trolley is thrown onto the line from an overbridge where is struck by a train. The train is disabled by the incident.</i>

²⁵ Collisions between large road vehicles and rolling stock or trams which might in slightly different circumstances have caused an accident involving fatalities, serious injuries or extensive damage should be reported under Schedule 1.9

²⁶ Obstructions of track by road vehicles where no collision occurs are notifiable under Schedule 2.3, and a collision with an animal or an object placed by vandals, that results in a derailment, should be notified under Schedule 1.4

2.2 An accident resulting in the serious injury of one person only except if it is notifiable under regulation 4(1).

Notifiable	Not notifiable
<ul style="list-style-type: none"> ■ Accidents resulting in serious injuries to one person. This category covers: passengers, staff or members of the public on trains, trams, stations or other railway property, so far as they are associated with the operation of trains, including accidents involving passengers receiving an electric shock from a train or tram. <i>Example 1: A train brakes suddenly and as a result a passenger standing in the centre aisle falls over and breaks their wrist.</i> <i>Example 2: A passenger attempts to board a moving train, and falls between the departing train and the platform. As a result of being struck by the train the person has a leg amputated.</i> <i>Example 3: A person on the platform falls and is seriously injured by a moving train.</i> <i>Example 4: A tram hits and seriously injures a pedestrian on a level crossing.</i> ■ Accidents in which one member of staff is seriously injured by being hit by moving trains or trams. 	<ul style="list-style-type: none"> ■ Serious injuries received as a result of: <ul style="list-style-type: none"> □ Attempted suicide; □ Trespass; □ Assault. <i>Example 1: A person walking a dog on the lineside is struck a glancing blow by a train.</i> <i>Example 2: A member of ticket barrier staff is assaulted by a passenger. The attack leaves the member of staff unconscious.</i> ■ Serious injuries to members of the public and staff that do not involve moving trains. <i>Example 3: A passenger falls down an escalator and suffers a broken arm.</i> <i>Example 4: A passenger trips and falls between the platform and a stationary train, receiving a serious injury.</i>

2.3 An obstruction of, or damage to, track, caused by a road vehicle encroaching onto a running line, except when the obstruction or damage occurs on a part of a tramway track that runs on a carriageway.

Notifiable	Not notifiable
<ul style="list-style-type: none"> ■ Incidents where road vehicles crash through boundary fences onto railway lines causing damage to track or creating an obstruction on the running line. <i>Example 1: A car thief turns a car onto the track at a level crossing and drives a hundred yards before abandoning the vehicle and leaving it foul of the running line.</i> <i>Example 2: A car fails to take a right hand bend in the road. The car crashes through the roadside fence and down an embankment before ending up foul of the line.</i> ■ Accidents involving road vehicles at level crossings which cause damage to the equipment which controls the working of the level crossing. ■ Incidents where road vehicles are driven either accidentally or deliberately onto tramways segregated from the normal roadway. 	<ul style="list-style-type: none"> ■ Incidents where road vehicles crash through boundary fences but the running line is not obstructed. <i>Example 1: A car is pushed by some youths through a boundary fence onto the railway line. However, the car remains in the cress and is not foul of the running line.</i> ■ Incidents where street running tramways are obstructed by road vehicles and no damage or collision with a tram occurs²⁷. <i>Example 2: There is a joint street running section for trams and motor vehicles on which the tram driver drives the tram on line of sight. The tram driver is forced to come to a stand because a stationary car fouls the tramway thereby blocking the route but there was no significant risk of a collision.</i>

²⁷ Collisions between road vehicles and trams are notifiable under Schedule 3.6

2.4 Any unintended division of a train or a tramcar.

Notifiable	Not notifiable
<ul style="list-style-type: none"> ■ The unexpected separation of trains or trams while in service or being prepared for service²⁸. <i>Example 1: A freight train running on the main line experiences a full brake application. On checking the reason for this the driver finds the train has parted between the 11th and 12th wagons.</i> <i>Example 2: A train formed of two 2-car multiple units (not gangwayed between units) departs from a station and parts between the two units.</i> 	<ul style="list-style-type: none"> ■ Divisions during pull-away tests; <i>Example 1: A passenger train is under going a pull away test in a yard. The train separates between the units.</i> ■ Separations as a result of deliberate uncoupling manoeuvres

²⁸ If a train becomes uncoupled between gangwayed vehicles while in passenger service, this should be notified immediately under schedule 1.9.

2.5 The failure of rolling stock on the track caused by-

- (a) the failure of an axle;
- (b) the failure of a wheel or tyre, including a tyre loose on its wheel; or
- (c) a fire or severe electrical arcing or fusing, whether or not extinguished by a fire-fighting service.

Notifiable	Not notifiable
<ul style="list-style-type: none"> ■ Fracture or shearing of an axle. <i>Example 1: A train fails on the running line with a fractured axle.</i> ■ Failure of or damage to a wheel or tyre that requires the train to be taken out of service and/or moved at walking pace only. <i>Example 2: A train is moved with brakes "on", causing damage to a wheelset which requires use of a wheel skate to move the vehicle.</i> <i>Example 3: Examination in a depot of a train as part of scheduled maintenance reveals a series of cracks within a wheel.</i> ■ Cases of severe electrical arcing or fusing on rolling stock where: <ul style="list-style-type: none"> □ there is evidence of fire damage; □ there is severe electrical arcing or fusing if this was the cause of the incident and not just the effect, and there is evidence of damage caused by the arcing or fusing. ■ A defect or failure of an axle, wheel or tyre that necessitates replacement of the component. <i>Example 4: A train fails in service and it is discovered that an axle bearing had failed so seriously endangering the safe operation of the train.</i> ■ Cases of fire, severe electrical arcing or fusing which may be contained within equipment cupboards or conduits. ■ Fire, Smoke or fumes within the passenger compartments of rolling stock which require all carriages in the train or tram to be evacuated, regardless of whether or not it is caused by deliberate action. 	<ul style="list-style-type: none"> ■ Cases of fire, severe electrical arcing or fusing which are confined solely to the collector shoes of DC electric trains. <i>Example 1: A small fire starts in one of the shoe gear fixtures of a third rail DC EMU. The train is stopped and traction current isolated. The driver uses a fire extinguisher to put out the fire. The train then runs ECS to depot after detraining passengers at the nearest station.</i> ■ A freight train fire to which the fire brigade is called as a precaution but plays no part on arrival. <i>Example 2: A freight train has a small fire on board one of the wagons. The fire brigade are called but by the time they arrive the fire has been extinguished by the train crew.</i> ■ Incidents of smoke or fumes which affect rolling stock and remain external to the vehicle are not notifiable unless there was evidence of a fire or fire damage. <i>Example 3: A train is delayed during its stop at a station due to reports of fumes in the train interior. Passengers are detrained from the carriage interior. The fumes are discovered to have been caused by a defective heater. There was no risk of fire spreading.</i> <i>Example 4: A train is stopped after smoke is seen to be emanating from an overheated wheel. The driver discovers that a handbrake has been released causing the brakes to drag. There is no significant damage to the wheel tread.</i> ■ Fires in trains or trams started deliberately, which do not require the train to be evacuated or taken out of service. <i>Example 5: Burning paper towels are discovered in a lavatory</i>

Notifiable	Not notifiable
<i>Example 5: A passenger carriage on an EMU starts to fill with smoke from a failing air conditioning unit. The passengers leave the train or are evacuated at a location remote to a station and the train is unable to continue its journey.</i>	<i>compartment of a passenger train. The compartment is locked out of use pending repair and cleaning and the train continues its journey.</i>

2.6 The failure of a cable or the fastening thereof of the winding plant or other equipment involved in working a railway operated by a cable haulage system.

Notifiable	Not notifiable
■ Failure of any section of ropes, cables or winding gear etc. On a cable hauled system where the total route length is over 1 km.	■ Failures on cable haulage systems less than 1 km in length.

Schedule 3: Types of accidents and incidents other than any occurring within the Channel Tunnel System which must be notified to RAIB no later than ten days after the end of the month in which the accident or incident occurred.

3.1 The failure of equipment at a level crossing which reduces the level of safety on the railway.

Notifiable	Not notifiable
<ul style="list-style-type: none"> ■ Any failure of level crossing equipment where the failure leads to a reduction in the level of railway safety. <p><i>Example 1: The wig-wag lights fail at an AOCL. The train drivers white light is not flashing and the train proceeds over the crossing in accordance with Rule Book Module TW8 Para 4.4. Although the train has proceeded in accordance with the relevant instructions the failure of the wig-wag lights means that the warning for car drivers is reduced and that there is therefore a reduction in railway safety.</i></p> <p><i>Example 2: A road vehicle knocks off the barrier arm of an automatic level crossing.</i></p>	<ul style="list-style-type: none"> ■ Failures of level crossing equipment which have not led to a reduction in railway safety²⁹. <p><i>Example 1: A level crossing suffers a loss of power and the barriers fail in the down position.</i></p>

²⁹ Serious failures which create imminent danger should be notified under Schedule 1(9).

3.2 The failure of a rail, including a rack rail, on a running line whether by a complete fracture through its cross section, or by the buckling or detachment of a piece of rail and which necessitates an immediate closure of that running line or speed reduction on that running line.

Notifiable	Not notifiable
<p>Rail defects³⁰ which are:</p> <ul style="list-style-type: none"> ■ a complete fracture through the cross-section; or ■ buckling; or ■ a piece of rail breaking off, <p>and which lead to;</p> <ul style="list-style-type: none"> ■ an immediate stoppage; or ■ the imposition of a speed restriction (not including precautionary speed restrictions put in place solely because of anticipated or actual weather conditions). <p><i>Example 1: A rail break is discovered on a section of track and the line is closed.</i></p> <p><i>Example 2: A Temporary Speed Restriction is imposed after a track buckle is discovered by a track patrol.</i></p>	<p>Rail defects which are not:</p> <ul style="list-style-type: none"> ■ fractures through the cross-section; ■ buckles; ■ for which a cessation of traffic or speed restriction is not imposed. <p><i>Example 1: A broken fishplate is discovered by a track patrol.</i></p> <p><i>Example 2: a precautionary Temporary Speed Restriction is imposed following a period of hot weather to reduce the risk of track buckles in a section of line.</i></p> <p><i>Example 3: A crack in the rail is found by ultrasonic testing and a Temporary Speed Restriction is imposed.</i></p>

³⁰ Failures of conductor or check rails which lead to an immediate stoppage or the imposition of a speed restriction should be notified under this heading.

3.3 *The failure of a structure on railway property, including a tunnel, bridge, viaduct, culvert, railway cutting, embankment, station, signal or fixed electrical equipment which under slightly different circumstances may have led to a serious accident or which otherwise reduces the level of railway safety.*

Notifiable	Not notifiable
<p>A failure of a structure which under slightly different circumstances may have led to a serious accident, or otherwise reduces the level of railway safety.</p> <p>"Slightly different circumstances" means that if the failure had not been detected, an accident could have resulted, and repairs are necessary before either:</p> <ul style="list-style-type: none"> ■ rail traffic can resume its normal speed; and /or ■ the premises or structures can be safely used again. 	<ul style="list-style-type: none"> ■ Simple electrical failures, which include short-circuits or tripping of circuit-breakers. ■ Bridge strikes where the line is re-opened after examination without requiring repair. ■ Failures of structures outside railway property that do not affect the railway.

3.4 A failure in the signalling system which reduces the level of railway safety.

Notifiable	Not notifiable
<p>Failures in the signalling system on a railway, or on a section of tramway not laid on a highway, which result in a reduction in the level of railway safety - ie actually endanger, or have the potential to endanger, the safe passage of trains or trams; and accordingly the failure would reduce the level of railway safety if it was not detected by other parts of the signalling system,</p> <p>and</p> <p>the failure resulted in one or more of the following consequences:</p> <ul style="list-style-type: none"> ■ A signal displayed an aspect less restrictive than the correct aspect in the circumstances; and/or ■ A signal was prevented from displaying a more restrictive aspect; and/or ■ There was incorrect operation of the interlocking. <p>Such a failure can be a critical failure of design, installation, testing, operation, or maintenance.</p> <p><i>Example 1: TPWS equipment on the track is found to be non-functioning on testing. Although the railway has implemented mitigating measures there is still a reduction in the level of railway safety.</i></p> <p><i>Example 2: A signal which should be displaying single yellow actually displays a double yellow.</i></p>	<p>Failures³¹ where:</p> <ul style="list-style-type: none"> ■ The system is protected by an automatic train/tram stop system, which, in the event of a failure, brings the train safely to rest. ■ A failure of road traffic lights that forms part of a signalling system for trams while they are operating on the road. <p><i>Example 1: A signalling failure occurs but there has been no reduction in safety because the train protection system brings the train to a safely to a stop without comprising the safety of staff or passengers.</i></p> <p><i>Example 2: A set of road traffic lights fail at a junction where trams cross.</i></p>

³¹ Not all wrong-side failures (WSF) need to be notified, only those that have the potential to cause a serious accident. Railway Industry Bodies may agree suitable criteria with RAIB if they wish to avoid notifying lower risk failures. This may be, for example, a WSF risk level on Network Rail above which a WSF must be notified.

3.5 Rolling stock passing a railway signal displaying a stop aspect, unless either the driver had been given authority to pass the signal or the signal did not display in sufficient time to enable the driver to stop safely at the signal.

Notifiable	Not Notifiable
<p>A train³² passing a signal displaying a stop aspect or indication (including "stop" boards)</p> <p>which is:</p> <ul style="list-style-type: none"> ■ on a running line: or ■ protecting movements from sidings onto running lines <p>and:</p> <ul style="list-style-type: none"> ■ the signal displayed in sufficient time to enable the driver to stop safely, <p>and:</p> <ul style="list-style-type: none"> ■ the driver had not been given authority to pass the signal. <p><i>Example 1: A train passes a signal at danger and is stopped more than 50 yards in rear of the first potential conflict point by TPWS.</i></p> <p><i>Example 2: A train passes a signal at danger but the design of the track layout and the signalling controls prevents the possibility of conflict in advance of the signal.</i></p>	<ul style="list-style-type: none"> ■ Serious near misses³³, ie incidents where a train passed a signal and collision was only narrowly avoided, should be reported under Schedule 1(9), not this heading. <p><i>Example 1: A signal reverts to danger in front of a moving train because of a track circuit fault, and the driver is unable to stop before passing it.</i></p> <p><i>Example 2: A signal is replaced to danger in front of a moving train because of a report of animals on the line. The train is unable to stop before passing the signal.</i></p>

³² When a tramcar is known to have passed a signal at stop/stop line then RAIB should be notified under this schedule, unless collision with another tram or road vehicle is narrowly avoided, in which case immediate notification (under schedule 1.9) should be made.

³³ Railway Industry Bodies may agree with RAIB to use a risk ranking model such as that used by RSSB and Network Rail to determine whether SPADs fall into this category or are potentially serious enough to be notifiable under Schedule 1(9).

3.6 *A collision between a tramcar and a road vehicle on a part of a tramway running along a carriageway.*

Notifiable	Not Notifiable
<ul style="list-style-type: none">■ Any incident involving a collision between a street running tram and any type of road vehicle, unless it is already a notifiable incident by virtue of another schedule.	<ul style="list-style-type: none">■ Any collisions between road vehicles which occur on a tramway track, if tramcars are not involved.■ Any collision between a tram and a road vehicle on a non-street running part of a tramway (will be notifiable under Schedule 2(1) as a collision with an obstruction on the line).■ Any incident involving a collision between a street running tram and a pedestrian, unless it is already a notifiable incident by virtue of another schedule.

Schedule 4: Types of accidents and incidents occurring within the Channel Tunnel System that must be notified to RAIB immediately and by the quickest means available

1. *An accident resulting in death or serious injury to a person.*
2. *A derailment of rolling stock which causes damage to or blocks a running line.*
3. *A collision that occurs on any line other than a siding, between rolling stock and-*
 - (a) other rolling stock;*
 - (b) an object capable of causing damage to or derailment of the rolling stock; or*
 - (c) a buffer stop.*
4. *An accident that causes extensive damage to rolling stock, the infrastructure or environment.*
5. *A collision on a level crossing involving a vehicle or pedestrian and rolling stock, whether or not a person suffers death or injury.*
6. *An accident involving the release or combustion of dangerous goods that necessitates the evacuation of a tunnel or part of the terminal.*
7. *Fire necessitating evacuation of passengers from one part of a train to another part of the same train or intervention of the fire brigade.*
8. *An accident or incident leading to the evacuation of passengers from a train.*
9. *Unauthorised passing of a closed marker or signal.*
10. *Runaway train on a line.*
11. *An accident or incident which, under slightly different conditions might have led to serious injuries or extensive damage to rolling stock, the infrastructure or the environment.*

Schedule 5: Types of accidents and incidents occurring within the Channel Tunnel System that must be notified to RAIB as soon as practicable and in any event within 3 days of occurrence

1. A fire, arcing or fusing which adversely affects the functioning of signalling, catenary or rolling stock control equipment.
 2. A fire that results in the suspension of railway services or closure of a part of railway property affecting the track, for a period of more than 1 hour.
 3. Any unintended division of a train, or breakage of coupling.
 4. The failure of rolling stock on the track caused by-
 - (a) the failure or seizing of an axle;
 - (b) the failure of a wheel or tyre, including a tyre loose on its wheel;
 - (c) the failure of brakes on a train; or
 - (d) a fire or severe electrical arcing or fusing on rolling stock, whether or not extinguished by a fire-fighting service.
 5. A broken rail, major failure of track equipment (weld, fastenings, etc.) or track deformation.
 6. Any significant safety related breakdown or any serious destruction or collapse of equipment, installations or structures.
 7. Any failure in the signalling system, or any other safety system, which endangers or potentially endangers the safe operation of the railway.
 8. Submersion of track that necessitates its closure.
 9. Unscheduled stopping of a train in a tunnel for more than 30 minutes.
 10. Damage to track caused by rolling stock or a dragging object.
 11. Spillage of fuel from a road vehicle being carried on a shuttle train.
 12. A breach of the requirements for the transport of dangerous goods contained or referred to in the Carriage of Dangerous Goods and Use of Transportable Pressure Equipment Regulations 2004³⁴.
 13. Any incident during which installations, equipment or rolling stock come into unintended contact with live overhead power lines with a voltage in excess of 200 volts.
- Guidance on the notification of accidents and incidents occurring in the Channel Tunnel System is provided by the RAIB directly to the operators involved.

Schedule 6: Principal content of an accident and incident investigation report

The RAIB shall for each investigation report include all those items listed in Schedule 6 that are found to be relevant. The RAIB is not bound to structure the report as shown in Schedule 6 and has instead chosen to structure its reports in a way that is commensurate with clarity of presentation and the reader's ease of understanding.

1. Summary

The summary shall contain a short description of the occurrence, when and where it took place and its consequences. It shall state the direct causes as well as contributing factors and underlying causes established by the investigation. The main recommendations shall be quoted and information shall be given on the addressees.

2. Immediate facts of the occurrence

(1) The occurrence-

date, exact time and location of the occurrence;
description of the events and the accident site including the efforts of the rescue and emergency services;
the decision to establish an investigation, the composition of the team of investigators and the conduct of the investigation.

(2) The background to the occurrence-

staff and contractors involved and other parties and witnesses;
the trains and their composition including the registration numbers of the items of rolling stock involved;
the description of the infrastructure and signalling system - track types, switches, interlocking, signals, train protection;
means of communication;
works carried out at or in the vicinity of the site;
trigger of the railway emergency plan and its chain of events;
trigger of the emergency plan of the public rescue services, the police and the medical services and its chain of events.

(3) Fatalities, injuries and material damage-

passengers and third parties, staff, including contractors;
cargo, luggage and other property;
rolling stock, infrastructure and the environment.

(4) External circumstances-

weather conditions and geographical references.

3. Record of investigations and inquiries

(1) Summary of testimonies (subject to the protection of identity of the persons)-

railway staff, including contractors;
other witnesses.

(2) The safety management system-

the framework organisation and how orders are given and carried out;
requirements on staff and how they are enforced;
routines for internal checks and audits and their results;
interface between different actors involved with the infrastructure.

- (3) Rules and regulations-
relevant Community and national rules and regulations;
other rules such as operating rules, local instructions, staff requirements, maintenance prescriptions and applicable standards.
- (4) Functioning of rolling stock and technical installations-
signalling and control command system, including registration from automatic data recorders;
infrastructure;
communications equipment;
rolling stock, including registration from automatic data recorders.
- (5) Documentation on the operating system-
measures taken by staff for traffic control and signalling;
exchange of verbal messages in connection with the occurrence, including documentation from recordings;
measures taken to protect and safeguard the site of the occurrence.
- (6) Man-machine-organisation interface-
working time applied to the staff involved;
medical and personal circumstances with influence on the occurrence, including existence of physical or psychological stress;
design of equipment with impact on man-machine interface.
- (7) Previous occurrences of a similar character.

4. Analysis and conclusions

- (1) Final account of the event chain-
establishing the conclusions on the occurrence, based on the facts established in heading (3)
- (2) Discussion-
analysis of the facts established in heading (3) with the aim of drawing conclusions as to the causes of the occurrence and the performance of the rescue services.
- (3) Conclusions-
direct and immediate causes of the occurrence including contributory factors relating to actions taken by persons involved or the condition of rolling stock or technical installations;
underlying causes relating to skills, procedures and maintenance;
root causes relating to the regulatory framework conditions and application of the safety management system.
- (4) Additional observations-
deficiencies and shortcomings established during the investigation, but without relevance to the conclusions on causes.
- (5) Measures that have been taken-
Record of measures already taken or adopted as a consequence of the occurrence.
- (6) Recommendations.

Annexes

Annex 1 Form RAIBN1: Notification form

Annex 2 Form RAIBN2: Monthly bulk return

Annex 3 Definitions

Annex 1 - Form RAIBN1: Notification form

Accident or Incident Reporting Form	
<p><i>This form may be used for written follow up notifications under regulation 4(1) of events listed in Schedule 1 (after immediate notification has been made by telephone) and notifications under regulation 4(2) of events listed in Schedule 2 of the Railways (Accident Investigation and Reporting) Regulations 2005.</i></p>	
Name of organisation making the notification:	
Contact details for person completing this form	
Name:	
Address:	
E-mail address:	
Telephone Number:	

Information the RAIB need to know immediately after the incident or accident			
Do not delay in informing the RAIB			
Location description and affected line			
Date of incident:			
Time:			
Type of accident or incident:			
Details of what is known at the time (cut and paste of incident log may be acceptable):			
(This box will expand)			
Train details (Train 1)			
Train ID:		TOC:	
Origin:		Time from origin:	
Destination:		Passenger/freight/other:	

<i>Train details (Train 2)</i>			
<i>Train ID:</i>		<i>TOC:</i>	
<i>Origin:</i>		<i>Time from origin:</i>	
<i>Destination:</i>		<i>Passenger/freight/other:</i>	
<i>Casualties (if known)</i>			
<i>Site Contacts (if known)</i>			
Role		Contact Details	
1			
2			
3			
4			

Other important details

Other details about the accident or incident that may be required by the RAIB (if its relevant to this event)
<ul style="list-style-type: none"> • an estimate of the number of passengers on board any rolling stock; • the extent of damage caused to any railway, railway property or the environment; • the weather conditions at the time of the accident or incident; • the type, and an estimate of the quantity, of any dangerous goods on board the rolling stock; • the number of crew on board the rolling; • the name of the railway industry body whose property is involved; • the names and roles of staff with responsibility for the movement of rolling stock involved in the accident or incident; • details of any emergency service attending the site of the accident or incident.

Annex 2 - Form RAIBN2: Monthly bulk return

Monthly bulk reporting form			
<p>This form may be used for written bulk reports under regulation 4(1)(3) of events listed in Schedule 3 of the Railways (Accident Investigation and Reporting) Regulations 2005. Normally, the reporting organisation will be the infrastructure controller. TOCs, who normally operate on Network Rails infrastructure, should however themselves report any notifiable events that occur on their own infrastructure eg SPADs on their sidings or depots.</p>			
Period covered by the return:			
Name of organisation making the Notification:			
Contact details for person completing this form			
Name:			
Address:			
E-mail address:			
Telephone number:			
<p>The notes in each of the following sections indicate the type of information required to be notified under each category of Schedule 3.</p>			
<p>3(1) - The failure of equipment at a level crossing which reduces the level of safety on the railway. For example: Automatic level crossing emergency telephone failure.</p>			
Date	Location	Time	Additional Information

3(2) - The breakage of a rail on a running line which necessitates an immediate closure or speed restriction on that line.

List each occurrence of a broken rail, with brief details of the type of fracture.

For example:

- Breaks in plain line;
- At rail ends: star cracks at bolt holes, where the rail has broken away or where there are other cracks within 600mm of centre line.
- At welded joints: flash-butt, thermit or other.
- Breaks away from rail ends and welds: transverse, surface defects, or other.
- Breaks in switches and crossings.
- Breaks in adjustment switches.

<i>Date</i>	Location	Time discovered	Type of fracture

3(2) - The buckling of a rail on a running line which necessitates an immediate closure or speed restriction on that line.

List each occurrence of buckled rails. Give the traffic type on the route eg passenger or freight or both.

Date	Location	Time discovered	Additional Information

3(3) - Any failure of a structure on the railway which in slightly different circumstances might have lead to a serious accident or reduction in railway safety.

List each failure, including:

Collapse of structures: Record all failures of structures eg embankments, cuttings, bridges which foul a running line.

Other failures: Record all other failures which did not block a running line but might have if for example the failure had been complete.

<i>Date</i>	<i>Location</i>	<i>Time discovered</i>	<i>Brief details of failure</i>

3(4) - A failure in the signalling system which reduces the level of railway safety. This does not include road traffic lights failing.

List each occurrence of wrong-side failures.

For example:

Track circuit failure: because of rust or rail surface contamination, leaf-fall contamination, bonding deficiencies or insulation failures, relay defects, cable faults, design, test, installation or maintenance deficiencies.

Other equipment: design, installation, maintenance, or testing failures.

Position light signals: no lights and not lamp proved; all lamps lit at once; signals knocked over.

Colour light signals: no aspect displayed and unprotected.

Date	Location	Time discovered	Brief details of failure

3(5) - Rolling stock passing a railway signal displaying a stop aspect without authority.

For each Signal Passed at Danger (SPAD) in industry Category A, record the type of train, the overrun distance, and the signal type.

Date	Location (Signal number)	Time	Additional Information

3(6) - A collision between a tramcar and a road vehicle on a part of a tramway laid along a carriageway.

Record all instances of collisions between street running trams and any type of road vehicle. For each instance record the type of road vehicle and tram involved and basic details of the event.

Date	Location	Time	Additional Information
Signature of person completing form:			
Date:			

Annex 3 - Form RAIBN3: A quick guide to notifying accidents and incidents on UK railways

Always check whether notification should be under Schedule 1 before considering Schedules 2 or 3.

Schedule 1 - Notify Immediately by telephone and follow up on form RAIBN1		Schedule 2 - Notify in 3 working days in writing on Form RAIBN1 or equivalent		Schedule 3 - Notify in bulk monthly in writing on Form RAIBN2 or equivalent.
1(1) Deaths to staff, passengers, or members of the public, caused in accidents or incidents involving moving trains, or to staff closely associated with train operations.	Except: Deaths as a result of suicide, trespass, assault, natural causes. If in doubt notify.	2(1) Collisions with objects other than animals or items placed by vandals on railway or tram tracks, which would not otherwise have required reporting under any of the headings in Schedule 1.		3(1) Failures of equipment at level crossings which reduces the level of safety on the railway and that are not notifiable under Schedule 1(9).
1(1) Serious injury to 2 or more staff, passengers, or members of the public, caused in accidents or incidents involving moving trains, or to staff closely associated with train operations.	Except: serious injury caused by attempted suicide, trespass, assault. If in doubt notify.	2(2) Serious injury to one person on trains, trams, stations or other railway property if the event leading to the injury was connected with the operation of trains.	Except: serious injury caused by attempted suicide, trespass, assault. If in doubt notify.	3(2) Broken rails or rails where pieces have broken off and buckled rails where the route has to be closed or a speed restriction put in place.
1(2) Level Crossing accidents involving death or serious injury to a person except suicide and trespass as above. If in doubt notify.		2(3) Incidents where road vehicles foul running lines or damage track.		3(3) Failures of structures on the railway (such as tunnels, cuttings, bridges, embankments, culverts, and stations), which reduce the level of safety on the railway and that are not notifiable under Schedule 1(9).
1(3) Collisions between rolling stock, other than in a siding, which cause damage to the vehicles involved.		2(4) Unintended divisions of any trains or trams while in service or being prepared for service.		3(4) Signalling failures which reduce the level of railway safety by affecting the ability of the system to detect or protect trains that are not notifiable under Schedule 1(9).
1(4) Derailments on lines open to traffic or which block running lines open to traffic.		2(5) Failures of axles, wheels or tyres.		3(5) Signals passed at danger unless the incident is notifiable under Schedule 1(9).
1(5) Collisions of rolling stock with buffer stops or other automatic stop devices, other than in a siding, which cause damage to the vehicles involved.		2(5) Train fires, severe electrical arcing or fusing		3(6) Collisions between trams and road vehicles which are not notifiable under Schedule 1(1).
1(6) Release of, or fires involving, dangerous goods (including radioactive material) requiring an area to be evacuated.		2(6) Failures of ropes on cable hauled railways whose total length is greater than 1km.		
1(7) Accidents or incidents leading to the closure of a route for more than 6 hours. NB: Incidents do not include weather related matters.		<div style="border: 1px solid black; padding: 10px;"> <p>RAIB Contact Details:</p> <p style="margin-left: 40px;">Address: Rail Accident Investigation Branch, The Wharf, Stores Road, Derby DE21 4BA</p> <p style="margin-left: 40px;">Telephone: 01332 253333</p> <p style="margin-left: 40px;">Fax: 01332 253338</p> <p style="margin-left: 40px;">E-mail: notify@raib.gov.uk</p> <p style="margin-top: 20px;">Further information, and examples of what is and what is not notifiable, can be found in the Schedules to the Regulations section of RAIB's Guidance on the Railways (Accident Investigation and Reporting) Regulations 2005. This can be found in the library section of RAIB's web site www.raib.gov.uk</p> </div>		
1(8) Accidents causing in excess of 2m euros worth of damage to trains, infrastructure or environment. NB: this includes rolling stock which is written off, major track or structure damage or significant pollution incidents.				
1(9) Accidents or incidents which could have lead to deaths or serious injuries or 2m euros worth of damage to trains, infrastructure or environment, had the circumstances been slightly different. If in doubt notify.				

Annex 4 - Definitions

The definitions used in this guidance, and the original legislation from where they have been taken, are shown below.

Transport & Works Act 1992 Section 67

"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 either is of a gauge of at least 350 millimetres or crosses a carriageway (whether or not on the same level),
- but does not include a tramway;

"tramway" means a system of transport used wholly or mainly for the carriage of passengers and employing parallel rails which-

- (a) provide support and guidance for vehicles carried on flanged wheels, and
- (b) are laid wholly or mainly along a street or in any other place to which the public has access (including a place to which the public has access only on making a payment);

"operator", in relation to a transport system, means any person carrying on an undertaking which includes the system or any part of it or the provision of transport services on the system.

Railways and Transport Safety Act 2003 Section 1 and 2

"railway property" means anything which falls within the definition of "light maintenance depot", "network", "rolling stock", "station" or "track" in section 83 of the Railways Act 1993 (c. 43), or which falls within the equivalent of any those definitions in relation to a tramway.

"railway accident" and "railway incident" means an accident or incident which occurs on railway property in so far as it is or may be relevant to the operation of the railway.

Railways Act 1993 Sections 6, 82 and 83

"light maintenance depot" means any land or other property which is normally used for or in connection with the provision of light maintenance services, whether or not it is also used for other purposes;

"network" means-

- (a) any railway line, or combination of two or more railway lines, and
- (b) any installations associated with any of the track comprised in that line or those lines,

together constituting a system of track and other installations which is used for and in connection with the support, guidance and operation of trains;

"operator", in relation to any railway asset, means the person having the management of that railway asset for the time being;

"railway asset" means-

- (a) any train being used on a network, whether for the purpose of carrying passengers or goods by railway or for any other purpose whatsoever;
- (b) any network;

- (c) any station; or
- (d) any light maintenance depot.

"railway services" means services of any of the following descriptions, that is to say-

- (a) services for the carriage of passengers by railway;
- (b) services for the carriage of goods by railway;
- (c) light maintenance services;
- (d) station services;
- (e) network services.

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

"station" means any land or other property which consists of premises used as, or for the purposes of, or otherwise in connection with, a railway passenger station or railway passenger terminal (including any approaches, forecourt, cycle store or car park), whether or not the land or other property is, or the premises are, also used for other purposes;

"track" means any land or other property comprising the permanent way of any railway, taken together with the ballast, sleepers and metals laid thereon, whether or not the land or other property is also used for other purposes; and any reference to track includes a reference to-

- (a) any level crossings, bridges, viaducts, tunnels, culverts, retaining walls, or other structures used or to be used for the support of, or otherwise in connection with, track; and
- (b) any walls, fences or other structures bounding the railway or bounding any adjacent or adjoining property;

"train" means-

- (a) two or more items of rolling stock coupled together, at least one of which is a locomotive; or
- (b) a locomotive not coupled to any other rolling stock.

"vehicle" includes railway vehicle

"light maintenance services" means services of any of the following descriptions, that is to say—

- (a) the refuelling, or the cleaning of the exterior, of locomotives or other rolling stock;
- (b) the carrying out to locomotives or other rolling stock of maintenance work of a kind which is normally carried out at regular intervals of twelve months or less to prepare the locomotives or other rolling stock for service;

European Railway Safety Directive 2004/49/EC

Article 3

"railway undertaking" means railway undertaking as defined in Directive 2001/14/EC, and any other public or private undertaking, the activity of which is to provide transport of goods and/or passengers by rail on the basis that the undertaking must ensure traction; this also includes undertakings which provide traction only;

"safety management system" means the organisation and arrangements established by an infrastructure manager or a railway undertaking to ensure the safe management of its operations;

“serious accident” means any train collision or derailment of trains, resulting in the death of at least one person or serious injuries to five or more persons or extensive damage to rolling stock, the infrastructure or the environment, and any other similar accident with an obvious impact on railway safety regulation or the management of safety; "extensive damage" means damage that can immediately be assessed by the investigating body to cost at least EUR 2 million in total;

"accident" means an unwanted or unintended sudden event or a specific chain of such events which have harmful consequences; accidents are divided into the following categories: collisions, derailments, level-crossing accidents, accidents to persons caused by rolling stock in motion, fires and others.

"incident" means any occurrence, other than accident or serious accident, associated with the operation of trains and affecting the safety of operation;

"investigation" means a process conducted for the purpose of accident and incident prevention which includes the gathering and analysis of information, the drawing of conclusions, including the determination of causes and, when appropriate, the making of safety recommendations;

"causes" means actions, omissions, events or conditions, or a combination thereof, which led to the accident or incident.