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STATUTORY RULES OF NORTHERN IRELAND

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**2016 No. 420**

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

**PART 2**

**ACCESS TO RAILWAY INFRASTRUCTURE AND SERVICES**

**Access to services**

5.—(1) Subject to paragraph (2), all railway undertakings are entitled to services comprising—

- (a) the minimum access package; and
- (b) the track access to service facilities and the supply of services,

described in paragraphs 1 and 2 of Schedule 1.

(2) The services described in paragraph (1) must be supplied by the infrastructure manager or, as the case may be, service provider in an equitable, non-discriminatory and transparent manner.

(3) Requests by railway undertakings for access to, and the supply of, services described in paragraph 2 of Schedule 1 must be answered within a reasonable time limit as stipulated by the Office of Rail and Road.

(4) Subject to paragraph (7), where an infrastructure manager or a service provider supplies any of the services described in paragraph 2 of Schedule 1, a request for access to and supply of such services may only be refused if a viable alternative exists which would enable the railway undertaking to operate the freight or passenger service concerned on the same or an alternative route under economically acceptable conditions.

(5) Where—

- (a) a request referred to in paragraph (3) concerns access to and supply of services described in sub-paragraphs 2(a), (b), (c), (d), (e) and (f) of Schedule 1; and
- (b) such request is made to a service provider which is under the direct or indirect control of a dominant body or firm,

the infrastructure manager or service provider must justify, in writing, any decision to refuse such a request, and provide information about the viable alternative described in paragraph (4).

(6) Paragraph (4) does not oblige the infrastructure manager or service provider to make investments in resources or facilities in order to accommodate all requests by railway undertakings.

(7) Where the infrastructure manager or service provider of services referred to in paragraph 2 of Schedule 1, encounters a conflict between different requests, it must attempt to meet all requests in so far as possible. If no viable alternative is available, and it is not possible to accommodate all requests for capacity for the relevant facility on the basis of demonstrated need, the applicant may complain to the Office of Rail and Road.

(8) Where a service facility described in paragraph 2 of Schedule 1 has not been in use for at least two consecutive years and interest by a railway undertaking for access to this facility has been expressed to the service provider on the basis of demonstrated need, the service provider must—

- (a) offer the operation of the service facility, or part of it, for lease as a rail service facility; and
- (b) publicise this offer.

(9) Paragraph (8) does not apply if the service provider can demonstrate that ongoing redevelopment work reasonably prevents the use of the service facility by any railway undertaking.

(10) Where the infrastructure manager or service provider offers to supply any of the services described in paragraph 3 of Schedule 1, as an additional service he must, in response to a request from an applicant, supply the services to that applicant in a non-discriminatory manner

(11) An applicant may request the supply of any of the services described in paragraph 4 of Schedule 1 from an infrastructure manager or service provider but that infrastructure manager or service provider is under no obligation to supply the services requested. Where the infrastructure manager or service provider does offer to supply such services, it must do so in a non-discriminatory manner.

(12) Without prejudice to the generality of regulation 32, if an applicant is denied the entitlements conferred on it by this regulation, that applicant has a right of appeal to the Office of Rail and Road in accordance with regulation 32.

(13) In fulfilling their duties under this regulation, the infrastructure manager and service provider must comply with any relevant provisions regarding procedure and criteria adopted by the Commission.