

## DRAFT

### The REACH Enforcement Regulation 2008 (as amended) ASBESTOS EXEMPTION CERTIFICATE NO X OF 2013 CONCERNING RAILWAY VEHICLES AND COMPONENTS FOR USE IN RAILWAY VEHICLES

1. In pursuance of its powers conferred upon it by Schedule 5A of the REACH Enforcement Regulations 2008 (as amended)<sup>1</sup> and being satisfied as required by paragraph (4) of that Schedule, the ORR exempts any person who places on the market a railway vehicle or component for use in a railway vehicle containing asbestos from the prohibition on the placing on the market of any asbestos containing article provided for by Article 67 (1) of REACH, subject to the conditions referred to in paragraph 3.

#### Interpretation

2. In this certificate:

“asbestos” means asbestos fibres listed at entry 6 of Annex XVII to REACH (as amended);

“ORR” means Office of Rail Regulation;

“placing on the market” means supplying or making available, whether in return for payment or free of charge, to a third party. Importation shall be deemed to be placing on the market;

“Railway” means any system of transport the operation of which is specified in regulation 3(2) of the Health and safety (Enforcing Authority for Railways and Other Guided Transport Systems) Regulations 2006;

“REACH” means Regulation (EC) No 1907/2006 of the European Parliament and of the Council concerning the Registration, Evaluation, Authorisation and Restriction of Chemicals<sup>2</sup>;

“vehicle” means any vehicle, which for some or all of the time when it is in operation is guided by means of –

- a) Rails, beams, slots, guides or other apparatus, structures or devices which are fixed and not part of the vehicle; or
- b) A guidance system which is automatic;

and includes a mobile traction unit;

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<sup>1</sup> SI 2008/2852 amended by SI 2013/XXXX

<sup>2</sup> OJ No L396, 30.12.2006, p.1 as amended by EC Regulation 552/2009 (OJ No L164, 26.06.2009, p.7)

## **Conditions**

3. The conditions referred to in paragraph 1 are that:

i) the railway vehicle and/or any component for use in a railway vehicle was in service or installed before 1 January 2005;

ii) the person is able to demonstrate that any risks to human health arising from the placing on the market of the railway vehicle or component for use in a railway vehicle containing asbestos, have been properly assessed and are adequately controlled;

iii) the person takes any reasonable opportunity to remove asbestos from railway vehicles to be placed on the market, unless it can be demonstrated that the removal of asbestos would increase the risk to human health;

iv) the person replaces asbestos-containing components for use in railway vehicles with non-asbestos equivalent parts, when such parts exist and when reasonable opportunity arises, unless it can be demonstrated that the risks to human health are adequately controlled and the functionality of the railway vehicle would be compromised by replacement of the part with a non-asbestos equivalent.

v) the person makes a record of the location, type and condition of asbestos in the railway vehicle or any component for use in a railway vehicle, before placing it on the market. The record produced for this purpose must be made available to any person to whom the railway vehicle, or component of a railway vehicle, is supplied, or who will be a user of the railway vehicle or component of a railway vehicle. This record must be of sufficient clarity to allow another person to take appropriate precautions to control the risk of any exposure to asbestos.

vi) the person must keep a record of the number of railway vehicles and/or components for use in railway vehicles which are believed to contain asbestos indicating those which are on loan or lease to others and the names and addresses of those persons. These records must be provided to ORR when requested.

vii) all other relevant obligations under The Control of Asbestos Regulations 2012 and REACH as appropriate are complied with.

## **Duration, variation and revocation**

4. This certificate shall continue in force until (date 5 years hence) unless ORR vary or revoke this certificate by notice in writing.

To be signed by authority of ORR and dated