

---

STATUTORY INSTRUMENTS

---

**2002 No. 1166**

**The Railways (Interoperability) (High-Speed) Regulations 2002**

**PART I**

*Preliminary*

**Citation and commencement**

1. These Regulations may be cited as the Railways (Interoperability) (High-Speed) Regulations 2002 and shall come into force on 16th May 2002.

**Interpretation etc.**

2.—(1) In these Regulations “the high-speed Directive” means Council Directive No.96/48/EC of 23rd July 1996 on the interoperability of the trans-European high-speed rail system<sup>(1)</sup>, and any reference in the Schedules to “the Directive” shall be construed accordingly.

(2) Except for the references to the European Communities in the definition of “the Commission” and in relation to the Official Journal, a reference to the European Community includes a reference to the EEA, and a reference to a Member State includes a reference to an EEA State.

(3) For the purposes of paragraph (2)—

- (a) the “EEA” means the European Economic Area;
- (b) an “EEA State” means a State which is a Contracting Party to the EEA Agreement; and
- (c) the “EEA Agreement” means the Agreement on the European Economic Area signed at Oporto on 2nd May 1992 as adjusted by the Protocol signed at Brussels on 17th March 1993<sup>(2)</sup>.

(4) In these Regulations,—

- (a) Annexes I to VII of the high-speed Directive are respectively set out in Schedules 1 to 7 hereto;
- (b) a reference to a numbered regulation or Schedule is a reference to the regulation or Schedule in these Regulations so numbered;
- (c) a reference to a numbered paragraph is a reference to the paragraph so numbered in the regulation in which that reference occurs; and
- (d) a reference to an Article is a reference to the Article so numbered in the high-speed Directive and a reference to a paragraph of an Article shall be construed accordingly.

(5) In these Regulations unless the context otherwise requires—

---

(1) O.J. No. L235, 17.9.97, p.6, corrected by O.J. L262, 16.10.96, p.18.

(2) Cmnd. 2972 and 2183. The application of the high-speed Directive was extended to the EEA from 1 May 1997 by virtue of Decision No. 25/97 of the EEA Joint Committee (O.J. No. L242, 4.9.97, p.74.) which inserted a reference to the high-speed Directive after point 37 in Annex XIII to the EEA Agreement.

- “the 1974 Act” means the Health and Safety at Work etc. Act 1974(3);
- “the 1978 Order” means the Health and Safety at Work (Northern Ireland) Order 1978(4);
- “the 2000 Regulations” means the Railways (Interoperability)(Notified Bodies) Regulations 2000(5);
- “accessibility compliance certificate” means a certificate which is obtained in respect of any high-speed rolling stock that constitutes a rail vehicle within the meaning of section 46 of the Disability Discrimination Act 1995(6) issued pursuant to the procedure in regulation 22, and which includes details of any exemption orders made under section 47(1) of that Act in respect of that high-speed rolling stock;
- “Article 21 Committee” means the Committee set up pursuant to Article 21 of the high-speed Directive;
- “the Authority” means the Strategic Rail Authority(7) except in relation to Northern Ireland where it means the Department;
- “British standard implementing a European standard” means a European standard transposed into a British standard by the British Standards Institution;
- “certificate of conformity” means a certificate drawn up by the notified body in relation to a structural subsystem as part of the verification assessment procedures for that structural subsystem; and the reference in Schedule 6 to certificate shall be construed as a reference to the certificate of conformity;
- “the Channel Tunnel system” has the meaning given by section 1(7) of the Channel Tunnel Act 1987(8) to the words “the tunnel system”;
- “the Commission” means the Commission of the European Communities;
- “common technical specification” means a technical specification, drawn up in accordance with a procedure recognised by the Member States with a view to uniform application in all Member States which has been published in the Official Journal and is in force, and includes a TSI;
- “conformity declaration” means an EC declaration of conformity of an interoperability constituent drawn up for the purposes of regulation 11;
- “conformity or suitability for use assessment procedures” means the procedures specified in regulation 19 and includes any combination of those procedures which the circumstances so require;

- 
- (3) 1974 c. 37. Section 22(1) and (2) was amended by the Consumer Protection Act 1987, section 3, Schedule 3. Section 22(4) was substituted by the Consumer Protection Act 1987, section 3, Schedule 3. Section 24(2) and (4) was amended by the Employment Rights (Dispute Resolution) Act 1998, section 1(2)(a). Section 33(1)(c) was amended by the Employment Protection Act 1975, subsection 116, 125(3), Schedule 15, paragraph 11, Schedule 18. Section 33(1)(h) was amended by the Consumer Protection Act 1987, section 36, Schedule 3. Words omitted in section 33(1)(m) were repealed by the Forgery and Counterfeiting Act 1981, section 30, Schedule, Part 1. Section 33(2A) was inserted by the Offshore Safety Act 1992, section 4(2), (3) and (6). Section 33(2) was amended by the Criminal Law Act 1977, section 31, Schedule 6. Section 33(3) amended by the Offshore Safety Act 1992, section 4(4), (6) and the Magistrates Court Act 1980, section 32(2). Section 33(5) was repealed by the Offshore Safety Act 1992, sections 4(5), (6), 7(2), Schedule 2. Section 33(6) was repealed by the Forgery and Counterfeiting Act 1981, section 30, Schedule, Part 1. Section 34(5) was amended by the Criminal Procedure (Scotland) Act 1975, section 461(1), Schedule 9, paragraph 51. Section 33(6) was amended by the Gas Act 1986, section 67(1), Schedule 7, paragraph 18.
- (4) S.I. 1978/1039 (N.I. 9). Article 20 was amended by S.I. 1998/2795 (N.I. 18), Article 6(1) and Schedule 1, paragraph 13(a). Article 24 was amended by S.I. 1987/2049 (N.I. 20), Article 28 and Schedule 2, paragraph 3. Article 26 was amended by S.I. 1984/1159 (N.I. 9), Article 35 and Schedule 4. Article 31 was amended by: S.I. 1987/2049 (N.I. 20), Article 28 and Schedule 2 paragraph 7; S.I. 1988/595 (N.I. 3), Article 10(1)(c); S.I. 1986/1883 (N.I. 15), Article 13(3) and Schedule 5; S.I. 1992/1728 (N.I. 17), article 6(1), (3), (4), (5), (7), Article 8 and Schedule 2; S.I. 1998/2795 (N.I. 18), Article 6 and Schedule 1, paragraph 15, and Schedule 2, Forgery and Counterfeiting Act 1981 c. 45 section 30 and Schedule.
- (5) S.I. 2000/1674.
- (6) 1995 c. 50.
- (7) Established under s.201 of the Transport Act 2000 c. 38.
- (8) 1987 c. 53.

“contracting entity” means any person who, in relation to a structural subsystem used in or intended for use in the construction, upgrading or operation of the rail network schemes—

- (a) has contracted with another person for the manufacture or construction by that other person of that structural subsystem; or
- (b) manufactures or constructs that structural subsystem for his own use, or for sale to, or use by, another person but not where he is contracted to do so by a person falling under paragraph (a),

and includes an authorised representative established in the Community of such a person;

“the Department” means the Department for Regional Development established by article 3(1) of the Departments (Northern Ireland) Order 1999<sup>(9)</sup>;

“essential requirements”, except in the definition of European technical approval, means the requirements set out in Schedule 3;

“European specification” means a common technical specification, a European technical approval or a British standard implementing a European standard;

“European standard” means a standard approved by the European Committee for Standardisation or by the European Committee for Electrotechnical Standardisation as a European Standard or a Harmonisation Document, according to the Common Rules of those organisations or by the European Telecommunications Standards Institute according to its own rules as a European Telecommunications Standard;

“European technical approval” means an approval of the fitness of a product for a particular use given by an approval body designated for the purpose by a Member State following a technical assessment of whether the product fulfils all essential requirements for such a product, having regard to the inherent characteristics of the product and any such defined conditions of application and use as are provided for in any Council Directive applicable to the product;

“the Executive” means the Health and Safety Executive<sup>(10)</sup> except in relation to Northern Ireland where it means the Health and Safety Executive for Northern Ireland<sup>(11)</sup>;

“high-speed infrastructure” means the infrastructure described in paragraph 1 of Schedule 1;

“high-speed rolling stock” means the subsystem constituting rolling stock described in paragraph 2 of Schedule 1, capable of use on a rail network scheme; and “rolling stock” means a vehicle falling within the definition of rolling stock in section 83(1) of the Railways Act 1993<sup>(12)</sup> except that where such a vehicle can only be operated as part of a fixed formation multiple unit it means all of that unit;

“interoperability” means the ability of the trans-European high-speed rail system to allow the safe and uninterrupted movement of high-speed rolling stock; and cognate expression shall be construed accordingly;

“interoperability constituent” means any elementary component, group of components, sub-assembly or complete assembly of equipment that is incorporated or intended to be incorporated into a structural subsystem upon which the interoperability of the trans-European high-speed rail system depends and that has been specified by—

- (a) a TSI covering a particular subsystem as being an interoperability constituent; or

---

<sup>(9)</sup> S.I. 1999/283 (N.I. 1).

<sup>(10)</sup> Established under section 10 of the Health and Safety at Work etc. Act 1974 (c. 37).

<sup>(11)</sup> Formerly known as the Health and Safety Agency for Northern Ireland which was established under Article 12 of the Health and Safety at Work (Northern Ireland) Order 1978 (S.I. 1978/1039 (N.I. 9)). Article 3(1) of the Health and Safety at Work (Amendment) (Northern Ireland) Order 1998 (S.I. 1998/2795 (N.I. 18)) changed its name to the Health and Safety Executive for Northern Ireland.

<sup>(12)</sup> 1993 c. 43.

- (b) the Secretary of State in a notification given under regulation 27 as an interoperability constituent to which any standards, technical specifications and technical rules covered by that notification relate;

“major works” in relation a structural subsystem means any works that do not constitute minor works; and “minor works” includes—

- (a) minor alterations;
- (b) replacement of components, assemblies or sub-assemblies in accordance with current technology;
- (c) maintenance; and
- (d) like for like replacement;

“notified body” has the meaning given by regulations 4 and 37 and the references in paragraph 5.3 of Schedule 6 to a body notified, in paragraph 6 of Schedule 6 to each body, and in paragraphs 1, 2, 3, 6 and 7 of Schedule 7 to the body and that body shall be construed as a reference to a notified body;

“notified standards” means the standards, technical specifications and technical rules notified by the Secretary of State to the Commission pursuant to regulation 27;

“Official Journal” means the Official Journal of the European Communities;

“operator” in relation to the use of an interoperability constituent or structural subsystem means the person having the management of that interoperability constituent or structural subsystem for the time being;

“owner” in relation to a structural subsystem means any person who has an estate or interest in, or right over that subsystem, and whose permission is needed before another may use it;

“person responsible” in relation to an interoperability constituent means the manufacturer of that interoperability constituent or his authorised representative established in the Community;

“placing into service” means, in respect of a structural subsystem, first using that subsystem on or as part of a rail network scheme for use in the transportation of passengers or freight; and cognate expressions shall be construed accordingly;

“placing on the market” means making an interoperability constituent available for purchase with a view to its use on the trans-European high-speed rail system; and cognate expressions shall be construed accordingly;

“project” means a discrete scheme for the construction or upgrading of the whole or a part of a rail network scheme; provided that where it is intended to carry out that construction or upgrading in parts, each of which are to be placed into service on a permanent basis independently on the other parts, it means any such part;

“RVAR” means the requirements imposed by the Rail Vehicle Accessibility Regulations 1998<sup>(13)</sup>; except in relation to Northern Ireland where it means the requirements imposed by the Rail Vehicle Accessibility Regulations (Northern Ireland) 2001<sup>(14)</sup>;

“rail network scheme” means one of the lines specified in Schedule 8 (which form part of the trans-European high-speed rail system);

“screening decision” has the meaning given by regulation 16(1);

“staged works decision” has the meaning given by regulation 17(2);

“subsystem” means—

- (a) high-speed rolling stock; and

---

<sup>(13)</sup> S.I. 1998/2456, the relevant amending instrument is S.I. 2000/3215.

<sup>(14)</sup> S.R. (N.I.) 2001 No. 264.

(b) a subsystem of one of the other kinds specified in paragraphs 1.1 and 1.2 of Schedule 2 which forms or is intended to form part of a rail network scheme;

and “structural subsystems” means—

(a) high-speed rolling stock; and

(b) the whole, or, a part, of an infrastructure subsystem, an energy subsystem and a control and command and signalling subsystem which is constructed or upgraded as a project;

“suitability declaration” is an EC declaration of suitability for use of an interoperability constituent prepared for the purposes of regulation 11;

“supervisory authority” means the Executive, except in relation to—

(a) the Channel Tunnel system, where it means the Intergovernmental Commission; and for this purpose “the Intergovernmental Commission” has the same meaning as in the Channel Tunnel Act 1987(15); and

(b) Northern Ireland, where it means the Department;

“technical file” means a file relating to a structural subsystem which contains the matters required by regulation 13(9) and regulation 24(1)(b) and (c), and any reference in the schedules to the “technical record” shall be construed as a reference to the technical file;

“trans-European high-speed rail system” means the high-speed infrastructure and high-speed rolling stock described in Schedule 1;

“TSIs” means technical specifications for interoperability which are published in the Official Journal pursuant to Article 6(1) of the high-speed Directive and in force; and “relevant TSI” in relation to a structural subsystem includes any provision of a TSI which is relevant to the construction, upgrade or operation of a structural subsystem of that type;

“upgrading” means any major work on a structural subsystem which changes the performance of that structural subsystem and which either—

(a) the contracting entity is satisfied; or

(b) the supervisory authority has determined, in accordance with regulation 16,

is upgrading for the purposes of these Regulations; and cognate expressions shall be construed accordingly;

“verification assessment procedure” means the procedures specified in regulation 20;

“verification declaration” means an EC declaration of verification in relation to a structural subsystem, drawn up pursuant to regulation 13(6); and

“writing” apart from its usual meaning includes any text transmitted using electronic communications that is received, or accessible by the person to whom it is sent, in legible form.

### **Application of the Regulations**

3. These Regulations apply to subsystems and interoperability constituents other than any—

(a) structural subsystem that is placed into service; or

(b) interoperability constituent that is placed on the market,

within three months after the date of the coming into force of these Regulations.