



# Improvement Notice

Serial number I/240219-1-JGT

Name

Address

Trading as

Inspector's full name

Official address

Telephone number

Location of premises or place of activity

you, as an employer\* ~~/ a self-employed person\* / a person wholly or partly in control of the premises\* / other\*~~

Are contravening\* ~~/ have contravened in circumstances that make it likely that the contravention will continue or be repeated\*~~ the following relevant statutory provisions

The reasons for my said opinion are

and I require you to remedy those contraventions, or as the case may be, the matters occasioning them, by 1 June 2024,

and I direct that the measures specified in the schedule which forms part of this Notice shall be taken to remedy those contraventions or matters\*.

Signature  Date / Time 19 February 2024 15:00

An inspector appointed by an instrument in writing made under section 19 of the Health & Safety at Work etc Act 1974.

An Improvement Notice is also being served on \_\_\_\_\_ of \_\_\_\_\_ relating to the matters contained in this notice\*.

This is ~~is not~~\* a relevant notice for the purposes of the Environment and Safety Information Act 1988.

Signature  Date 19 February 2024

## Notes

1. Failure to comply with this Improvement Notice is an offence as provided by section 33(1)(g) of the Health and Safety at Work etc Act 1974. Section 33(2) and Schedule 3A of that Act renders an offender liable, on summary conviction, to imprisonment for a term not exceeding 6 months in England and Wales and 12 months in Scotland, or to a fine unlimited in England and Wales or not exceeding £20 000 in Scotland, or both, or, on conviction on indictment, to imprisonment for a term not exceeding 2 years, or a fine, or both.

2. An Inspector has power to withdraw an Improvement Notice, or to extend the period specified in the Notice, before the end of the period specified in it. If you wish this to be considered you should apply to the Inspector who issued the Notice, but you must do so before the end of the period given in it. Such an application is not an appeal against this Notice.

3. The issue of this Notice does not relieve you of any legal liability for failing to comply with any statutory provisions referred to in the Notice or to perform any other statutory or common law duty resting on you.

4. You can appeal against this Notice to an Employment Tribunal. Details of the method of making an appeal can be found on the [GOV.UK](https://www.gov.uk) website at <https://www.gov.uk/employment-tribunals/make-a-claim>. An appeal can be submitted either online at the above address, or by downloading Form ET1 and posting it to either the Employment Tribunal Central Office (England and Wales), PO Box 10218, Leicester, LE1 8EG; or Employment Tribunal Central Office (Scotland), PO Box 27105, Glasgow, G2 9JR. If you do not have access to the Internet, contact the person who issues the Notice and ask to be supplied with a hard copy of Form ET1 and guidance note T420: Making a Claim to an Employment Tribunal.

### Time limit for appeal

5. A notice of appeal must be sent to the Employment Tribunal within 21 days from the date of service on the appellant of the Notice, or Notices appealed against, or within such further period as the tribunal considers reasonable in a case where it is satisfied that it was not reasonably practicable for the notice of appeal to be presented within the period of 21 days.

6. The entering of an appeal suspends the Improvement Notice until the appeal has been determined or withdrawn, but does not automatically alter the date given in this Notice by which the matters contained in it must be remedied.

7. The rules for the hearing of an appeal are given in The Employment Tribunals (Constitution and Rules of Procedure) Regulations 2013 (SI 2013 No 1237).

### PUBLIC AVAILABILITY OF INFORMATION ON ALL ENFORCEMENT NOTICES

8. The Office of Rail and Road (ORR) for its own purposes, records and monitors trends in the enforcement action it takes, and in the convictions and penalties imposed by the Courts. It is ORR's policy that this information should be brought to the public's attention. ORR also has a statutory obligation under the Environment and Safety Information Act 1988 to maintain a public register of certain notices. Details from this notice will therefore be placed on the ORR website ([www.orr.gov.uk](http://www.orr.gov.uk)).

9. Information on a notice will not be entered onto the database until after the right of appeal against the notice has expired. Where a notice is withdrawn or cancelled on appeal no entry will be made. Entries relating to notices served on individuals will be kept on the register for a period of 5 years from the date of issue. Notices served on individuals under the age of 18 will be removed sooner.

10. Information may be withheld where, in ORR's belief, its disclosure would:

- cause harm or prejudice; or
- be in breach of the law.

11. Personal information is dealt with in accordance with the Data Protection Act 2018. Where disclosure of personal information would be incompatible with the Act it will not be included on the database.

12. If you are not satisfied with the information contained in the entry you have a further right to appeal to ORR in the first instance.

# Schedule



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To comply with this notice you should carry out the following:

Provide suitable and sufficient evidence that the operating characteristics of the communication device are compliant with the specification with the cover in place

OR

Provide suitable and sufficient evidence that the cover can be manipulated using the palm of the hand with a force of not more than 30N in such a way that it does not obstruct the operation of the communication device

OR

Remove the cover from all rolling stock where it is fitted

OR

Obtain a modification to the legal duty from DfT, permitting you to operate passenger services with the communication device cover in place

OR

Any other equally effective measures to remedy the said contravention

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Signature

A rectangular box containing a handwritten signature in blue ink.

Date:

A rectangular box containing the handwritten date '19 February 2024' in blue ink.