

Explanatory Memorandum To
The Rail Passengers Rights and Obligations (Designation and Enforcement) Regulations (Northern Ireland) 2017

S.R. No. 84

1. Introduction

- 1.1. This Explanatory Memorandum has been prepared by the Department for Infrastructure to accompany the Rail Passengers Rights and Obligations (Designation and Enforcement) Regulations (Northern Ireland) 2017 which is laid before the Northern Ireland Assembly.
- 1.2. The Statutory Rule is made under powers conferred by Section 2(2) of the European Communities Act 1972 and is subject to negative resolution procedure before the Assembly.

2. Purpose

- 2.1 The Rail Passengers Rights and Obligations (Designation and Enforcement) Regulations (Northern Ireland) 2017 are being introduced to give effect to Articles 30 and Article 32 of Regulation (EC) No. 1371/2007 of the European Parliament and of the Council of 23rd October 2007 concerning the rights of rail passengers.

3. Background

- 3.1 European Regulation (EC) No 1371/2007 on rail passengers' rights and obligations is one of a series of measures that form part of the 3rd Railway package. It is a mandatory instrument aimed at enhancing the rights of passengers on international and domestic rail services. The policy is aimed at strengthening the rights of rail passengers particularly in the areas of information and ticketing provision, compensation and assistance, and the rights for persons of reduced mobility and enforcement of those rights.

- 3.2 One of the key agreements reached between the Council and the European Parliament during negotiations of the Regulation was to allow Member States to grant certain exemptions. Article 2(4) allowed Member States to grant an exemption for all domestic services from the non-core provisions of the Regulation for an initial period of five years, followed by a maximum of two further periods of five years each (making a maximum of 15 years).
- 3.3 The Rail Passengers' Rights and Obligations (Exemptions) Regulations (Northern Ireland) 2011 provided an exemption from the provisions of Regulation (EC) No. 1371/2007 until 31st December 2016 in Northern Ireland. As the exemptions from Regulation (EC) No. 1371/2007 are not being renewed the Department are required to make Regulations to give effect to Regulation (EC) No. 1371/2007.
- 3.4 The Rail Passengers Rights and Obligations (Designation and Enforcement) Regulations (Northern Ireland) 2017 are being introduced to provide for the operational implementation of Regulation (EC) No. 1371/2007 in relation to complaints handling and the enforcement of these aspects of the rights of passengers in rail transport.
- 3.5 Article 30 relates to the designation of an enforcement body and a complaints handling body. Article 32 refers to penalties which are applicable as a result of any infringement of Regulation (EC) No. 1371/2007.

4. Consultation

- 4.1 The Department has completed an extensive consultation exercise in relation to the Statutory Rule. Two responses were received and the Department has formally responded.

5. Equality Impact

- 5.1 As part of the consultation on these legislative proposals the Department has written to all those parties in accordance with the Departments Equality Scheme. The Consultees attention was drawn to the Section 75 criteria and

their views sought on any potential impacts that may arise from the implementation of these legislative proposals. The Department has considered the proposed legislative provisions against the Section 75 criteria and the responses to the consultation process and in conjunction with the Equality Unit and the Human Rights Unit has screened out the requirement for an Equality Impact Assessment in relation to these legislative proposals.

6. Regulatory Impact

6.1 The Department has considered the proposed legislative provisions against the criteria for regulatory impact and concluded that this is not required for these legislative proposals.

7. Financial Implications

7.1 There are no significant financial implications arising from the proposals and a regulatory impact assessment is not required.

8. Section 24 of the Northern Ireland Act 1998

8.1 There are no implications arising in relation to Section 24 of the Northern Ireland Act 1998.

9. EU Implications

9.1 These Regulations give effect to Articles 30 and 32 of Regulation (EC) No. 1371/2007 of the European Parliament and of the Council of 23rd October 2007 concerning the rights of rail passengers.

10. Parity or Replicatory Measure

10.1 Not applicable to this Statutory Rule.

11. Additional Information

11.1 The Provisions of the Regulations are as follows –

Regulation 4 implements Article 30(1) of Regulation (EC) No. 1371/2007 by designating the Department for Infrastructure as being responsible for enforcement of Regulation (EC) No. 1371/2007 and gives that Department the right to ask for information to assist it in carrying out their functions.

Regulation 5 implements Article 30(2) of Regulation (EC) No. 1371/2007 by designating the Consumer Council as the body to which complaints may be made by passengers about alleged infringements of Regulation (EC) No. 1371/2007.

Regulation 6 implements the enforcement measures which would apply where Regulation (EC) No. 1371/2007 has been contravened.

Regulation 7 implements Article 32 of Regulation (EC) No. 1371/2007 by setting penalties applicable to those found guilty of infringements of Regulation (EC) No. 1371/2007 or failing to comply with a notice issued under regulation 6.

Regulation 8 requires the railway undertaking to develop and maintain a system of reimbursement and compensation in line with Regulation 1371/2007.

Regulation 9 enables persons who have suffered an infringement of their rights under Regulation (EC) No. 1371/2007 to seek compensation separately from any criminal penalty that may be imposed.

Department for Infrastructure