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STATUTORY RULES OF NORTHERN IRELAND

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**2005 No. 537**

**The Railways Infrastructure (Access, Management  
and Licensing of Railway Undertakings)  
Regulations (Northern Ireland) 2005**

**PART V**

**ALLOCATION OF INFRASTRUCTURE CAPACITY**

**Capacity enhancement plan**

**23.**—(1) The infrastructure manager must, within six months of the publication of a capacity analysis in accordance with regulation 22, produce a capacity enhancement plan.

(2) In producing the capacity enhancement plan, the infrastructure manager must—

- (a) consult each interested parties as he considers necessary, including those described in regulation 21(3); and
- (b) at least one month before the deadline for completion of the plan seek the prior approval of the Department.

(3) The capacity enhancement plan must identify the—

- (a) reasons for the congestion;
- (b) likely future development of traffic;
- (c) constraints on infrastructure development; and
- (d) options for and costs of enhancing the capacity, including the potential effect on access charges.

(4) On the basis of a cost benefit analysis of the potential measures for action identified in the capacity enhancement plan, that plan must include—

- (a) details of the action to be taken to enhance the capacity of the congested infrastructure; and
- (b) a timetable for the completion of the detailed measures identified in accordance with subparagraph (a)

(5) Subject to paragraph (6), if the utilisation of capacity on that element of the infrastructure which is the subject of the capacity enhancement plan attracts a scarcity charge, in accordance with paragraph 1(8) of Schedule 2 the infrastructure manager must cease the levying of such charge in situations when—

- (a) paragraph (1) applies but he does not produce a capacity enhancement plan for that part of the infrastructure which is subject to the scarcity charge within the requirements of this regulation; or
- (b) he fails to make progress with implementation of those areas of the action plan produced in accordance with paragraph (4) that are within his control.

(6) Paragraph 5 does not apply where—

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- (a) the action plan produced in accordance with paragraph (4) cannot be implemented for reasons beyond the immediate control of the infrastructure manager; or
  - (b) the options identified in that action plan are not economical or financially viable,
- provided that prior approval to continue to levy the scarcity charge is obtained from the Department.
- (7) At the end of the six month period starting with the publication of the capacity analysis in accordance with regulation 22, whether or not the approval sought under paragraph (2)(b) has been received, the infrastructure manager must provide the parties consulted under paragraph (2)(a) with a copy of the plan and the timetable for completion of the measures identified to resolve the congestion.