

AGREEMENT UNDER PARAGRAPH 7, SCHEDULE 3 OF THE RAILWAYS ACT 2005 RELATING TO PESTICIDES

THIS AGREEMENT is made between the Secretary of State for Environment, Food and Rural Affairs ('the Secretary of State'), the Scottish Executive, the Welsh Ministers and the Office of Rail Regulation under section 2 of, and paragraph 7 of Schedule 3 to, the Railways Act 2005 ('the 2005 Act'). It relates to the functions which the Office of Rail Regulation has agreed to perform on behalf of the Secretary of State, the Scottish Ministers and the Welsh Ministers, being functions which in the opinion of the Secretary of State, the Scottish Ministers and the Welsh Ministers can appropriately be performed by the Office of Rail Regulation in connection with its functions.

Any reference in this agreement to Regulations is a reference to those Regulations as amended before or after the date of the agreement.

IT IS AGREED THAT:

1. Subject to paragraphs 2, 3 and 4 below, the Office of Rail Regulation shall perform on behalf of the Secretary of State, the Scottish Ministers and the Welsh Ministers their functions under section 19 and paragraphs 1(c), 2, 2A and 4 to 10 of Schedule 2 to the Food and Environment Protection Act 1985 ('the 1985 Act') of authorising persons to enforce Part III of that Act in relation to contraventions of the Control of Pesticides Regulations 1986 ('the Control of Pesticides Regulations').
2. Paragraph 1 shall only apply to enforcement in relation to -
 - a) a contravention by a person in the course of undertaking any activity for which the Office of Rail Regulation is made the enforcing authority by regulation 3(1) of the Health and Safety (Enforcing Authority for Railways and Other Guided Transport Systems) Regulations 2006, provided that that contravention occurs -
 - b) in the course of work by an employer, employee or self-employed person, but not by reason only that a person employs another, or is himself employed, as a domestic servant in a private household.
3. Paragraph 1 shall not apply to enforcement in relation to:
 - a) a contravention of regulation 4(1) of the Control of Pesticides Regulations (which relates to advertising a pesticide).
4. Only employees of the Office of Rail Regulation may be authorised to perform its functions pursuant to this Agreement; and nothing in this Agreement shall prejudice or affect the right of the Secretary of State, the Scottish Ministers or the Welsh Ministers to authorise any other person under section 19 and paragraphs 1(c), 2, 2A and 4 to 10 of Schedule 2 to the 1985 Act.

5. To the extent specified in paragraph 6 below, the Office of Rail Regulation shall perform on behalf of the Secretary of State, the Scottish Ministers and the Welsh Ministers, their functions under -

- a) section 16 (11) of the 1985 Act (which relates to the requiring of the provision of information in relation to pesticides);
- b) regulation 7 (1) of the Control of Pesticides Regulations (which relates to the seizure and disposal of pesticides and remedial action);
- c) regulation 7 (2) of the Control of Pesticides Regulations (which relates to the requiring of the removal of pesticides out of the United Kingdom).

6. The functions specified in paragraph 5 above shall be performed by the Office of Rail Regulation in connection with the enforcement of Part III of the 1985 Act in relation to contraventions of the Control of Pesticides Regulations; and nothing in this Agreement shall prejudice or affect the right of the Secretary of State, the Scottish Ministers or the Welsh Ministers to exercise the functions specified in the said paragraph 5 in other cases.

7. This Agreement shall come into effect on the date of the affixation of the Seal of the Office of Rail Regulation. It shall terminate at a time agreed by the parties and on receipt of written notice given by one party to the Agreement to the other parties.

IN WITNESS Whereof subscribed by Frances Duffy, Director, Strategy and Investment, Transport Scotland, an officer of the Scottish Ministers at Buchanan House, 58 Port Dundas Road, Glasgow G12 0HF, on the *16th* day of *July* 2007

Frances Duffy
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before this witness

June John
.....

Transport Scotland, Buchanan House, 58 Port Dundas Road, Glasgow G4 0HF.

IN WITNESS The application of the seal of the Welsh Ministers is authenticated by ROBIN JAMES SHAW who is duly authorised for that purpose by the Director of Legal Services by authority of the Welsh Ministers under section 90(2) of the Government of Wales Act 2006.



RS Shaw
(signature of official) 16/7/07

IN WITNESS Whereof subscribed by Martin Ward, Director of Policy, Pesticides Safety Directorate, an Executive Agency of the Department for Environment, Food and Rural Affairs, an officer of the Secretary of State at Mallard House, Kings Pool, 3 Peasholme Green, York YO1 7PX, on the 3rd day of August 2007

Martin Ward

IN WITNESS Whereof the Seal of the Office of Rail Regulation has been affixed this 1st day of September 2007 and authenticated by:



Bin Emery

Authorised by the Chief Executive of the Office of Rail Regulation

