

EXPLANATORY MEMORANDUM TO
THE RAILWAYS (INTEROPERABILITY) (AMENDMENT) REGULATIONS 2013

2013 No. 3023

- 1.** This explanatory memorandum has been prepared by the Department for Transport and is laid before Parliament by Command of Her Majesty.

2. Purpose of the instrument

2.1 The Railways (Interoperability) (Amendment) Regulations 2013 are necessary to implement Directive 2013/9/EU amending Annex III to Directive 2008/57/EC on the interoperability of the rail system within the Community¹. Directive 2013/9/EU adds accessibility for Persons of Reduced Mobility (PRM) to the description of Essential Requirements which must be met for relevant rail systems and subsystems to comply with Directive 2008/57/EC on the interoperability of the rail system within the Community².

3. Matters of special interest to the Joint Committee on Statutory Instruments *or* the Select Committee on Statutory Instruments

3.1 None

4. Legislative Context

4.1 Directive 2008/57/EC among other things sets out the Essential Requirements for the interoperability of railway systems with the European Union. This Directive was implemented into UK law by the Railways (Interoperability) Regulations 2011³ (the “2011 Regulations”). Directive 2013/9/EU amends Directive 2008/57/EC to add accessibility to Persons of Reduced Mobility to the description of Essential Requirements in Annex III to Directive 2008/57/EC. The Railways (Interoperability) (Amendment) Regulations 2013 are necessary to transpose this Directive into UK law.

4.2 The Transposition Note is attached at **Annex A**. The approach taken has been to insert a cross reference to the amended Annex III in the 2011 Regulations. A further amendment which is not directly required by Directive 2013/9/EU, but which goes no further than the requirements of the Directive, has also been made to add “accessibility” to the list of issues which the Competent Authority must take into account in deciding whether a project, or type of project, is a renewal or upgrade within the context of the interpretability regime.

5. Territorial Extent and Application

5.1 This instrument applies to all of the United Kingdom including the British part of the Channel Tunnel. Responsibility for railways in Northern Ireland is devolved to the

¹ O.J. No. L 68, 12.3.2013, p55.

² O.J. No. L 191, 18.7.2009, p1.

³ S.I. 2011/3066.

Northern Ireland Assembly and administered by the Department for Regional Development Northern Ireland (“DRDNI”). Following the agreement of the Northern Ireland Ministers the transposition of Directive 2008/57/EC was done on a UK-wide basis by the 2011 Regulations and DRDNI have agreed the amendments being made by this instrument.

6. European Convention on Human Rights

6.1 As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

7. Policy background

7.1 Annex III of Directive 2008/57/EC sets out a number of Essential Requirements which, when they apply to a rail project, must be met in order to achieve interoperability. Technical Standards for Interoperability (TSIs) put in place the standards which must be met to comply with the Essential Requirements, and to ensure the interoperability of the rail system. New or upgraded projects in the UK are required to comply with the relevant TSIs.

7.2 Currently, requirements for accessibility are dealt with in the TSI for Persons of Reduced Mobility (PRM). Directive 2013/9/EU explicitly adds accessibility for Persons of Reduced Mobility (PRM) to the description of Essential Requirements under Annex III of Directive 2008/57/EC. This will apply to infrastructure, rolling stock, operations and telematics applications for passengers' subsystems (e.g. on board passenger information displays).

7.3 The effect of explicitly adding accessibility to the Essential Requirements simply emphasises the importance of making rail travel accessible to PRMs through the progressive application of the TSI, rather than representing a practical change for the rail industry. Projects which are caught by the UK regulations already need to be compliant with the PRM TSI; therefore the new Directive has no substantive effect on the current regime.

- Consolidation

7.4 The amendments made by this instrument to the 2011 Regulations are minor. The Department for Transport has no current plans to consolidate those Regulations.

8. Consultation outcome

8.1 As the amendments made by this instrument have no substantive effect on the current regime, a consultation has not been carried out. Relevant stakeholders have, however, been informed.

9. Guidance

9.1 Guidance on this change will be included on the Department for Transport's website, under the heading of 'Rail Interoperability and Standards'. Relevant stakeholders have been informed directly of this change.

10. Impact

10.1 The impact on business, charities or voluntary bodies is minimal, as projects which are caught by the 2011 Regulations already need to be compliant with the PRM TSI.

10.2 The impact on the public sector is minimal, as projects which are caught by the 2011 Regulations already need to be compliant with the PRM TSI.

10.3 An Impact Assessment has not been prepared for this instrument.

11. Regulating small business

11.1 The legislation applies to small business but it will not adversely impact upon them as the regulatory burden will not increase for any size of firm.

12. Monitoring & review

12.1 The 2011 Regulations currently contain provision for a five year statutory review. The amendments made to the 2011 Regulations by these Regulations will be reviewed under the terms of the existing statutory review provision.

13. Contact

Ian Jones at the Department for Transport, Tel: 020 7944 5595 or email: interoperaby@dft.gsi.gov.uk can answer any queries regarding the instrument.

Annex A

Transposition Note for Directive 2013/9/EU amending Annex III to Directive 2008/57/EC on the interoperability of the rail system within the Community

This Transposition Note outlines how Directive 2013/9/EU is transposed by the Railways (Interoperability) (Amendment) Regulations 2013 (the “Regulations”). The Secretary of State is responsible for measures to implement Directive 2013/9/EU in Great Britain. The Regulations also implement Directive 2013/9/EU for Northern Ireland, by agreement with the Northern Ireland Ministers.

The transposition table below indicates that the approach taken to transposition is predominately one of copy out. For these purposes we regard a provision as having been copied out when the text is implemented by cross-reference. The articles referred to in the national provision column of the table refer to the articles in the text of the Regulations.

In addition, regulation 2(b) of the Regulations amends regulation 12(2)(b) of the 2011 Regulations to include accessibility in the factors which the Competent Authority must take into account when deciding whether a project or type of project is for the renewal or upgrading within the context of the interoperability regime. This is not directly required by Directive 2013/9/EU; however, regulation 12(1) of the 2011 Regulations provides that the Competent Authority may from time to time publish a list describing such projects or types of projects. This amendment ensures that all Essential Requirements must be taken into account in the process of such a list being produced.

Article of Directive 2013/9/EU	Copy-out (yes/no)	If no – Reason for Elaboration	National Provision
Article 1 - inserts into Annex III of Directive 2008/57/EC the Essential Requirement “Accessibility”.	Yes		Regulation 2(a), the definition of “the Directive” in the 2011 Regulations is amended to cross-refer to the amendments made to Annex III by Directive 2013/9/EU.
Article 2 – requires Member States to introduce provision to implement the Directive and notify the Commission of transposition by 1 January 2014.	No	No transposition required.	
Article 3 – states the entry into force date of the Directive.	No	No transposition required.	
Article 4 – addresses the Directive to Member States	No	No transposition required.	