
STATUTORY RULES OF NORTHERN IRELAND

2016 No. 420

**The Railways Infrastructure (Access, Management
and Licensing of Railway Undertakings)
Regulations (Northern Ireland) 2016**

PART 1

PRELIMINARY

Citation and commencement

1. These Regulations may be cited as the Railways Infrastructure (Access, Management and Licensing of Railway Undertakings) Regulations (Northern Ireland) 2016 and shall come into operation on 23rd January 2017.

2.—(1) In these Regulations—

“access rights” means rights of access to railway infrastructure for the purpose of operating a service for the transport of goods or passengers;

“ad hoc request” means a request for individual train paths made other than in accordance with the timetable for the capacity allocation process as set out in Schedule 3;

“allocation” means the allocation of railway infrastructure capacity by an infrastructure manager;

“allocation body” means a body or undertaking, other than the infrastructure manager, which is responsible, by virtue of regulation 19(3), for the functions and obligations of the infrastructure manager under Part 5 and Schedule 3;

“applicant” means a railway undertaking or an international grouping of railway undertakings or other persons or legal entities, such as competent authorities under Regulation No. 1370/2007(1) and shippers, freight forwarders and combined transport operators, with a public service or commercial interest in procuring infrastructure capacity;

“capacity enhancement plan” means a measure or series of measures with a calendar for their implementation which aim to alleviate the capacity constraints which led to the declaration of an element of infrastructure as congested infrastructure;

“charging body” means a body or undertaking, other than the infrastructure manager, which is responsible, by virtue of regulation 14(6), for the functions and obligations of the infrastructure manager under Part 4 and Schedule 2;

“charging scheme” means the specific charging rules established in accordance with regulation 14 by the Office of Rail and Road or the infrastructure manager; governing the determination of access charges as set out in Part 4;

“competent authority” has the same meaning as in Article 2 of Regulation No. 1370/2007;

“cross-border agreement” means any agreement between two or more Member States or between Member States and third countries intended to facilitate the provision of cross-border rail services;

“the Department” means the Department for Infrastructure;

“the Directive” means [Directive 2012/34/EU](#) of the European Parliament and of the Council of 21st November 2012 establishing a single European railway area (recast)(2);

“the environment” means all or any of the following media, namely the air, water and land (and the medium of air includes the air within buildings and the air within other natural or man-made structures above or below ground);

“European licence” means a licence granted to a railway undertaking pursuant to these regulations (valid throughout the territory of any EEA State) by which the capacity of the railway undertaking as such is recognised and which authorises the undertaking to provide in and between EEA States such train services as may be specified in the licence;

“framework agreement” means a legally binding general agreement under public or private law, setting out the rights and obligations of an applicant and the infrastructure manager in relation to the infrastructure capacity to be allocated and the charges to be levied over a period in excess of one working timetable period;

“infrastructure capacity” means the potential to schedule train paths requested for an element of infrastructure for a certain period;

“infrastructure manager” means any body or undertaking that is responsible in particular for establishing and maintaining railway infrastructure;

“international freight service” means a transport service where the train crosses at least one border of a member State; the train may be joined and/or split and the different sections may have different origins and destinations, provided that all wagons cross at least one border;

“international grouping” means any association of at least two railway undertakings established in different Member States for the purpose of providing international transport between Member states; “international passenger service” means a passenger service where the train crosses at least one border of a Member State and where the principal purpose of the service is to carry passengers between stations located in different Member States; the train may be joined and/or split, and the different sections may have different origins and destinations, provided that all carriages cross at least one border;

“network” means the entire railway infrastructure managed by an infrastructure manager;

“network statement” means the statement required to be prepared and published under regulation 13;

“the Office of Rail and Road” means the body established under section 15 of the Railways and Transport Safety Act 2003(3);

“public passenger transport”, “public service contract” and “public service operator” have the same meaning as in Article 2 of Regulation No 1370/2007;

“railway infrastructure” means all the items listed in Annex 1 to the Directive;

“railway service performance” includes, in particular, performance in securing each of the following in relation to railway services—

- (a) reliability (including punctuality);
- (b) the avoidance or mitigation of passenger overcrowding; and
- (c) that journey times are as short as possible;

(2) O.J. No. L343, 14.12.12, p.32 as corrected by Corrigendum, O.J. L.67, 12.3.15, p.32

(3) 2003 c.20

“railway undertaking” means any public or private undertaking licensed according to the Directive;

“reasonable profit” means a rate of return on own capital that takes account of the risk, including that to revenue, or the absence of such risk, incurred by the operator of the service facility and is in line with the average rate for the sector concerned in recent years;

“regional services” means transport services whose principal purpose is to meet the transport needs of a region, including a cross-border region;

“Regulation EC No. 1370/2007” means Regulation 1370/2007(4) of the European Parliament and of the Council of 23rd October 2007 on public passenger transport services by rail and road and by repealing Council Regulations (EEC) No. 1191/69(5) and 1107/70(6);

“Regulation No. 913/2010” means regulation (EU) No 913/2010 of the European Parliament and of the Council of 22nd September 2010 concerning a European rail network for competitive freight(7);

“SNRP” means a statement of national regulatory provisions, issued under regulation 46;

“service provider” means a body or undertaking that supplies any of the services—

(a) to which access is granted by virtue of regulation 5; or

(b) listed in paragraph, 2, 3 or 4 of Schedule 1;

or which manages a service facility used for this supply, whether or not that body or undertaking is also an infrastructure manager;

“the Treaty” means the Treaty on the Functioning of the European Union(8);

“train path” means the infrastructure capacity needed to run a train between two places over a given period;

“train service” means a service for the transport of goods or passengers (or both) by rail;

“transit rights” means rights of transit through a Member State using the railway infrastructure located in the Member State;

“urban” or “suburban” means, in relation to a transport service, a service whose principal purpose is to meet the transport needs of an urban centre or conurbation, including a cross-border conurbation, together with transport needs between such a centre or conurbation and surrounding areas;

“viable alternative” means access to another service facility which is economically acceptable to the railway undertaking, and allows it to operated the freight or passenger services concerned;

“working day” means any day which is not a Saturday, Sunday or a public holiday;

“working timetable period” means the calendar year commencing at midnight on the second Saturday in December.

(2) Except where a definition in paragraph (1) applies, expressions used in these regulations and in the Council Directives have the meanings given by the Directives.

(3) The Interpretation Act (Northern Ireland) 1954(9) shall apply to these regulations as it applies to an Act of the Northern Ireland Assembly.

(4) L.315, 3.12.2007

(5) L156, 28.8.69

(6) L130, 15.6.70

(7) L276, 20.10.10

(8) O.J. no. C326, 26.10.2012, p.47

(9) 1954 c.33 (N.I.)

Scope

3.—(1) These regulations apply to domestic and international rail traffic.

(2) Subject to paragraphs (3) and (6), Parts 2 and 3 (save for regulation 13), regulations 14(6) and (7), 15, 19(3), 33 and Schedule 1 lay down the rules applicable to—

- (i) the management of railway infrastructure;
- (ii) the rail transport activities of the railway undertakings established or to be established in an EEA State; and
- (iii) the licensing of railway undertakings and groupings in respect of international services and international combined transport goods services which they operate.

(3) The provisions referred to in paragraph (2) do not apply to railway undertakings whose activity is limited to the provision of solely urban, suburban or regional services on local and regional stand-alone networks for transport services on railway infrastructure or on networks intended only for the operation of urban or suburban rail services.

(4) Notwithstanding paragraph (3), the following regulations apply where a railway undertaking referred to in that paragraph is under the direct or indirect control of an undertaking or another entity performing or integrating rail transport services other than urban, suburban or regional services—

- (a) regulation 8;
- (b) regulation 9, with regard to the relationship between the railway undertaking and the undertaking or entity which controls it, directly or indirectly; and
- (c) regulations 12(4) to (7).

(5) Subject to paragraphs (6) and (7), regulation 13, Parts 4 to 6 and Schedules 2, 3 and 5, lay down the principles and procedures applicable to—

- (a) the setting and collection of railway infrastructure charges; and
- (b) the allocation of railway infrastructure capacity.

(6) The following provisions do not apply to the networks listed in paragraph (7)—

- (a) regulation 5;
- (b) regulation 10;
- (c) regulation 11;
- (d) regulation 12;
- (e) regulation 13;
- (f) Parts 4 to 6; and
- (g) Schedules 2, 3 and 5.

(7) The networks referred to in paragraph (6) are—

- (a) local and regional stand-alone networks for passenger services on railway infrastructure;
- (b) networks intended only for the operation of urban or suburban rail passenger services;
- (c) until such time as capacity is requested by another applicant, regional networks used for regional freight services solely by a railway undertaking referred to in paragraph (3); or
- (d) privately owned railway infrastructure that exists solely for use by the infrastructure manager for its own freight operations.