



Rail Accident Investigation Branch

Department for
Transport

**Guidance on the
Railways and Transport Safety Act 2003
(2003 C.20)**

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Summary

- 1 The Railways and Transport Safety Act 2003 (the 2003 Act):
 - established the Rail Accident Investigation Branch (RAIB) as the independent accident investigation body for the UK's railways - Section 3(3);
 - enabled the Secretary of State to appoint persons as inspectors of rail accidents and one of them as the Chief Inspector of Rail Accidents – Section 3(1) to 3(2);
 - identified the RAIB's aims – Section 4;
 - allowed for the RAIB to assist any person, with or without charge, inside or outside the UK – Section 5;
 - required the Secretary of State to make regulations requiring the Chief Inspector to produce an annual report once in each calendar year – Section 6;
 - defined the type of accidents and incidents that should be investigated and required the RAIB to report to the Secretary of State on completion of the investigation – Section 2 and Section 7(1) to 7(4);
 - specified that the RAIB should not consider or determine blame or liability – Section 7(5);
 - specified that the RAIB can investigate and report whether or not civil or criminal investigations are taking place – Section 7(6);
 - defined the inspector's powers – Section (8(1) to 8(2);
 - defined the offences related to those impeding a RAIB investigation – Section 8(3) to 8(6);
 - enabled the Secretary of State to make regulations defining how the RAIB would operate – Section 9;
 - empowered the Chief Inspector to direct others to investigate and specify the manner in which the investigation is to be conducted – Section 10;
 - required the Secretary of State to make regulations requiring others to notify the RAIB of accidents and incidents, and how this should be done – Section 11(2)

Introduction

- 2 The Railways and Transport Safety Act 2003 (the 2003 Act) was enacted by Parliament on 10 July 2003 as “An Act to make provision about railways, including tramways; to make provision about transport safety; and for connected purposes.”
- 3 There are seven parts to the 2003 Act and this document provides guidance on Part 1 *Investigation of Railway Accidents*, which created an independent body (the Rail Accident Investigation Branch (RAIB)) and tasked it with establishing the causes of accidents on the railways. It should be noted that this is only intended as guidance and the RAIB commentary does not amount to a definitive statement of the law; that is a matter solely for the courts and individuals should seek legal advice as necessary. Where appropriate, the actual text of the 2003 Act is shown in italics.
- 4 The 2003 Act also enabled the Secretary of State for Transport to make detailed provisions in regulations - the Railways (Accident Investigation and Reporting) Regulations 2005 (the 2005 Regulations) - which established the Branch on a similar model to that which already existed in the marine and aviation sectors
- 5 Together, the 2003 Act, and the 2005 Regulations implement articles 19 to 25 of the European Railway Safety Directive (2004/49/EC), which requires each member state to establish an independent body to investigate rail accidents. In addition, it implements the recommendation, made in Part 2 of Lord Cullen's 2001 Report on the Ladbroke Grove Rail Inquiry, to establish an independent accident investigation body.
- 6 The RAIB is the UK's independent body for investigating accidents and incidents occurring on the railways and tramways of Great Britain and Northern Ireland. It is empowered 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.

Scope of RAIB's investigations

- 7 The RAIB's investigatory role, which is to improve the safety of railways and prevent railway accidents and railway incidents, is set out in the 2003 Act. It is required to investigate any serious railway accident¹. It may also investigate any non-serious railway accident or incident. The scope of the railways and tramways covered 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 may 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;

¹ Section 7(1)(a) of the 2003 Act requires the RAIB to investigate any serious railway accident. “Serious accident” is defined in the 2005 Regulations (Regulation 2(3)). “Railway” is defined in section 1(1) of the 2003 Act as a railway or tramway within the meaning given by section 67 of the Transport and Works Act 1992. However a tramway shall not be treated as a railway for the purpose of section 7(1)(a) of the 2003 Act in accordance with section 7(2) of that Act.

- tramways (the duty to investigate serious accidents does not apply to tramways, however the RAIB has a discretion to investigate any accident or incident which occurs on a tramway);
 - heritage railways (including narrow-gauge systems) that cross a carriageway²; and
 - cable-hauled systems of 1 km or longer, for example the Cairngorm Mountain Railway and the Great Orme Tramway.
- 8 The Transport and Works Act 1992 definition of 'railway' encompasses any line that 'crosses a carriageway³'. All such lines are therefore within the scope of the RAIB's investigation process. Regulation 3(3) of the 2005 Regulations then qualifies the scope to exclude railways that do not cross a carriageway, such as those which are part of a museum, within a funfair or amusement park, or in private gardens.
- 9 The effect of the above is that, regardless of the track gauge, the scope of the RAIB's power to investigate includes all railways other than the following:
- railways that run within an industrial curtilage such as a harbour, freight terminal, mine, quarry or factory (Regulation 3(1) of the 2005 Regulations); and
 - railways that do not cross a public vehicular highway (Regulation 3(3) of the 2005 Regulations).
- 10 In addition, regulation 4(6) of the 2005 Regulations identifies some other types of accident or incident that are not notifiable to the RAIB, thereby excluding these from the RAIB's scope. These include:
- accidents or incidents involving trespass, suicide, attempted suicide or assault;
 - accidents or incidents to railway staff that did not involve the movement of rolling stock. (Note: the RAIB take this to include accidents or incidents on railways under construction (prior to dynamic testing)).

² 'carriageway' means a way where the public have a right of passage for motor vehicles ie a public vehicular highway.

³ 'crosses a carriageway' includes crossing it at any level - including over- and under-bridges, tunnels and level crossings.

Meaning of "railway" and "railway property"

Section 1(1) In this Part-

"railway" means a railway or tramway within the meaning given by section 67 of the Transport and Works Act 1992 (c. 42), and "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.

(2) The Secretary of State may by regulations amend this section.(3)⁴

11 Section 1 defines "railway" as a railway or tramway within the meaning given by section 67(1) of the Transport & Works Act 1992. In that section:

- "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 mm 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 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).

12 Section 1 also defines "Railway property" as being anything, inclusive of both railways and tramways, 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). The relevant definitions are:

- "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.
- "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.

⁴ The Deregulation Act 2015 amended the Railways and Transport Safety Act 2003 and repealed section 1(3).

- “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.

Meaning of "railway accident" and "railway incident"

Section 2

(1) In this Part a reference to a railway accident or railway incident is a reference to 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.

(2) The Secretary of State may by regulations-

(a) make provision about what is to be or not to be treated as an accident or incident for the purposes of this Part;

(b) make provision about circumstances in which an accident or incident is to be or not to be treated as being relevant to the operation of a railway for the purposes of this Part;

(c) make provision about when an accident is to be treated as serious for the purposes of this Part.

(3) Regulations under subsection (2) may, in particular, make provision by reference to-

(a) location;

(b) the exercise of a discretion by the Chief Inspector of Rail Accidents or another specified person.

(4) Regulations under subsection (2) making provision about what is to be treated as an incident may, in particular, include an event or omission which does not cause damage or loss but which might cause damage or loss in different circumstances.

- 13 A railway accident or incident is defined as an accident or incident that occurs on railway property and is or may be relevant to the operation of the railway. This section allows the Secretary of State to make regulations about:
- what may or may not be treated as such an accident or incident, or
 - when an accident will be treated as serious.
- 14 Regulations made under section 2(2) may detail the circumstances when an accident or incident would be relevant to the operation of the railway. Accidents or incidents which are not of relevance to the operation of the railway may not be investigated by the RAIB. Such incidents might include, for example, a minor fire in a railway station shop, or where a person trips over on a railway station concourse.
- 15 The Secretary of State having made regulations can vary the regulations so as to ensure that an accident or incident can be identified, classified correctly and for a decision to be made as to whether or not it is investigated.
- 16 Section 2(3) makes clear that regulations may specify whether accidents or incidents in particular locations would be investigated by the RAIB. The RAIB has the same power to investigate accidents or incidents within the UK part of the Channel Tunnel as it has for the National Network.

Establishment

Section 3

(1) The Secretary of State shall appoint persons as inspectors of rail accidents.

(2) The Secretary of State shall appoint one of the inspectors as the Chief Inspector of Rail Accidents.

(3) The inspectors appointed under this section may be referred to as the Rail Accident Investigation Branch (being a branch of the department of the Secretary of State who appoints them).

(4) An inspector of rail accidents shall carry out such of the functions of the Rail Accident Investigation Branch as may be assigned to him by the Chief Inspector of Rail Accidents.

- 17 Section 3 establishes the RAIB, and the role of Chief Inspector of Rail Accidents. The Chief Inspector directs inspectors of rail accidents in the functions assigned by the Secretary of State.

General aims

Section 4

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.

- 18 Section 4 establishes the fundamental aims of the RAIB. The RAIB achieves these by investigating railway accidents and incidents that are notified to it in accordance with regulation 4 and the Schedules to the 2005 Regulations, to determine the causes and circumstances, along with any other factors that contributed to the event or made the outcome worse.
- 19 On completion, investigation reports are published that contain evidence-based safety recommendations to reduce the likelihood, and mitigate the consequences, of similar accidents and incidents occurring in the future. Publication of the investigation reports provides all parts of the railway industry, both nationally and internationally, and the public, with the opportunity to consider the findings and learn lessons from the investigations.

Assistance to others

Section 5

The Chief Inspector of Rail Accidents may arrange for the Rail Accident Investigation Branch to assist any person; in particular, assistance-

(a) may be provided with or without charge;

(b) may be provided inside or outside the United Kingdom.

- 20 Section 5 allows the Chief Inspector of Rail Accidents to arrange for the RAIB to provide its services to third parties. This might include, for example, assisting the accident investigation body of another country, particularly if there might be safety lessons for the UK railway. Examples would be:
- supporting an investigation into a Channel Tunnel investigation where primacy is held by the French rail accident organisation Le Bureau d'Enquêtes sur les Accidents de Transport Terrestre (BEA-TT), or
 - working with the European Rail Agency to share findings and best practice with other member states to further the requirements of the European Railway Safety Directive for engendering European co-operation and standardisation.
- 21 The Chief Inspector may charge for the RAIB's services if it is considered appropriate in the circumstances.

Annual report

Section 6

(1) The Secretary of State shall make regulations requiring the Chief Inspector of Rail Accidents to produce once in each calendar year a report in connection with the activities of the Rail Accident Investigation Branch.

(2) Regulations under subsection (1) may, in particular, make provision about:

(a) timing of reports;

(b) content of reports;

(c) publication and other treatment of reports.

- 22 Section 6 requires the Secretary of State to make regulations requiring the Chief Inspector of Rail Accidents to produce an Annual Report. The details are further developed in regulation 14 of the 2005 Regulations in terms of the timing and content.
- 23 Regulation 11 of the 2005 Regulations expands upon the different types of report that the RAIB can produce, and the consultation process to be followed prior to publishing accident investigation reports is explained in regulation 13.

Investigations

Section 7

- (1) The Rail Accident Investigation Branch-
 - (a) shall investigate any serious railway accident,*
 - (b) may investigate a non-serious railway accident or a railway incident, and*
 - (c) shall investigate a non-serious railway accident or a railway incident if required to do so by or in accordance with regulations made by the Secretary of State.**
- (2) For the purposes of subsection (1)(a) a tramway shall not be treated as a railway (despite section 1(1)).*
- (3) In investigating an accident or incident the Branch shall try to determine what caused it.*
- (4) On completion of an investigation the Branch shall report to the Secretary of State.*
- (5) In performing a function in relation to an accident or incident the Branch-
 - (a) shall not consider or determine blame or liability, but*
 - (b) may determine and report on a cause of an accident or incident whether or not blame or liability is likely to be inferred from the determination or report.**
- (6) The Branch may conduct an investigation and report whether or not civil or criminal proceedings are in progress or may be instituted (but this subsection is without prejudice to the operation of the law of contempt of court).*
- (7) The Chief Inspector of Rail Accidents may apply to the High Court or the Crown Court for a declaration that the making of a report in connection with a specified accident or incident will not amount to a contempt of court in relation to civil or criminal proceedings which have been or may be instituted in connection with the accident or incident.*
- (8) The Chief Inspector of Rail Accidents may reopen an investigation if he believes that significant new evidence may be available.*

- 24 Section 7(1) makes provision about the scope of the RAIB's investigations and requires it to investigate any serious accident, as defined in the Regulation 2(3) of the 2005 Regulations, which occurs on a railway. This covers all mainline railways, metros, most heritage railways, and cable hauled systems.
- 25 In this context, a 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:
 - the death of at least one person;
 - serious injuries to five or more persons; or
 - extensive damage to rolling stock, the infrastructure or the environment.
- 26 The RAIB is however required to take cognisance of the fact that its investigations should not fall outside of its general aim to improve the safety of railways and to prevent railway accidents and incidents.

- 27 Section 7(1)(b) provides the RAIB with the discretion to investigate other accidents and incidents occurring on railway property that are or may be relevant to the operation of the railway, and where the Branch believes that there may be significant safety lessons to be learnt which could improve the safety of railways.
- 28 Although accidents and incidents affecting tramways fall within the remit of the RAIB Section 7(2) enables the Chief Inspector of Rail Accidents to exercise discretion when considering whether or not to investigate a serious accident on a tramway. This is because tramways run in various types of alignment, on street, alongside a highway, or off street. The investigation of a collision affecting a road-running part of a tramway would fall normally to the police, whilst an accident affecting an off-street running part of a tramway would normally be investigated by the RAIB. However, the Chief Inspector of Rail Accidents may direct the RAIB to conduct a parallel investigation to the police if there are potential safety lessons to be learnt which could be disseminated to the industry.
- 29 Sections 7(3) and 7(5), when taken together, make clear that the RAIB is to try to work out the cause of the accident, without apportioning blame or liability, but also enable it to publish a report setting out the cause even if blame or liability may be inferred as a result.
- 30 Section 7(4) requires the RAIB to report where possible what caused an accident or incident to the Secretary of State for transport, and Section 7(6) provides for the publication of the reports, subject to the normal provisions of contempt of court, whether or not civil or criminal proceedings are in progress or may be instituted.
- 31 Section 7(8) provides the RAIB with the discretion to undertake an investigation into the circumstances of an accident or incident, where it has previously determined that no investigation will be conducted, if the Chief Inspector of Rail Accident believes that significant new evidence may be available.

Investigator's powers

Section 8

(1) For the purpose of conducting an investigation by virtue of section 7 an inspector of rail accidents may, provided that he produces evidence of his identity if asked to do so-

- (a) enter railway property;*
- (b) enter land (which may include a dwelling-house) which adjoins or abuts railway property;*
- (c) enter a vehicle or structure which is on railway property or which is on land which could be entered under paragraph (b);*
- (d) enter land which does not fall within paragraph (a), (b) or (c) 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;**
- (e) in entering anything under paragraph (a), (b), (c) or (d), be accompanied by one or more persons authorised by the Chief Inspector of Rail Accidents for that purpose (whether generally or specifically);*
- (f) in entering anything under paragraph (a), (b), (c) or (d), make arrangements to have with him equipment or materials.*

(2) For the purpose of conducting an investigation by virtue of section 7 an inspector of rail accidents may-

- (a) make a written, electronic, photographic or other record;*
- (b) remove and retain samples;*
- (c) arrange for anything to be removed and retained for the purpose of analysis or other examination or for the purpose of preserving evidence;*
- (d) require access to a record or to recording equipment;*
- (e) require a person to answer a question;*
- (f) require a person to provide information;*
- (g) require a person to disclose a record;*
- (h) require a person to provide a copy of a record;*
- (i) require disclosure of the result of an examination of a person, body or thing;*
- (j) 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.*

(3) A person commits an offence if without reasonable excuse he-

- (a) fails to comply with a requirement imposed by an inspector of rail accidents for the purpose of an investigation by virtue of section 7,*
- (b) makes a statement for the purpose of an investigation by virtue of section 7 knowing or suspecting that the statement is inaccurate or misleading,*

(c) 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,

(d) obstructs an inspector of rail accidents in the course of his conduct of an investigation by virtue of section 7,

(e) obstructs a person accompanying an inspector of rail accidents under subsection (1)(e), or

(f) obstructs a person exercising a power of an inspector by virtue of regulations under section 9(1)(d).

(4) A person who is guilty of an offence under subsection (3) shall be liable on summary conviction to-

(a) imprisonment for a term not exceeding 51 weeks,

(b) a fine not exceeding level 5 on the standard scale, or

(c) both.

(5) Subsection (6) applies where-

(a) the Rail Accident Investigation Branch is conducting an investigation by virtue of section 7 in respect of an accident or incident, and

(b) a question arises as to the desirability of action which any other person proposes to take for the purpose of investigating the accident or incident.

(6) The question may be determined by-

(a) the Chief Inspector of Rail Accidents, or

(b) an inspector of rail accidents acting on behalf of the Chief Inspector.

32 Section 8 gives RAIB inspectors the powers necessary to conduct an investigation. These provisions are modelled on the powers available to Air and Marine accident investigators.

33 Section 8(1) defines the powers of entry that RAIB inspectors have when conducting investigations and Section 8(2) identifies what activities RAIB inspectors are able to undertake and what other people can be required to do.

34 Section 8(3) is intended to prevent RAIB inspectors from being hindered in their investigations. It details the offences that a person would commit if they failed to comply, without a reasonable excuse, with a requirement made by an inspector, or provided an inspector with evidence that the person knows or suspects to be misleading. A person will also be committing an offence if they obstruct a person who is accompanying the inspector and who has been authorised to do so by the Chief Inspector of Rail Accidents.

35 Section 8(4) contains the penalties on conviction to which a person may be sentenced.

36 Sections (5) and (6) make the RAIB the lead organisation in an investigation and are intended to ensure that the different parties involved in investigating an accident will work alongside each other. This provision clarifies that where a person (such as a police officer or any other investigator) seeks to take a particular course of action during an investigation, the Chief Inspector of Rail Accidents, or a person acting on the Chief Inspectors behalf, is able to make the decision on whether that course of action may be taken.

- 37 In normal circumstances it will be appropriate for the RAIB investigation to take precedence, which means that the RAIB will assume lead responsibility for the investigation. However, where there is a clear indication, that the railway accident or incident has been caused by serious criminality, it will normally be appropriate for the criminal investigation to take precedence. Any decision to this effect will be agreed between the police and the RAIB inspectors in co-operation with each other.
- 38 To assist in this process a Memorandum of Understanding (MoU) has been agreed between the RAIB, the British Transport Police (BTP), the National Police Chief's Council (NPCC) and the Office of Rail and Road (ORR) in England and Wales, and between RAIB, the Crown Office and Procurator Fiscal Service (COPFS), the BTP, the Association of Chief Police Officers in Scotland (ACPOS), and the ORR in Scotland. These set out the principles for effective liaison, communication and co-operation between the parties. This is to ensure that rail accidents, and related criminal incidents and deaths, are independently investigated, as necessary, by each party, in a thorough and professional manner, taking into account their respective roles and responsibilities, while also ensuring that legitimate public expectations are met.

Regulations

Section 9

(1) The Secretary of State may make regulations about the conduct of investigations by the Rail Accident Investigation Branch; in particular, the regulations may-

- (a) confer a function on the Chief Inspector of Rail Accidents or on the Branch;*
- (b) make provision about the way in which a function of the Chief Inspector or the Branch is to be performed;*
- (c) permit or require the Chief Inspector to appoint a person to conduct or participate in an investigation;*
- (d) provide for a power of an inspector to be exercisable by a person conducting or participating in an investigation by virtue of paragraph (c);*
- (e) permit or require the Chief Inspector to request assistance from another person;*
- (f) permit or require another person to assist the Chief Inspector.*

(2) The regulations may make provision about the preparation, form, content and publication of a report made by the Branch under section 7; in particular, the regulations may-

- (a) require a report to address the question of what caused an accident or incident;*
- (b) require or permit a report to make, or not to make, a recommendation;*
- (c) require or permit the preparation and publication by the Branch of an interim report;*
- (d) require the Branch to give an opportunity to a person interested in an investigation to comment on a draft report or draft interim report;*
- (e) require the Branch to notify a person of the content of a report or interim report before publication;*
- (f) require the Branch to give a copy of a report or interim report to a person;*
- (g) make provision about the timing of publication.*

(3) A reference to a report by the Branch in section 7 includes a reference to an interim report permitted or required by virtue of subsection (2) above.

(4) The Secretary of State may make regulations about the use, disclosure and destruction of information acquired by the Branch; in particular, the regulations may-

- (a) prohibit the disclosure of information in specified circumstances;*
- (b) permit the disclosure of information in specified circumstances;*
- (c) require the disclosure of information in specified circumstances;*
- (d) make provision by reference to whether or not a person consents to a disclosure which relates to him.*

(5) Regulations under this section may-

- (a) create an offence (but not an offence punishable by imprisonment);*

(b) confer a discretionary function;

(c) confer jurisdiction on a court or tribunal.

- 39 Section 9 gives the Secretary of State the power to make regulations about the way in which the RAIB is to conduct its investigations.
- 40 For further information see the Railways (Accident Investigation and Reporting) Regulations 2005 (Statutory Instrument 2005/1992), as amended by the Railways (Accident Investigation and Reporting) (Amendment) Regulations 2005 (Statutory Instrument 2005/3261). Further information is available in the RAIB's Guidance on the Railways (Accident Investigation and Reporting) Regulations 2005.

Requirement (of others) to investigate

Section 10

(1) The Chief Inspector of Rail Accidents may direct that any railway accident or railway incident of a specified kind or which occurs in specified circumstances shall be investigated by each person who manages or controls, or participates in managing or controlling, all or any part of railway property-

- (a) on which the accident or incident takes place, or*
- (b) which is involved in the accident or incident.*

(2) A direction-

- (a) shall specify the manner in which the investigation is to be conducted, and*
- (b) may make provision for a case where more than one person would be required to conduct an investigation, whether by requiring a joint investigation or by requiring or enabling one or more persons to conduct an investigation on behalf of others.*

(3) A person to whom a direction under subsection (1) applies commits an offence if he fails to comply with it.

(4) A person guilty of an offence under subsection (3) shall be liable-

- (a) on summary conviction, to a fine not exceeding the statutory maximum, or*
- (b) on conviction on indictment, to a fine.*

(5) The Chief Inspector shall publish a direction issued by him under subsection (1) in a manner which he considers will bring it to the attention of each person who is likely to be required to comply with it.

(6) But in proceedings against a person for an offence under subsection (3) of failing to comply with a direction it shall not be necessary to prove that he was aware of the direction.

(7) A direction under subsection (1)-

- (a) may make provision which applies generally or only in specified circumstances,*
- (b) may make different provision for different cases or circumstances, and*
- (c) may be varied or revoked by a further direction.*

41 Section 10 provides for the Chief Inspector of Rail Accidents to direct whether an accident or incident on railway property will be investigated and how an accident or incident must be investigated. These directions will be made to the railway industry. Directions may be made to the manager or controller of railway property and to all those who participate in the management or control of railway property. Failure to comply with a direction is a criminal offence under subsection 10(3).

Accident regulations

Section 11

- (1) The Secretary of State may make regulations in connection with the investigation of railway accidents and railway incidents.*
- (2) The regulations may, in particular-*
 - (a) require a person to notify the Rail Accident Investigation Branch of a railway accident or railway incident, and*
 - (b) make provision about the timing, form and content of notice given by virtue of paragraph (a).*
- (3) The regulations may, in particular, require a person to take or not to take specified action following an accident or incident-*
 - (a) pending the commencement of an investigation, or*
 - (b) during the process of an investigation.*
- (4) The regulations may-*
 - (a) create an offence (but not an offence punishable by a term of imprisonment exceeding the maximum term which may be imposed by a magistrates' court in accordance with section 78 of the Powers of Criminal Courts (Sentencing) Act 2000 (c. 6));*
 - (b) confer a discretionary function;*
 - (c) confer jurisdiction on a court or tribunal.*

- 42 Section 11 allows the Secretary of State to make regulations which require the reporting of accidents and incidents to the RAIB (so that it may then investigate those accidents and incidents). Such provision does not affect existing obligations to report accidents to the Health and Safety Executive (under Reporting of Injuries, Diseases and Dangerous Occurrences Regulations 1995), or the Office of Rail and Road (ORR).
- 43 The 2005 Regulations place a duty on railway industry bodies (railway infrastructure managers, railway undertaking, or maintainers), whose staff or property is involved in an accident or incident, to notify the RAIB of accidents and incidents. These range from those resulting in serious injury and damage, through to incidents of “near miss”.
- 44 Further details can be found in Regulation 4 of the 2005 Regulations and the associated Schedules.

Crown application

Section 12

This Part applies in relation to property irrespective of whether it belongs to or is used for the purposes of the Crown or a Duchy.

- 45 This makes clear the 2003 Act applies to any railway or tramway used or associated with the Crown or Duchy of Cornwall.

Regulations

Section 13

(1) Regulations under this Part—

(a) may make provision which applies generally or only in specified cases or circumstances,

(b) may make different provision for different cases or circumstances, and

(c) may include transitional, consequential or incidental provision.

(2) Regulations under this Part shall be made by statutory instrument.

(3) Regulations under section 1(2) shall not be made unless a draft has been laid before and approved by resolution of each House of Parliament.

(4) Other regulations under this Part shall be subject to annulment in pursuance of a resolution of either House of Parliament.

Extent

Section 14

(1) This Part extends to the whole of the United Kingdom.

(2)⁵

(3) In the application of this Part in relation to Northern Ireland the maximum term for the purposes of sections 8(4) (a) and 11(4) (a) shall be 12 months.

46 The act applies to the whole of the United Kingdom:

- including the UK part of the Channel Tunnel up to the frontier as defined in accordance with Article 3 of the Treaty of Canterbury, namely PK 37+000; but
- excluding the Crown Dependencies of the Isle of Man and the Channel Islands.

⁵ The Deregulation Act 2015 amended the Railways and Transport Safety Act 2003 and removed the section 1(3) restriction enabling tramways in Scotland to come into RAIB's scope with effect from 26 May 2015.