


Memorandum of Understanding
Health and Safety Authority
and
Commission for Railway Regulation

The objective of this Memorandum of Understanding is to set out areas of shared responsibility and common interest between the Commission for Railway Regulation and the Health and Safety Authority and to provide a cooperative framework for achieving their respective objectives.

Signed: 
Date: 4th Sept 2024.

Brian Higginson
Commissioner
Commission for Railway Regulation.

Signed: 
Date: 12/9/24.

Conor O'Brien
Chief Executive
Health and Safety Authority

1. INTRODUCTION

In recognition of their mutual commitment to protect people and the environment this Memorandum of Understanding (MoU) establishes a co-operative framework between the **Health & Safety Authority** (HSA) and the **Commission for Railway Regulation** (CRR). In recognising each organisation's respective statutory responsibilities and obligations, the HSA and the CRR shall endeavour to co-operate closely in areas of shared interest.

1.1 COMMISSION FOR RAILWAY REGULATION

The Commission for Railway Regulation is the National Safety Authority in Ireland for securing railway safety. It was established under the Railway Safety Act 2005 (as amended) as an independent state body under the Department of Transport. The CRR's primary role is in the area of rail safety where its functions include the approval of safety management systems, new infrastructure and new or modified rolling stock, and to regulate and enforce railway safety through its compliance, supervision and enforcement (CS&E) activities. These CS&E activities are undertaken on heavy rail entities in alignment with the guidance as provided by the European Railways Agency and via the undertaking of multi annual work plans which entail cyclical auditing, inspections, post occurrence activities, safety performance review meetings, outcome review meetings and meetings with railway organization management staff as required. The safety of passengers, persons who interface with the railway, the permanent way and the movement of rolling stock all fall within the remit of the Commission. The CRR has a broad mandate as set out in Acts, Regulations and international agreements. Our primary functions are summarized here:

To foster and encourage railway safety.

To enforce legislation relating to railway safety

To investigate railway accidents and incidents and incidents to determine compliance with Safety management systems.

In addition, the CRR performs the following roles:

National Safety Authority under the Railway Safety Directive: Regulatory Body, Independent Monitoring Body and Licensing Authority in relation to the Single European Railway Area; Competent Authority for train driver licensing, transport of dangerous goods by rail and NIS2; Recognition Body for Designated Bodies; Authorizing Body for cableway construction and operation and market surveillance authority for same.

1.2 HEALTH AND SAFETY AUTHORITY (HSA)

The HSA was established under the Safety, Health and Welfare at Work Act 1989 reporting to the Department of Enterprise, Trade and Employment (DETE) and specifically to the Minister of State for Business, Employment and Retail. The HSA is an independent state body under the DETE. The HSA continues its functions under the more recent Safety, Health and Welfare at Work Act 2005. The HSA has a very broad mandate as set out in multiple Acts, Regulations and international agreements with the core elements summarised as follows:

- To regulate and promote the safety, health and welfare of people at work and those affected by work activity

- To promote improvement in the safety, health and welfare of people at work and those affected by work activities.
- To regulate and promote the safe manufacture, use, placing on the market, trade, supply, storage and road transport of chemicals and products
- To act as surveillance authority in relation to relevant single European market legislation.
- To act as the national accreditation body (via the Irish National Accreditation Body, INAB).

The mission of the HSA is to regulate and promote work-related safety, health and welfare and the safe use of chemicals and products. The HSA also provides the National Accreditation Service (INAB).

Under the Chemicals Act 2008 and 2010, the HSA is the lead Competent Authority role in relation to national administrative and operational requirements for the specific regulations (REACH, Detergents, Classification, Packaging and Labelling (CLP) and Prior Informed Consent or Export Import Rotterdam Regulations).

In 2015, the Chemicals Act (Control of Major Accident Hazards involving Dangerous Substances) was introduced to transpose the Seveso III Directive 2012/18/EU into Ireland and the HSA is the Central Competent Authority (CCA) for the application of these Regulations.

Under the European Communities (Carriage of Dangerous Goods by Road and Use of Transportable Pressure Equipment) Regulations 2011 as amended, the HSA is the Competent Authority for a number of functions for all dangerous goods classes except classes 1 and 7. The HSA is the Competent Authority for a number of functions, including the certification of ADR driver training, and approval of ADR driver training courses.

The Safety, Health and Welfare at Work Act (2005) requires employers to identify hazards in the workplace and put in place measures to eliminate or reduce associated risks.

2. PURPOSE OF MEMORANDUM OF UNDERSTANDING

The objective of this Memorandum of Understanding between the Authority and the Commission is to facilitate cooperation between both regulators in discharging their respective statutory responsibilities for the regulation of the railways with respect to safety in order to enhance the actions of both regulators and to avoid duplication of effort by both regulators and the imposition of an unnecessary regulatory burden on the operators of the railways.

The memorandum does not override the statutory duties and powers of either organisation. The memorandum expresses a convergence of will between the parties, indicating an intended common line of action, rather than a legal commitment.

2.1 OPERATIONAL LIAISON

The HSA and CRR will appoint designated senior contact(s) for implementation of the MoU and they shall meet to agree co-operation on common functional work programmes under the relevant statutory provisions and generally monitor and review the implementation and effectiveness of this MoU. This forum shall be known as the HSA/CRR Co-ordination Group (hereinafter the Group) and meetings shall be held in either the HSA or CRR offices or virtual meeting/teleconference, as appropriate. The members of the group shall as a minimum be the designated senior contacts, with additional members included as required. A list of contacts for areas of mutual interest will be established and shared.

The Group will meet annually (at a minimum) to review the effectiveness of the implementation of the MoU and set out recommendations for further opportunities for co-operation as necessary.

Where appropriate, representatives from each organisation will refer matters discussed at the annual or other meetings to higher management within each organisation, for consultation and direction in line with the respective organisational policy for each body.

2.2 PRINCIPLES OF COOPERATION

In acknowledging each other's respective statutory responsibilities and obligations and the recognising of the statutory constraints that apply, both the Authority and the Commission shall endeavour to liaise closely particularly in relation to the areas set out below. Where concerns regarding the movement of trains or safety of the permanent way are brought to the attention of the Authority or an obvious shortcoming is observed by an inspector of the Authority, the inspector or the Authority shall pass that information to the Commission for investigation. Likewise, where concerns regarding unsafe work practices are brought to the attention of the Commission or observed by an inspector of the Commission, the Commission or the inspector shall pass that information to the Authority for investigation. Such information will be shared by both organisations in compliance with our data protection obligations as set out at (e) below.

a. Interface between the operation of the railways and work activities carried out by the operators of the railways.

The operation and maintenance of the permanent way, the movement of rolling stock and the safety of passengers come within the remit of the Commission. The Commission also has a role in relation to safety of the public such as those who interface with the railway for example at level crossings or at bridges.

The Authority's remit includes work activities such as engineering and maintenance works as well as work activities at the railway stations. The Authority also has a role where there is a work activity risk to members of the public from the work activity being undertaken. Employers have a duty of care to persons other than their employees under Sections 12, 15 and 19 of the Safety, Health and Welfare at Work Act, 2005 which the Authority enforce.

b. Interface with external work activities

External work activities which may have an interface with the railways include, for example, a construction project adjacent to the railway or a privately operated level crossing used mainly for farm animals.

c. Private/industrial railways

There are a small number of privately operated industrial railways, the most notable being that operated by Bord na Mona. The operation of such railways is outside the remit of the Commission except when there is an interface with a public road or other public areas.

Where such railways are used as part of an industrial or other work activity which comes within the scope of the Safety, Health and Welfare at Work Act 2005 then they come

within the remit of the Authority.

d. Accident and incident investigations

The Authority and the Commission agree that incident investigations will be treated on a case by case basis. In addition, it is agreed that communication should be established between identified individuals in the Commission and the Authority where a role for both agencies arises as soon as practicable after such an incident occurs. This is in order to ensure mutual cooperation and assistance where agreed as necessary with regard to the investigation.

e. Disclosure of information

The Authority and the Commission agree to cooperate on matters regarding disclosure of safety-related information on a case by case basis recognising that there are restrictions on disclosure of confidential information that are set out in the Safety, Health and Welfare at Work Act 2005, the Chemicals Act 2008 & 2010 and the General Data Protection Regulations.

2.3 MEMORANDUM OF UNDERSTANDING REVIEW

This MoU will be valid for a period of four years from the signature date after which time the HSA/CRR Coordination Group shall initiate a review of its operation. An earlier review of the MoU may be requested by the Chief Executive Officer, HSA or the Commissioner of the CRR on foot of the review of the MoU operation at the annual meeting of the HSA/CRR Coordination Group, emerging issues or in order to allow for additional opportunities to build on existing cooperative efforts. This agreement may be terminated by mutual written agreement of the Parties upon 30 days' notice.

2.4 CONFIDENTIALITY/INTELLECTUAL PROPERTY

The rights of the two organisations to restrict information regarded as confidential under each organisation's relevant legislation will be respected at all times.

Both parties shall maintain full right title and interest in any intellectual property right in any work product developed solely by them under this memorandum.

2.5 DATA SHARING

Both organisations shall be bound by the Data Protection and confidentiality requirements of GDPR and relevant legislation.

In certain areas of common interest the HSA and the CRR possesses valuable information, technical knowledge, experience and data of a confidential nature that each regard as assets of considerable value. A separate data sharing agreement, outside of this MoU, shall be entered into to cover requirements to share data between the two Parties, if and when required.