
STATUTORY INSTRUMENTS

2019 No. 518

The Railways (Access, Management and Licensing of Railway Undertakings) (Amendments etc.) (EU Exit) Regulations 2019

PART 4

Amendment of retained EU law

Commission Implementing Regulation (EU) No 869/2014 of 11 August 2014 on new rail passenger services

26. Commission Implementing Regulation (EU) No 869/2014 of 11 August 2014 on new rail passenger services is amended as set out in regulations 27 to 43.

Commencement Information

- I1** Reg. 26 in force at 31.12.2020 on IP completion day (in accordance with [2020 c. 1, Sch. 5 para. 1\(1\)](#)), see [reg. 1\(3\)\(b\)](#)

27. Save where these Regulations provide otherwise, for “regulatory body”, in each instance where it occurs, substitute “ Office of Rail and Road ”.

Commencement Information

- I2** Reg. 27 in force at 31.12.2020 on IP completion day (in accordance with [2020 c. 1, Sch. 5 para. 1\(1\)](#)), see [reg. 1\(3\)\(b\)](#)

28. In Article 1(a) for “different Member States” substitute “ in the United Kingdom and a Member State ”.

Commencement Information

- I3** Reg. 28 in force at 31.12.2020 on IP completion day (in accordance with [2020 c. 1, Sch. 5 para. 1\(1\)](#)), see [reg. 1\(3\)\(b\)](#)

29. In Article 2 (definitions)—

- (a) in the definition of ‘principal purpose test’ for the first instance of the word “a”, substitute “ the ”;

- (b) in the definition of ‘economic equilibrium test’, for the first instance of the word “a” substitute “ the ” and omit the words from “, only applicable in Member States” to “one or more public service contracts,”;
- (c) after the definition of ‘net financial effect’ insert—
- “(7) ‘2016 GB Regulations’ means the Railways (Access, Management and Licensing of Railway Undertakings) Regulations 2016.
- (8) ‘2016 NI Regulations’ means the Railways Infrastructure (Access, Management and Licensing of Railway Undertakings) Regulations (Northern Ireland) 2016^{M1}”.

Commencement Information

- I4** Reg. 29 in force at 31.12.2020 on IP completion day (in accordance with 2020 c. 1, Sch. 5 para. 1(I)), see reg. 1(3)(b)

Marginal Citations

- M1** S.R. 2016 No. 420, amended by S.R. 2019 No. 15.

- 30.** In Article 3 (notification of a planned new international rail passenger service)—
- (a) in paragraph 1, for “regulatory bodies concerned” substitute “ Office of Road and Rail ”;
- (b) in the opening words of paragraph 2 for “Regulatory Bodies”, substitute “ The Office of Rail and Road ” and for “their” substitute “ its ”;
- (c) in paragraph 2, at point (g) for “different” substitute “ the United Kingdom and one or more ”;
- (d) in paragraph 5, for “in national law” substitute “ under any enactment or rule of law ”.

Commencement Information

- I5** Reg. 30 in force at 31.12.2020 on IP completion day (in accordance with 2020 c. 1, Sch. 5 para. 1(I)), see reg. 1(3)(b)

- 31.** In Article 4 (time frame to request a principal purpose test or an economic equilibrium test), in paragraph 2, for “different” substitute “ the United Kingdom and one or more ”.

Commencement Information

- I6** Reg. 31 in force at 31.12.2020 on IP completion day (in accordance with 2020 c. 1, Sch. 5 para. 1(I)), see reg. 1(3)(b)

- 32.** In Article 6 (information to be provided in the request for a principal purpose test)—
- (a) in paragraph 1, at point (d), for “different” substitute “ the United Kingdom and one or more ”;
- (b) in paragraph 3, for “Regulatory bodies” substitute “ The Office of Road and Rail ” and for “their websites” substitute “ its website ”.

Commencement Information

- I7** Reg. 32 in force at 31.12.2020 on IP completion day (in accordance with 2020 c. 1, **Sch. 5 para. 1(1)**), see **reg. 1(3)(b)**

33. In Article 7 (procedure for the principal purpose test), in paragraph 2, for “Article 56(8) of Directive 2012/34/EU” substitute “ section 80 of the Railways Act 1993 ^{M2}, as modified by regulation 36(1) of the 2016 GB Regulations or, as the case may be, regulation 36(1) of the 2016 NI Regulations ”.

Commencement Information

- I8** Reg. 33 in force at 31.12.2020 on IP completion day (in accordance with 2020 c. 1, **Sch. 5 para. 1(1)**), see **reg. 1(3)(b)**

Marginal Citations

- M2** 1993 c. 43. Section 80 is amended by the **Transport Act 2000 (c. 38), Schedule 27**, paragraphs 17 and 38 and Schedule 31, Part 4; the **Railways Act 2005 (c. 14), Schedule 1**, Part 1, paragraph 33 and Schedule 11, paragraphs 1 and 12; **S.I. 2005/3050, Schedule 1**, Part 1, paragraphs 3(1) and 7 and **S.I. 2015/1682, Schedule**, Part 1, paragraph 1(xx). Section 80 is also modified by regulation 36 of **S.I. 2016/645**.

34. In Article 8 (assessment criteria for the principle purpose test)—

- (a) in paragraph 2, at point (a), for “Member State where the regulatory body is established” substitute “ United Kingdom ”;
- (b) in paragraph 2, at point (b), for “different” substitute “ the United Kingdom and one or more ”.

Commencement Information

- I9** Reg. 34 in force at 31.12.2020 on IP completion day (in accordance with 2020 c. 1, **Sch. 5 para. 1(1)**), see **reg. 1(3)(b)**

35. In Article 9 (result of the principal purpose test)—

- (a) in paragraph 1(a) for “different” substitute “ the United Kingdom and one or more ”;
- (b) in paragraph 1(b) for “Member State where the regulatory body is located” substitute “ United Kingdom ”;
- (c) in paragraph 3, for the final sentence substitute—

“The applicant shall then apply for access to railway infrastructure within the framework and specific capacity allocation rules established under regulation 19(1) and (3) of the 2016 GB Regulations or, as the case may be, regulation 19(1) and (2) of the 2016 NI Regulations for the allocation of capacity for services between stations located within the United Kingdom.”

Commencement Information

I10 Reg. 35 in force at 31.12.2020 on IP completion day (in accordance with [2020 c. 1, Sch. 5 para. 1\(1\)](#)), see [reg. 1\(3\)\(b\)](#)

- 36.** In Article 10 (entities having the right to request an economic equilibrium test)—
- (a) in the opening words, for “a Member State concerned by the proposed new international rail service” substitute “ the United Kingdom ”;
 - (b) in point (b) for “under Article 11 of Directive 2012/34/EU” substitute “ along the route of the passenger service notified under regulation 19(7) of the 2016 GB Regulations or, as the case may be, regulation 19(7) of the 2016 NI Regulations ”.

Commencement Information

I11 Reg. 36 in force at 31.12.2020 on IP completion day (in accordance with [2020 c. 1, Sch. 5 para. 1\(1\)](#)), see [reg. 1\(3\)\(b\)](#)

- 37.** In article 11 (information requirements for the economic equilibrium test)—
- (a) in paragraph 2, at point (d), for “Chapter IV, Section 3 of Directive 2012/34/EU” substitute “ Part 5 of the 2016 GB Regulations or, as the case may be, Part 5 of the 2016 NI Regulations ”;
 - (b) in paragraph 3, for “in national law” substitute “ under any enactment or rule of law ”.

Commencement Information

I12 Reg. 37 in force at 31.12.2020 on IP completion day (in accordance with [2020 c. 1, Sch. 5 para. 1\(1\)](#)), see [reg. 1\(3\)\(b\)](#)

- 38.** In Article 12 (procedure for the economic equilibrium test), paragraph 2, for “Article 56(8) of Directive 2012/34/EU” substitute “ section 80 of the Railways Act 1993, as modified by regulation 36(1) of the 2016 GB Regulations or, as the case may be, regulation 36(1) of the 2016 NI Regulations ”.

Commencement Information

I13 Reg. 38 in force at 31.12.2020 on IP completion day (in accordance with [2020 c. 1, Sch. 5 para. 1\(1\)](#)), see [reg. 1\(3\)\(b\)](#)

- 39.** In Article 15 (result of the economic equilibrium test), in paragraph 1, for “Article 11(1) of Directive 2012/34/EU” substitute “ regulation 33 of the 2016 GB Regulations or, as the case may be, regulation 33 of the 2016 NI Regulations ”.

Commencement Information

I14 Reg. 39 in force at 31.12.2020 on IP completion day (in accordance with 2020 c. 1, **Sch. 5 para. 1(1)**), see reg. 1(3)(b)

40. In Article 16 (reconsideration of a decision resulting from the economic equilibrium test), in paragraph 1, for “Article 11(3) of Directive 2012/34/EU” substitute “ regulation 33(4) of the 2016 GB Regulations or, as the case may be, regulation 33(4) of the 2016 NI Regulations ”.

Commencement Information

I15 Reg. 40 in force at 31.12.2020 on IP completion day (in accordance with 2020 c. 1, **Sch. 5 para. 1(1)**), see reg. 1(3)(b)

41. In Article 17 (cooperation of the regulatory body with other regulatory bodies competent for the proposed new service)—

- (a) in paragraph 1—
 - (i) in the first sentence, for “shall” substitute “ may ”;
 - (ii) omit the second and third sentences;
- (b) in paragraph 2, for “shall” substitute “ may ”;
- (c) in paragraph 3—
 - (i) in the first sentence, for “Regulatory bodies shall” substitute “ The Office of Rail and Road may ”;
 - (ii) in the second sentence, for “They” substitute “ If it does so, it ”^{F1}and for “ their decision ” substitute “its decision”].
- (d) in paragraph 4—
 - (i) in the first sentence for “regulatory bodies,” substitute “the Office of Rail and Road”;
 - (ii) in the second sentence, for “They” substitute “ If the Office of Rail and Road is provided with any information from a regulatory body in a Member State under this Article as it continues to have effect in the EU, it ”.

F1 Words in reg. 41(c)(ii) inserted (31.12.2020 immediately before IP completion day) by *The Railways (Safety, Access, Management and Interoperability) (Miscellaneous Amendments and Transitional Provision) (EU Exit) Regulations 2019 (S.I. 2019/1310)*, regs. 1(2)(c), **5(3)**; 2020 c. 1, **Sch. 5 para. 1(1)**

Commencement Information

I16 Reg. 41 in force at 31.12.2020 on IP completion day (in accordance with 2020 c. 1, **Sch. 5 para. 1(1)**), see reg. 1(3)(b)

42. In Article 19 (methodology)—

- (a) in paragraph 1 for “regulatory bodies” substitute “ Office of Rail and Road ”;
- (b) in paragraph 2 for “regulatory bodies” substitute “ the Office of Rail and Road ”.

Changes to legislation: There are currently no known outstanding effects for the The Railways (Access, Management and Licensing of Railway Undertakings) (Amendments etc.) (EU Exit) Regulations 2019, PART 4. (See end of Document for details)

Commencement Information

I17 Reg. 42 in force at 31.12.2020 on IP completion day (in accordance with [2020 c. 1, Sch. 5 para. 1\(1\)](#)), see [reg. 1\(3\)\(b\)](#)

43. After Article 20 (entry into force), omit the words from “This Regulation” to “Member States.”.

Commencement Information

I18 Reg. 43 in force at 31.12.2020 on IP completion day (in accordance with [2020 c. 1, Sch. 5 para. 1\(1\)](#)), see [reg. 1\(3\)\(b\)](#)

Commission Implementing Regulation (EU) 2015/10 of 6 January 2015 on criteria for applicants for rail infrastructure capacity and repealing Implementing Regulation (EU) No 870/2014

44. Commission Implementing Regulation (EU) 2015/10 of 6 January 2015 on criteria for applicants for rail infrastructure capacity and repealing Implementing Regulation (EU) No 870/2014 is amended as set out in regulations 45 to 48.

Commencement Information

I19 Reg. 44 in force at 31.12.2020 on IP completion day (in accordance with [2020 c. 1, Sch. 5 para. 1\(1\)](#)), see [reg. 1\(3\)\(b\)](#)

45. In Article 2, in the opening words, for “definition applies” substitute “ definitions apply ”, and before the definition of ‘financial guarantee’ insert—

“‘2016 GB Regulations’ means the Railways (Access, Management and Licensing of Railway Undertakings) Regulations 2016.

‘2016 NI Regulations’ means the Railways Infrastructure (Access, Management and Licensing of Railway Undertakings) Regulations (Northern Ireland) 2016.”.

Commencement Information

I20 Reg. 45 in force at 31.12.2020 on IP completion day (in accordance with [2020 c. 1, Sch. 5 para. 1\(1\)](#)), see [reg. 1\(3\)\(b\)](#)

46. In Article 5 (capability to prepare compliant bids for infrastructure capacity)—

- (a) for “, within the meaning of Article 41(2) of Directive 2012/34/EU” substitute “ in accordance with conditions established by the infrastructure manager under regulation 19(17) to (19) of the 2016 GB Regulations or, as the case may be, regulation 19(16) to (18) of the 2016 NI Regulations ”;

- (b) for “referred to in Article 27 of Directive 2012/34/EU and in Annex IV of that Directive” substitute “ as defined in the 2016 GB Regulations or, as the case may be, the 2016 NI Regulations ”;
- (c) for “regulatory body” substitute “ Office of Rail and Road ”.

Commencement Information

I21 Reg. 46 in force at 31.12.2020 on IP completion day (in accordance with 2020 c. 1, **Sch. 5 para. 1(1)**), see [reg. 1\(3\)\(b\)](#)

47. Omit Articles 6 and 7.

Commencement Information

I22 Reg. 47 in force at 31.12.2020 on IP completion day (in accordance with 2020 c. 1, **Sch. 5 para. 1(1)**), see [reg. 1\(3\)\(b\)](#)

48. After Article 8, omit the words from “This Regulation” to “Member States.”.

Commencement Information

I23 Reg. 48 in force at 31.12.2020 on IP completion day (in accordance with 2020 c. 1, **Sch. 5 para. 1(1)**), see [reg. 1\(3\)\(b\)](#)

Commission Implementing Regulation (EU) 2015/909 of 12 June 2015 on the modalities for the calculation of the cost that is directly incurred as a result of operating the train service

49. Commission Implementing Regulation (EU) 2015/909 of 12 June 2015 on the modalities for the calculation of the cost that is directly incurred as a result of operating the train service is amended as set out in Articles 50 to 58.

Commencement Information

I24 Reg. 49 in force at 31.12.2020 on IP completion day (in accordance with 2020 c. 1, **Sch. 5 para. 1(1)**), see [reg. 1\(3\)\(b\)](#)

50. For “regulatory body”, in each instance where it occurs, substitute “ Office of Rail and Road ”.

Commencement Information

I25 Reg. 50 in force at 31.12.2020 on IP completion day (in accordance with 2020 c. 1, **Sch. 5 para. 1(1)**), see [reg. 1\(3\)\(b\)](#)

51. In Article 1 (subject matter and scope), in paragraph 1, for “Article 31(3) of Directive 2012/34/EU” substitute “ paragraph 1(4) of Schedule 3 to the 2016 GB Regulations or, as the case may be, paragraph 1(4) of Schedule 2 to the 2016 NI Regulations ”.

Commencement Information

I26 Reg. 51 in force at 31.12.2020 on IP completion day (in accordance with [2020 c. 1, Sch. 5 para. 1\(1\)](#)), see [reg. 1\(3\)\(b\)](#)

52. In Article 2 (definitions), after the definition of ‘cost centre’ insert—

“(4) ‘2016 GB Regulations’ means the Railways (Access, Management and Licensing of Railway Undertakings) Regulations 2016.

(5) ‘2016 NI Regulations’ means the Railways Infrastructure (Access, Management and Licensing of Railway Undertakings) Regulations (Northern Ireland) 2016.”

Commencement Information

I27 Reg. 52 in force at 31.12.2020 on IP completion day (in accordance with [2020 c. 1, Sch. 5 para. 1\(1\)](#)), see [reg. 1\(3\)\(b\)](#)

53. In Article 3, omit paragraph 2.

Commencement Information

I28 Reg. 53 in force at 31.12.2020 on IP completion day (in accordance with [2020 c. 1, Sch. 5 para. 1\(1\)](#)), see [reg. 1\(3\)\(b\)](#)

54. In Article 4 (non-eligible costs)—

(a) in paragraph 1, at point (j), for “Article 35 of Directive 2012/34/EU” substitute “ regulation 16 of, and paragraph 7 of Schedule 3 to, the 2016 GB Regulations or, as the case may be, regulation 16 of, and paragraph 7 of Schedule 2 to, the 2016 NI Regulations ”;

(b) in paragraph 1, at point (l), for “item 1(f)” of Annex II to Directive 2012/34/EU” substitute “ paragraph 1(b)(iv) of Schedule 2 to the 2016 GB Regulations or, as the case may be, paragraph 1(b)(iv) of Schedule 1 to the 2016 NI Regulations ”;

(c) in paragraph 1, omit point (m);

(d) in paragraph 2, for “Article 32 of Directive 2012/34/EU” substitute “ paragraphs 2 to 5 of Schedule 3 to the 2016 GB Regulations or, as the case may be, paragraphs 2 to 5 of Schedule 2 to the 2016 NI Regulations ”.

Commencement Information

I29 Reg. 54 in force at 31.12.2020 on IP completion day (in accordance with [2020 c. 1, Sch. 5 para. 1\(1\)](#)), see [reg. 1\(3\)\(b\)](#)

55. In Article 5 (calculation and modulation of direct unit costs)—

- (a) in paragraph 1, in the second paragraph, omit “referred to in Article 55 of Directive 2012/34/EU”;
- (b) in paragraph 2, for the opening words, substitute “ The parameters referred to in paragraph 1 are: ”;
- (c) in paragraph 4, for “Article 46 of Directive 2012/34/EU” substitute “ regulation 23 of the 2016 GB Regulations or, as the case may be, regulation 23 of the 2016 NI Regulations ”.

Commencement Information

I30 Reg. 55 in force at 31.12.2020 on IP completion day (in accordance with 2020 c. 1, **Sch. 5 para. 1(1)**), see [reg. 1\(3\)\(b\)](#)

56. In Article 7 (simplified control)—

- (a) in paragraph 1, for “Article 56(2) of Directive 2012/34/EU” substitute “ regulation 34(1) and (2) of the 2016 GB Regulations or, as the case may be, regulation 34(1) and (2) of the 2016 NI Regulations ”;
- (b) in paragraph 3, for “Articles 31 or 56 of Directive 2012/34/EU” substitute “ regulation 34(1) and (2) of the 2016 GB Regulations or, as the case may be, regulation 34(1) and (2) of the 2016 NI Regulations ”.

Commencement Information

I31 Reg. 56 in force at 31.12.2020 on IP completion day (in accordance with 2020 c. 1, **Sch. 5 para. 1(1)**), see [reg. 1\(3\)\(b\)](#)

57. Omit Article 9.

Commencement Information

I32 Reg. 57 in force at 31.12.2020 on IP completion day (in accordance with 2020 c. 1, **Sch. 5 para. 1(1)**), see [reg. 1\(3\)\(b\)](#)

58. After Article 10 omit the words from “This Regulation” to “Member States.”.

Commencement Information

I33 Reg. 58 in force at 31.12.2020 on IP completion day (in accordance with 2020 c. 1, **Sch. 5 para. 1(1)**), see [reg. 1\(3\)\(b\)](#)

Commission Implementing Regulation (EU) 2016/545 of 7 April 2016 on procedures and criteria concerning framework agreements for the allocation of rail infrastructure capacity

59. Commission Implementing Regulation (EU) 2016/545 of 7 April 2016 on procedures and criteria concerning framework agreements for the allocation of rail infrastructure capacity is amended as set out in regulations 60 to 73.

Commencement Information

I34 Reg. 59 in force at 31.12.2020 on IP completion day (in accordance with 2020 c. 1, Sch. 5 para. 1(1)), see reg. 1(3)(b)

60. For “regulatory body”, in each instance where it is used, substitute “ Office of Rail and Road ”.

Commencement Information

I35 Reg. 60 in force at 31.12.2020 on IP completion day (in accordance with 2020 c. 1, Sch. 5 para. 1(1)), see reg. 1(3)(b)

61. In Article 2 (definitions)—

- (a) for “Article 3 of Directive 2012/34/EU” substitute “ regulation 3 of the 2016 GB Regulations or, as the case may be, regulation 2 of the 2016 NI Regulations ”;
- (b) after the definition of ‘control period’ insert—
 - “(5) ‘2016 GB Regulations’ means the Railways (Access, Management and Licensing of Railway Undertakings) Regulations 2016.
 - (6) ‘2016 NI Regulations’ means the Railways Infrastructure (Access, Management and Licensing of Railway Undertakings) Regulations (Northern Ireland) 2016.”.

Commencement Information

I36 Reg. 61 in force at 31.12.2020 on IP completion day (in accordance with 2020 c. 1, Sch. 5 para. 1(1)), see reg. 1(3)(b)

62. In Article 3 (framework capacity statements), in paragraph 3—

- (a) for “Article 42(7) of Directive 2012/34/EU” substitute “ regulation 21(13) of the 2016 GB Regulations or, as the case, may be regulation 21(11) of the 2016 NI Regulations ”;
- (b) for the second sentence substitute “ Regulation 13(8) and (10) of the 2016 GB Regulations or, as the case may be, regulation 13(8) and (10) of the 2016 NI Regulations shall also apply to the framework capacity statement. ”.

Commencement Information

I37 Reg. 62 in force at 31.12.2020 on IP completion day (in accordance with 2020 c. 1, Sch. 5 para. 1(1)), see reg. 1(3)(b)

63. In Article 4 (alignment of network statements), omit the words from “and publish” to the end.

Commencement Information

I38 Reg. 63 in force at 31.12.2020 on IP completion day (in accordance with [2020 c. 1, Sch. 5 para. 1\(1\)](#)), see [reg. 1\(3\)\(b\)](#)

64. In Article 5 (allocation of framework capacity), in paragraph 5, for “Article 47(1) of Directive 2012/34/EU” substitute “ regulation 26(1) and (2) of the 2016 GB Regulations or, as the case may be, regulation 26(1) and (2) of the 2016 NI Regulations ”.

Commencement Information

I39 Reg. 64 in force at 31.12.2020 on IP completion day (in accordance with [2020 c. 1, Sch. 5 para. 1\(1\)](#)), see [reg. 1\(3\)\(b\)](#)

65. In Article 6 (conclusion of framework agreements), in paragraph 1, at point (j), for “Article 47 of Directive 2012/34/EU” substitute “ regulation 26(5) and (6) of the 2016 GB Regulations or, as the case may be, regulation 26(5) and (6) of the 2016 NI Regulations. ”.

Commencement Information

I40 Reg. 65 in force at 31.12.2020 on IP completion day (in accordance with [2020 c. 1, Sch. 5 para. 1\(1\)](#)), see [reg. 1\(3\)\(b\)](#)

66. In Article 8 (ceilings for the allocation of framework capacity), omit paragraph 3.

Commencement Information

I41 Reg. 66 in force at 31.12.2020 on IP completion day (in accordance with [2020 c. 1, Sch. 5 para. 1\(1\)](#)), see [reg. 1\(3\)\(b\)](#)

67. In Article 9 (coordination in case of conflicting requests for framework agreements for any time after the end of the next timetable period)—

- (a) in paragraph 1, for “Article 46(3) and (4) of Directive 2012/34/EU” substitute “ regulations 13(4)(h)(v) and 23(4), (5) and (6) of the 2016 GB Regulations or, as the case may be, regulations 13(4)(j)(iv) and 23(4), (5) and (6) of the 2016 NI Regulations ”;
- (b) in paragraph 7, for “Article 47 of Directive 2012/34/EU” substitute “ regulation 26 of the 2016 GB Regulations or, as the case may be, regulation 26 of the 2016 NI Regulations ”.

Commencement Information

I42 Reg. 67 in force at 31.12.2020 on IP completion day (in accordance with [2020 c. 1, Sch. 5 para. 1\(1\)](#)), see [reg. 1\(3\)\(b\)](#)

68. In Article 10 (coordination of conflicting requests for train paths under framework agreements during scheduling procedure)—

(a) in paragraph 1—

(i) for “Article 45 of Directive 2012/34/EU” substitute “ [F²regulation 23(1) to (3), (9) and (10) of the 2016 GB Regulations] or, as the case may be, regulation 23(1) to (3), (9) and (10) of the 2016 NI Regulations ”;

(ii) for “Article 46 of Directive 2012/34/EU” substitute “ regulation 23(4) to (10) of the 2016 GB Regulations or, as the case may be, regulation 23(4) to (10) of the 2016 NI Regulations ”;

(b) in paragraph 2, at point (c)—

(i) for “as referred to in Article 39 of Directive 2012/34/EU” substitute “ set out in regulation 19(1), (3) and (16)(a) and (c) of the 2016 GB Regulations or, as the case may be, regulation 19(1), (2) and (12)(a) and (c) of the 2016 NI Regulations ”;

(ii) for “Articles 47 and 49 of Directive 2012/34/EU” substitute “ regulations 25 and 26 of the 2016 GB Regulations or, as the case may be, regulations 25 and 26 of the 2016 NI Regulations ”;

(c) in paragraph 2, in the final sentence—

(i) for “Member States” substitute “ The Office of Rail and Road or, in the case of a rail link facility (as defined in the 2016 GB Regulations), the Secretary of State ”;

(ii) for “Article 39 of Directive 2012/34/EU” substitute “ regulation 19(1) of the 2016 GB Regulations or, as the case may be, regulation 19(1) of the 2016 NI Regulations. ”;

(d) in paragraph 5—

(i) for “as referred to in Article 39 of Directive 2012/34/EU”, each time it occurs, substitute “ set out in regulation 19(1) and (3) of the 2016 GB Regulations or, as the case may be, regulation 19(1) and (2) of the 2016 NI Regulations ”;

(ii) for “Articles 47 and 49 of Directive 2012/34/EU”, each time it occurs, substitute “ regulations 25 and 26 of the 2016 GB Regulations or, as the case may be, regulations 25 and 26 of the 2016 NI Regulations ”.

F2 Words in reg. 68(a)(i) substituted (31.12.2020 immediately before IP completion day) by [The Railways \(Safety, Access, Management and Interoperability\) \(Miscellaneous Amendments and Transitional Provision\) \(EU Exit\) Regulations 2019 \(S.I. 2019/1310\)](#), regs. 1(2)(c), **5(4)**; 2020 c. 1, Sch. 5 para. 1(1)

Commencement Information

I43 Reg. 68 in force at 31.12.2020 on IP completion day (in accordance with [2020 c. 1, Sch. 5 para. 1\(1\)](#)), see [reg. 1\(3\)\(b\)](#)

69. In Article 11 (adjustment of framework capacity in the framework agreement)—

(a) in paragraph 2, for “Article 44(3) of Directive 2012/34/EU” substitute “ regulation 21(2) of the 2016 GB Regulations or, as the case may be, regulation 21(2) of the 2016 NI Regulations ”;

(b) in paragraph 3, in the fourth subparagraph, for “referred to in Article 48(1) of Directive 2012/34/EU” substitute “ set out in regulation 24 of the 2016 GB Regulations or, as the case may be, regulation 24 of the 2016 NI Regulations ”.

Commencement Information

I44 Reg. 69 in force at 31.12.2020 on IP completion day (in accordance with 2020 c. 1, **Sch. 5 para. 1(1)**), see reg. 1(3)(b)

70. In Article 12 —

- (a) in paragraph 1 omit the words “of the rail system within the Union”;
- (b) in paragraph 3, for “Article 40 of Directive 2012/34/EU” substitute “ regulation 20 of the 2016 GB regulations or, as the case may be, regulation 20 of the 2016 NI Regulations ”.

Commencement Information

I45 Reg. 70 in force at 31.12.2020 on IP completion day (in accordance with 2020 c. 1, **Sch. 5 para. 1(1)**), see reg. 1(3)(b)

71. In Article 13 (penalties), in paragraph 1, for “Article 42(4) of Directive 2012/34/EU” substitute “ regulation 21(6) of the 2016 GB Regulations or, as the case may be, regulation 21(6) of the 2016 NI Regulations ”.

Commencement Information

I46 Reg. 71 in force at 31.12.2020 on IP completion day (in accordance with 2020 c. 1, **Sch. 5 para. 1(1)**), see reg. 1(3)(b)

72. Omit Articles 14 and 15.

Commencement Information

I47 Reg. 72 in force at 31.12.2020 on IP completion day (in accordance with 2020 c. 1, **Sch. 5 para. 1(1)**), see reg. 1(3)(b)

73. After Article 16, omit the words from “This Regulation” to “Member States.”.

Commencement Information

I48 Reg. 73 in force at 31.12.2020 on IP completion day (in accordance with 2020 c. 1, **Sch. 5 para. 1(1)**), see reg. 1(3)(b)

Commission Implementing Regulation (EU) 2018/1795 of 20 November 2018 laying down procedure and criteria for the application of the economic equilibrium test pursuant to Article 11 of Directive 2012/34/EU of the European Parliament and of the Council

74. Commission Implementing Regulation (EU) 2018/1795 of 20 November 2018 laying down procedure and criteria for the application of the economic equilibrium test pursuant to Article 11

of Directive 2012/34/EU of the European Parliament and of the Council is amended as set out in regulations 75 to 87.

Commencement Information

I49 Reg. 74 in force at 31.12.2020 on IP completion day (in accordance with 2020 c. 1, **Sch. 5 para. 1(1)**), see reg. 1(3)(b)

75. Save where these Regulations provide otherwise, for “regulatory body”, in each instance where it occurs, substitute “ Office of Rail and Road ”.

Commencement Information

I50 Reg. 75 in force at 31.12.2020 on IP completion day (in accordance with 2020 c. 1, **Sch. 5 para. 1(1)**), see reg. 1(3)(b)

76. Omit Article 2 (scope).

Commencement Information

I51 Reg. 76 in force at 31.12.2020 on IP completion day (in accordance with 2020 c. 1, **Sch. 5 para. 1(1)**), see reg. 1(3)(b)

77. In Article 3 (definitions)—

(a) in the definition of “economic equilibrium test”—

- (i) for “Article 11(1) to (4) and Article 11a of Directive 2012/34/EU” substitute “ regulations 5(6) and 33 of the 2016 GB Regulations or, as the case may be, regulations 4(7) and 33 of the 2016 NI Regulations, ”;
- (ii) for “a regulatory body” substitute “ the Office of Rail and Road ”;
- (iii) for “Article 11(2) of Directive 2012/34/EU” substitute “ regulation 33(4) of the 2016 GB Regulations or, as the case may be, regulation 33(4) of the 2016 NI Regulations ”.

(b) after the definition of 'exclusive right' insert—

“2016 GB Regulations’ means the Railways (Access, Management and Licensing of Railway Undertakings) Regulations 2016.

‘2016 NI Regulations’ means the Railways Infrastructure (Access, Management and Licensing of Railway Undertakings) Regulations (Northern Ireland) 2016.”.

Commencement Information

I52 Reg. 77 in force at 31.12.2020 on IP completion day (in accordance with 2020 c. 1, **Sch. 5 para. 1(1)**), see reg. 1(3)(b)

78. In Article 4 (notification of a planned new rail passenger service)—

- (a) in paragraph 1, for “regulatory bodies concerned” substitute “ Office of Road and Rail ” and for “the deadline set in Article 38(4) of Directive 2012/34/EU” substitute “ regulation 19(7) of the 2016 GB Regulations or, as the case may be, regulation 19(14) of the 2016 NI Regulations ”;
- (b) in the opening words of paragraph (2), for “Regulatory Bodies” substitute “ The Office of Rail and Road ” and for “their” substitute “ its ”;
- (c) in paragraph 4, at point (a), omit “within the meaning of Directive 2012/34/EU”;
- (d) in paragraph 4, at point (b), for the words “with the right to” to the end, substitute “ referred to in regulation 19(8)(c) of the 2016 GB Regulations or, as the case may be, regulation 19(15)(c) of the 2016 NI Regulations ”;
- (e) in paragraph 5 for “regulatory bodies and” substitute “ Office of Road and Rail and the ”.

Commencement Information

I53 Reg. 78 in force at 31.12.2020 on IP completion day (in accordance with [2020 c. 1, Sch. 5 para. 1\(1\)](#)), see [reg. 1\(3\)\(b\)](#)

79. In Article 5 (deadline for requesting the economic equilibrium test)—

- (a) for paragraph 1, substitute—

“1. Any request for an economic equilibrium test shall be made to the Office of Rail and Road by the entities referred to in regulation 33(4) of the 2016 GB Regulations or, as the case may be, regulation 33(4) of the 2016 NI Regulations within one month of receipt from the Office of Rail and Road of the information on the intended passenger service referred to in regulation 19(8) of the 2016 GB Regulations or, as the case may be, regulation 19(15) of the 2016 NI Regulations.”;

- (b) in paragraph 2, for “Article 11(2) of Directive 2012/34/EU” substitute “ regulation 33(4) of the 2016 GB Regulations or, as the case may be, regulation 33(4) of the 2016 NI Regulations ”;
- (c) in paragraph 3, for “Section 3 of Chapter IV of Directive 2012/34/EU” substitute “ Part 5 of the 2016 GB Regulations or, as the case may be, Part 5 of the 2016 NI Regulations ”.

Commencement Information

I54 Reg. 79 in force at 31.12.2020 on IP completion day (in accordance with [2020 c. 1, Sch. 5 para. 1\(1\)](#)), see [reg. 1\(3\)\(b\)](#)

80. In Article 7 (information requirements for the economic equilibrium test), in paragraph 2, in the last sentence, for “Section 3 of Chapter IV of Directive 2012/34/EU” substitute “ Part 5 of the 2016 GB Regulations or, as the case may be, Part 5 of the 2016 NI Regulations ”.

Commencement Information

I55 Reg. 80 in force at 31.12.2020 on IP completion day (in accordance with [2020 c. 1, Sch. 5 para. 1\(1\)](#)), see [reg. 1\(3\)\(b\)](#)

81. In Article 8 (confidentiality), in paragraph 4, omit “according to Article 56(10) of Directive 2012/34/EU” and “national”.

Commencement Information

I56 Reg. 81 in force at 31.12.2020 on IP completion day (in accordance with [2020 c. 1, Sch. 5 para. 1\(1\)](#)), see [reg. 1\(3\)\(b\)](#)

[^{F3}**82.** In Article 9 (procedure for the economic equilibrium test), before “point 3 of Annex VII to Directive 2012/34/EU” in each place it occurs, insert “paragraph 3 of Schedule 4 to the 2016 GB Regulations or, in Northern Ireland,]

F3 Reg. 82 substituted (31.12.2020 immediately before IP completion day) by [The Railways \(Safety, Access, Management and Interoperability\) \(Miscellaneous Amendments and Transitional Provision\) \(EU Exit\) Regulations 2019 \(S.I. 2019/1310\)](#), regs. [1\(2\)\(c\)](#), [5\(5\)](#); [2020 c. 1, Sch. 5 para. 1\(1\)](#)

Commencement Information

I57 Reg. 82 in force at 31.12.2020 on IP completion day (in accordance with [2020 c. 1, Sch. 5 para. 1\(1\)](#)), see [reg. 1\(3\)\(b\)](#)

83. In Article 10 (contents of the economic equilibrium test and assessment criteria), paragraph 7, for “the second subparagraph of Article 56(12) of Directive 2012/34/EU” substitute “regulation 35(4) of the 2016 GB Regulations or, as the case may be, regulation 35(4) of the 2016 NI Regulations”.

Commencement Information

I58 Reg. 83 in force at 31.12.2020 on IP completion day (in accordance with [2020 c. 1, Sch. 5 para. 1\(1\)](#)), see [reg. 1\(3\)\(b\)](#)

84. In Article 11 (result of economic equilibrium test)—

- (a) in paragraph 1, for “Article 11(2) of Directive 2012/34/EU” substitute “regulation 5(6) and regulation 33 of the 2016 GB Regulations or, as the case may be, regulation 4(7) and regulation 33 of the 2016 NI Regulations”;
- (b) in paragraph 2, at point (a), for “Article 10(2) of Directive 2012/34/EU” substitute “regulation 5(1) to (4) of the 2016 GB Regulations or, as the case may be, regulation 4(1) to (5) of the 2016 NI Regulations”;
- (c) in paragraph 3—
 - (i) for “new service as defined by Article 3(36) of Directive 2012/34/EU” substitute “new high speed passenger service, being a passenger rail service operated without intermediate stops between two places separated by a distance of at least 200km on specially-built high-speed lines equipped for speeds generally equal to or greater than 250km/h and running on average at those speeds”;

- (ii) for “Article 11(a) of Directive 2012/34/EU” substitute regulation 5(6) and regulation 33 of the 2016 GB Regulations or, as the case may be, regulation 4(7) and regulation 33 of the 2016 NI Regulations”;
- (d) in paragraph 5, for “listed in Article 11(3) of Directive 2012/34/EU” substitute “referred to in regulation 33(6)(d) of the 2016 GB Regulations or, as the case may, be regulation 33(6)(d) of the 2016 NI Regulations, ”.

Commencement Information

I59 Reg. 84 in force at 31.12.2020 on IP completion day (in accordance with [2020 c. 1, Sch. 5 para. 1\(1\)](#)), see [reg. 1\(3\)\(b\)](#)

85. For Article 12 (cooperation between regulatory bodies competent for a proposed new international service) substitute—

“**1.** The Office of Rail and Road may, subject to receiving appropriate undertakings as regards confidentiality, provide other regulatory bodies with information in relation to an economic equilibrium test it is carrying out or has carried out in relation to a new international passenger service and in reaching its decision in relation to an economic equilibrium test may take account of information received from any other regulatory bodies.

2. In this Article “other regulatory bodies” means regulatory bodies established in member States in accordance with article 55 of Directive 2012/34/EU of the European Parliament and of the Council of 21 November 2012 establishing a single European railway area that have competence for any part of the route of the proposed international passenger service referred to in paragraph 1.”

Commencement Information

I60 Reg. 85 in force at 31.12.2020 on IP completion day (in accordance with [2020 c. 1, Sch. 5 para. 1\(1\)](#)), see [reg. 1\(3\)\(b\)](#)

86. In Article 14 (methodology), omit paragraph 2.

Commencement Information

I61 Reg. 86 in force at 31.12.2020 on IP completion day (in accordance with [2020 c. 1, Sch. 5 para. 1\(1\)](#)), see [reg. 1\(3\)\(b\)](#)

87. After Article 16, omit the words from “This Regulation” to “Member States.”.

Commencement Information

I62 Reg. 87 in force at 31.12.2020 on IP completion day (in accordance with [2020 c. 1, Sch. 5 para. 1\(1\)](#)), see [reg. 1\(3\)\(b\)](#)

Changes to legislation:

There are currently no known outstanding effects for the The Railways (Access, Management and Licensing of Railway Undertakings) (Amendments etc.) (EU Exit) Regulations 2019, PART 4.