
STATUTORY RULES OF NORTHERN IRELAND

2019 No. 15

**The Railways Infrastructure (Access, Management
and Licensing of Railway Undertakings)
(Amendment) Regulations (Northern Ireland) 2019**

Infrastructure management: independence; outsourcing and sharing functions and impartiality in respect of traffic management and maintenance planning

6. After regulation 8 (management independence) insert—

“Independence of the infrastructure manager

8A.—(1) Subject to paragraph (5), the infrastructure manager, in its legal form, must be independent of any railway undertaking and, in vertically integrated undertakings, also be independent of any other legal entity within the undertaking.

(2) In vertically integrated undertakings, the other legal entities must not exercise any decisive influence on the decisions of the infrastructure manager in relation to the essential functions.

(3) Members of the supervisory board and the management board, and managers reporting directly to them, must act in a non-discriminatory manner and their impartiality must not be affected by any conflict of interest.

(4) The same individuals cannot be concurrently appointed or employed—

- (a) as members of the management board or an infrastructure manager and as members of the management board of a railway undertaking;
- (b) as persons in charge of taking decisions on the essential functions and as members of the management board of a railway undertaking;
- (c) where a supervisory board exists, as members of the supervisory board of an infrastructure manager and as members of the supervisory board of a railway undertaking;
- (d) as members of the supervisory board of an undertaking which is part of a vertically integrated undertaking and which exercises control over both a railway undertaking and an infrastructure manager and as members of the management board of that infrastructure manager.

(5) Paragraph (1) and sub-paragraphs (c) and (d) of paragraph (3) do not apply where infrastructure charging and path allocation functions are performed by a charging body and an allocation body by virtue of regulations 14(6) and 19(3) respectively.

(6) In vertically integrated undertakings, the members of the management board of the infrastructure manager and the persons in charge of taking decisions on the essential functions must not receive—

- (a) any performance-based remuneration from any other legal entities within the vertically integrated undertaking, or

- (b) any bonuses principally related to the financial performance of particular railway undertakings,

however, they may be offered incentives related to the overall performance of the railway system.

(7) Where information systems are common to different entities within a vertically integrated undertaking, access to sensitive information relating to essential functions must be restricted to authorised staff of the infrastructure manager and not passed on to other entities within the vertically integrated undertaking.

Outsourcing and sharing the infrastructure manager's functions

8B.—(1) Provided that no conflicts of interest arise and that the confidentiality of commercially sensitive information is guaranteed, the infrastructure manager may outsource—

- (a) functions to a different entity, provided the latter is not a railway undertaking, does not control a railway undertaking, or is not controlled by a railway undertaking;
- (b) the execution of works and related tasks on development, maintenance and renewal of the railway infrastructure to railway undertakings or companies which control the railway undertaking, or are controlled by the railway undertaking.

(2) Within a vertically integrated undertaking, the infrastructure manager must not outsource essential functions to any other entity of the vertically integrated undertaking under paragraph (1)(a), unless that entity exclusively performs essential functions.

(3) Any entity carrying out essential functions which have been outsourced under paragraph (1)(a) must comply with regulations 8A, 8C, 9A, 14(6) and 19(3).

Impartiality of the infrastructure manager in respect of traffic management and maintenance planning

8C.—(1) The infrastructure manager must exercise the functions of traffic management and maintenance planning in a transparent and non-discriminatory manner and ensure that the persons in charge of taking decisions in respect of those functions are not affected by a conflict of interest.

(2) As regards traffic management, the infrastructure manager must ensure that railway undertakings, in cases of disruption concerning them, have full and timely access to relevant information. Where the infrastructure manager grants further access to the traffic management process, it must do so for the railway undertakings concerned in a transparent and non-discriminatory way.

(3) The infrastructure manager must carry out the scheduling of maintenance works in a non-discriminatory way. As regards the long-term planning of major maintenance and/or renewal of the railway infrastructure, the infrastructure manager must consult applicants and, so far as reasonably practicable, take into account the concerns expressed.”.