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STATUTORY INSTRUMENTS

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**2006 No. 397**

**TRANSPORT**

**RAILWAYS**

**The Railways (Interoperability) Regulations 2006**

*Made - - - - 16th February 2006*

*Laid before Parliament 23rd February 2006*

*Coming into force in accordance with regulation 1*

The Secretary of State for Transport makes the following Regulations in exercise of the powers conferred by section 2(2) of the European Communities Act 1972<sup>(1)</sup> and section 247 of the Transport Act 2000<sup>(2)</sup>.

The Secretary of State for Transport is a Minister designated<sup>(3)</sup> for the purposes of section 2(2) of the European Communities Act 1972 in relation to measures relating to the railways and railway transport.

PROSPECTIVE

**PART 1**

*Interpretation and Application*

**Citation and commencement**

1.—(1) These Regulations may be cited as the Railways (Interoperability) Regulations 2006.

(2) Regulations 1, 2, 3, 6, 14, 24 and 25 and Schedules 1 to 6, 10 and 11 shall come into force on 20th March 2006.

(3) The Regulations otherwise shall come into force on 2nd April 2006.

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(1) 1972 c. 68.  
(2) 2000 c. 38.  
(3) S.I.1996/266.

*Status: This version of this Instrument contains provisions that are prospective.*

*Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to The Railways (Interoperability) Regulations 2006. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

## Commencement Information

**II** Reg. 1 in force at 20.3.2006, see [reg. 1\(2\)](#)

## Interpretation

**2.—(1)** In these Regulations—

“Conventional Directive” means Directive [2001/16/EC](#) of the European Parliament and of the Council of 19th March 2001 on the interoperability of the trans-European conventional rail system<sup>(4)</sup>; and

“High-Speed Directive” means Council Directive [96/48/EC](#) of 23rd July 1996 on the interoperability of the trans-European high-speed rail system<sup>(5)</sup>;

(2) Annexes I to III to the High-Speed Directive and to the Conventional Directive are reproduced, and Annexes IV and V are substantially reproduced, in Schedules to these Regulations as set out in the table.

### Annexes to the High-Speed Directive and the Conventional Directive

<i>Annex</i>	<i>Schedule</i>
The Trans-European High-Speed Rail System (Annex I: High-Speed Directive)	1
The Trans-European Conventional Rail System (Annex I: Conventional Directive)	2
Subsystems of the Trans-European High-Speed Rail System (Annex II: High-Speed Directive)	3
Subsystems of the Trans-European Conventional Rail System (Annex II: Conventional Directive)	4
Essential Requirements for the Trans-European High-Speed Rail System (Annex III: High-Speed Directive)	5
Essential Requirements for the Trans-European Conventional Rail System (Annex III: Conventional Directive)	6
Conformity and Suitability for Use of Interoperability Constituents (Annex IV High-Speed Directive and Annex IV Conventional Directive)	7
Declaration of Verification of Subsystems (Annex V High-Speed Directive and Annex V Conventional Directive)	8

(4) O.J. No. L 110, 20.4.2001, p.1 as amended by Directive [2004/50/EC](#) of the European Parliament and the Council of 29th April 2004 (O.J. No. L 164, 30.4.04, p. 114).

(5) O.J. No. L 235 17.9.97, p. 6, corrected by O.J. No. L 262, 16.10.96, p. 8, and as amended by Directive [2004/50/EC](#) of the European Parliament and the Council of 29th April 2004 (O.J. No. L 164, 30.4.04, p. 114).

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<i>Annex</i>	<i>Schedule</i>
Verification Procedure for Subsystems (Annex VI High-Speed Directive and Annex VI Conventional Directive)	9
Minimum Criteria which must be taken into account by the Member States when Notifying Bodies (Annex VII High-Speed Directive and Annex VII Conventional Directive)	10

(3) In these Regulations, unless the context otherwise requires—

“the 1974 Act” means the Health and Safety at Work etc. Act 1974<sup>(6)</sup>;

“Article 21 Committee” means the Committee set up pursuant to article 21 of the High-Speed Directive;

“basic parameters” means any regulatory, technical or operational condition which is critical to interoperability and requires a decision or recommendation in accordance with the procedure laid down in article 21(2) of the High-Speed Directive and article 21(2) of the Conventional Directive;

“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 9 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<sup>(7)</sup> 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;

“Competent Authority” means—

(a) in Great Britain, the Secretary of State, except in relation to the Channel Tunnel system, where it means the Intergovernmental Commission; and

(b) in Northern Ireland, the DRDNI;

“conformity or suitability for use assessment procedures” means the procedures specified in regulation 18;

“contracting entity” means the person in relation to a project who—

(a) designs or manufactures or intends to design or manufacture the project on his own account; or

(b) contracts or intends to contract with another person for that other person to design or manufacture the project;

and includes an authorised representative established in the Community appointed by the contracting entity to act on his behalf;

<sup>(6)</sup> 1974 c. 37.

<sup>(7)</sup> 1987 c. 53.

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“conventional rolling stock” means rolling stock which is or forms part of the rolling stock subsystem of the conventional TEN rail system;

“conventional TEN rail system” means that part of the trans-European conventional rail system located within the territory of the United Kingdom;

“DRDNI” means the Department for Regional Development established by article 3(1) of the Departments (Northern Ireland) Order 1999<sup>(8)</sup>;

“EC declaration of conformity or suitability for use” has the meaning given in regulation 16 for an EC declaration of conformity or an EC declaration of suitability for use, as the case may be;

“essential requirements”, except in the definition of European technical approval, means all the conditions that must be met by the subsystems and interoperability constituents, including interfaces—

(a) in relation to the high-speed rail system as set out in Schedule 5; and

(b) in relation to the conventional TEN rail system as set out in Schedule 6;

“European Railway Agency” means the agency for railway safety and interoperability established by Regulation (EC) No. 881/2004 of the European Parliament and the Council of 29th April 2004 establishing a European Railway Agency<sup>(9)</sup>;

“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;

“functional subsystem” means—

(a) in relation to the trans-European high-speed rail system, an operational subsystem as specified in paragraph 1(b) of Schedule 3; and

(b) in relation to the trans-European conventional rail system, an operational subsystem as specified in paragraph 1(b) of Schedule 4;

“functional TSI” means a TSI applying to a functional subsystem;

“high-speed rail system” means that part of the trans-European high-speed rail system located within the territory of the United Kingdom and identified by reference to the lines specified in Schedule 11;

“high-speed rolling stock” means rolling stock which is or forms part of the rolling stock subsystem of the high-speed rail system;

“ID code” means a unique alphanumeric identification code assigned to a rolling stock vehicle by the registration body;

<sup>(8)</sup> S.I. 1999/ 283 (N.I. 1).

<sup>(9)</sup> O.J. No. L 164 of 30.04.04, p. 1.

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“Intergovernmental Commission” has the same meaning as in the Channel Tunnel Act 1987<sup>(10)</sup>;

“interoperability” has the meaning given in article 2 of the High-Speed Directive and article 2 of the Conventional Directive;

“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 subsystem upon which the interoperability of the trans-European high-speed rail system or trans-European conventional rail system of which the subsystem is a part depends and that has been specified by a TSI as being an interoperability constituent;

“notified body” has the meaning given in regulation 24;

“notified national technical rules” means the standards, technical specifications and technical rules in use in the United Kingdom which have been notified to the Commission pursuant to article 16(3) of the High-Speed Directive or article 16(3) of the Conventional Directive;

“operator”, in relation to the use of an interoperability constituent or project subsystem, means the infrastructure manager or railway undertaking having the management of that interoperability constituent or project 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;

“placed in service” has the meaning given in regulation 4(10); and cognate expressions shall be construed accordingly;

“placed 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 or the trans-European conventional rail system, as the case may be; and cognate expressions shall be construed accordingly;

“project” means a discrete scheme for the construction or upgrading or renewal of—

- (a) high-speed rolling stock or conventional rolling stock; or
- (b) the whole or part of any other subsystem of the high-speed rail system or the conventional TEN rail system,

and where it is intended to carry out that construction, upgrading or renewal in parts, each of which are to be placed in service on a permanent basis independently of the other parts, it means any such part;

“project subsystem” means a structural subsystem which is subject to the requirement for authorisation under regulation 4(1)(a);

“registration body” means the person designated under regulation 33(12);

“renewal” means any major substitution work on a structural subsystem or part of a structural subsystem which does not improve the overall performance of the subsystem, and cognate expressions shall be construed accordingly;

“rolling stock” means a vehicle falling within the definition of rolling stock in section 83(1) of the Railways Act 1993<sup>(11)</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;

“Safety Authority” means the Office of Rail Regulation<sup>(12)</sup> except—

- (a) in relation to Northern Ireland, where it means the DRDNI; and

<sup>(10)</sup> 1987 c. 53.

<sup>(11)</sup> 1993 c. 43.

<sup>(12)</sup> Established under section 15 of the Railways and Transport Safety Act 2003 (c. 20).

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(b) in relation to the Channel Tunnel system, where it means the Intergovernmental Commission;

“structural subsystem” means—

(a) high-speed rolling stock or conventional rolling stock, as the case may be; and

(b) the whole or, a part, of—

(i) an infrastructure subsystem;

(ii) an energy subsystem;

(iii) a control and command and signalling subsystem; and

(iv) a traffic operation and management subsystem;

“subsystem” means the whole, or, as the context requires, part of—

(a) a subdivision of the trans-European high-speed rail system as specified in paragraphs 1(a) and 1(b) of Schedule 3, namely structural subsystems and functional subsystems, which forms or is intended to form part of the high-speed rail system; and the reference in Schedule 3 to operational area subsystems shall be construed as a reference to functional subsystems;

(b) a subdivision of the trans-European conventional rail system as specified in paragraphs 1(a) and 1(b) of Schedule 4, namely structural subsystems and functional subsystems, which forms or is intended to form part of the conventional TEN rail system; and the reference in Schedule 4 to operational area subsystems shall be construed as a reference to functional subsystems;

“technical file” means a file relating to a structural subsystem which contains the matters required by regulation 11(1), and any reference in the Schedules to the “technical record” shall be construed as a reference to the technical file;

“trans-European conventional rail system” means the infrastructure and conventional rolling stock described in Schedule 2;

“trans-European high-speed rail system” means the 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 or article 6(1) of the Conventional Directive, and in force;

“upgrading” means any major modification work on a structural subsystem or part of a structural subsystem which improves the overall performance of the subsystem, and cognate expressions shall be construed accordingly;

“verification assessment procedure” means the procedures specified in regulation 9(1), and the reference in Schedule 9 to “verification procedure” shall be construed as a reference to the verification assessment procedure;

“verification declaration” means an EC declaration of verification in relation to a structural subsystem drawn up by a contracting entity pursuant to regulation 8(3);

“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.

(4) 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.

(5) For the purposes of paragraph (4)—

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- (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>(13)</sup>.

#### Commencement Information

**I2** Reg. 2 in force at 20.3.2006, see [reg. 1\(2\)](#)

#### Application

**3.—(1)** Subject to paragraph (2), these Regulations apply to the high-speed rail system, the conventional TEN rail system, their subsystems and to interoperability constituents.

(2) These Regulations shall not apply to—

- (a) a structural subsystem placed in service on the conventional TEN rail system;
- (b) an interoperability constituent placed on the market with a view to its use on the conventional TEN rail system; or
- (c) a structural subsystem renewed and placed in service on the high-speed rail system,

before 1st August 2006.

(3) Notwithstanding paragraph (2), the placing in service of a structural subsystem before 1st August 2006 shall not affect the application of these Regulations to that subsystem for any upgrading or renewal where that subsystem is placed in service on or after 1st August 2006.

#### Commencement Information

**I3** Reg. 3 in force at 20.3.2006, see [reg. 1\(2\)](#)

## PART 2

### *Subsystems*

#### Requirement for authorisation

**4.—(1)** No person shall place in service on the high-speed rail system or the conventional TEN rail system any structural subsystem which has been constructed, upgraded or renewed as a project unless, for the particular rail system—

- (a) the Safety Authority has given an authorisation for the placing in service of that subsystem; or
- (b) the Competent Authority has decided under regulation 5 that for the upgrading or renewal of the subsystem, an authorisation is not required for the subsystem to be placed in service.

<sup>(13)</sup> Cmnd. 2972 and 2183. The application of the High-Speed Directive was extended to the EEA from 1st 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 application of the Conventional Directive was similarly extended to the EEA from 2nd March 2002 by virtue of Decision No. 16/2002 of the EEA Joint Committee (O.J. No. L110, 25.4.2002, p.11) which inserted a reference to the Conventional Directive after point 37c in Annex XIII to the EEA Agreement.

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(2) An application for an authorisation under paragraph (1)(a) shall be made in writing to the Safety Authority and be accompanied by—

- (a) the complete technical file, including the certificate of conformity; and
- (b) the verification declaration.

(3) Subject to paragraph (4), the Safety Authority in considering an application may not require checks carried out under the appropriate verification assessment procedure to be carried out again.

(4) The Safety Authority may require the applicant to carry out any additional checks which the Safety Authority considers necessary in relation to the project subsystem if that subsystem appears to the Safety Authority not to meet the essential requirements in accordance with regulation 7.

(5) Where additional checks are required under paragraph (4) the Safety Authority—

- (a) shall inform the applicant that the application cannot be determined before the additional checks are carried out; and
- (b) shall notify the Commission in writing forthwith of the additional checks it requires and the reasons for requiring those checks.

(6) The Safety Authority shall issue an authorisation for the placing in service of a project subsystem on or as part of the high-speed rail system or conventional TEN rail system, where it is satisfied that—

- (a) the verification declaration has been drawn up in accordance with Schedule 8;
- (b) the project subsystem has been so designed, constructed and installed as to meet the essential requirements in accordance with regulation 7 relating to that subsystem when placed in service on that rail system; and
- (c) the project subsystem is compatible with the particular rail system into which it is being placed in service.

(7) The Safety Authority shall determine an application by—

- (a) authorising the placing in service of the project subsystem; or
- (b) refusing the application for authorisation.

(8) An authorisation issued by the Safety Authority for the placing in service of an item of rolling stock shall be treated, subject to the conditions in paragraph (9), as also being an authorisation for additional rolling stock that the contracting entity constructs or contracts with another person to construct under the same contract or project and where the construction is to the same standards and specifications.

(9) For the purposes of paragraph (8), a contract for the purchase of further items of rolling stock for construction to the same standards and specifications shall be taken to include an option for their purchase but only where the option—

- (a) was agreed at the time the contract was made; and
- (b) it is exercised by the contracting entity—
  - (i) within 24 months from the date of authorisation under paragraph (7); or
  - (ii) within 5 years of the date the contract was made,whichever is the earliest.

(10) A structural subsystem is placed in service in relation to the high-speed rail system or the conventional TEN rail system when, having been constructed, upgraded or renewed, it is first used on or as part of that rail system in the transportation of passengers or freight or for the purpose for which it was designed, but does not include any testing or trials conducted in the verification assessment procedure or for additional checks required by the Safety Authority.



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#### Commencement Information

**I4** Reg. 4 in force at 2.4.2006, see [reg. 1\(3\)](#)

#### Renewal or upgrading of subsystems

5.—(1) The contracting entity in relation to a project for the renewal or upgrading of an existing structural subsystem shall apply in writing to the Competent Authority for a decision as to whether an authorisation is required for that subsystem to be placed in service.

(2) An application made under paragraph (1) shall be accompanied by the following information—

- (a) a file setting out details of the project;
- (b) an assessment of whether and how the overall safety level of the subsystem concerned may be adversely affected by the works envisaged;
- (c) identification of any TSI, or parts thereof, for which derogations may or will be sought pursuant to regulation 6;
- (d) an indication of any TSI, or parts thereof, which it is proposed should not apply if the Competent Authority determines that the subsystem requires authorisation.

(3) The Competent Authority may give notice in writing to the applicant requiring the applicant to provide additional information that the Competent Authority considers necessary in order to make a decision.

(4) The applicant shall provide the Competent Authority with such additional information requested under paragraph (3) as he is reasonably able to supply and the applicant shall give a written explanation where he is unable to provide the information requested.

(5) In making a decision as to the requirement for authorisation, factors to be taken into account by the Competent Authority shall include—

- (a) the implementation strategy provided in any relevant TSI; and
- (b) the size of the proposed works.

(6) Except where the Competent Authority and the Safety Authority are the same person, the Competent Authority shall not decide authorisation is not required unless it has consulted the Safety Authority.

(7) If it appears to the Competent Authority that the proposed works may adversely affect the overall safety of the relevant subsystem the Competent Authority shall decide that the subsystem requires authorisation to be placed in service.

(8) Where the Competent Authority determines that the subsystem requires an authorisation and the project subsystem is part of the conventional TEN rail system—

- (a) the Competent Authority shall, subject to any derogations under regulation 6, decide to what extent TSIs shall apply to the project subsystem; and
- (b) the Secretary of State shall notify that decision to the Commission and other Member States.

#### Commencement Information

**I5** Reg. 5 in force at 2.4.2006, see [reg. 1\(3\)](#)

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### Exemption from need to conform with TSIs (derogations)

6.—(1) The Competent Authority may determine that, in the circumstances or cases specified in paragraph (2), the whole or part of a relevant TSI, including those relating to rolling stock, shall not apply in relation to a subsystem or interoperability constituent (“a derogation”).

(2) The circumstances and cases are—

- (a) for a proposed new line, for the renewal or upgrading of an existing line, or any element referred to in article 1(1) of the High-Speed Directive or article 1(1) of the Conventional Directive, which is at an advanced stage of development or is the subject of a contract in the course of performance when the relevant TSI is published;
- (b) for any project concerning the renewal or upgrading of an existing line where the loading gauge, track gauge, space between tracks, or electrification voltage in the relevant TSI is not compatible with those of the existing line;
- (c) for a proposed new line or for the proposed renewal or upgrading of an existing line where the rail network is separated or isolated by the sea from the rail network of the rest of the Community;
- (d) for any proposed renewal, extension or upgrading of an existing line when the application of a relevant TSI would compromise the economic viability of the project or the compatibility of the rail system;
- (e) following an accident or natural disaster, where the conditions for the rapid restoration of the network do not economically or technically allow for partial or total application of a relevant TSI.

(3) The Competent Authority shall not make a derogation from the application of a TSI or part of a TSI unless the Secretary of State has first—

- (a) given notice of any intended derogation to the Commission;
- (b) forwarded a file to the Commission setting out the TSIs or parts of TSIs that are not to be applied; and
- (c) set out the specification that the Competent Authority wishes to apply to the subsystem or interoperability constituent.

(4) Save for matters concerning the loading gauge and the track gauge, a derogation in relation to the circumstances or cases set out in paragraph (2)(b) shall have no effect unless the derogation has been permitted by the Commission before commencement of the physical construction of the project in which the subsystem or interoperability constituent is to be used.

(5) In the circumstances or cases set out in paragraph (2)(d) a derogation shall have no effect unless the derogation has been permitted by the Commission before commencement of the physical construction of the project in which the subsystem or interoperability constituent is to be used.

#### Commencement Information

**I6** Reg. 6 in force at 20.3.2006, see [reg. 1\(2\)](#)

### Essential requirements for project subsystems

7.—(1) For the purposes of regulations 4(4), 4(6), 8(3)(a), 10(1) and 27(2) the essential requirements for a project subsystem shall be met by conformity with—

- (a) all relevant TSIs (if any); and
- (b) where paragraph (2) applies, the requirements of all relevant notified national technical rules (if any).

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(2) This paragraph applies to the project subsystem, (insofar as it is not subject to requirements by a relevant TSI), where—

- (a) there are no relevant TSIs; or
- (b) a relevant TSI does not govern all elements of the project subsystem; or
- (c) a derogation from conformity with the whole or part of a relevant TSI has been granted pursuant to regulation 6 in respect of that subsystem; or
- (d) the Competent Authority has determined under regulation 5(8) that the whole or part of a relevant TSI does not apply to that subsystem.

#### Commencement Information

**I7** Reg. 7 in force at 2.4.2006, see [reg. 1\(3\)](#)

#### Duties on a contracting entity

**8.—**(1) The contracting entity in relation to a project subsystem shall—

- (a) appoint a notified body to act in carrying out the verification assessment procedure; and
- (b) ensure that a notified body (whether that originally appointed or another) continues to be appointed until authorisation under regulation 4 is given or refused.

(2) Subject to regulation 15(2), the appointment of a notified body under paragraph (1) shall be made—

- (a) before completion of the design stage of the project subsystem; or
- (b) before commencement of the manufacture stage of the project subsystem,

whichever is the earlier.

(3) The contracting entity shall draw up a verification declaration in relation to that project subsystem where—

- (a) he is satisfied the essential requirements are met in accordance with regulation 7, (including interfaces with the rail system on which it will be placed in service);
- (b) the appropriate verification assessment procedure has been carried out by a notified body in accordance with regulation 9;
- (c) a certificate of conformity has been drawn up by a notified body in accordance with the procedures required by Schedule 9; and
- (d) a technical file has been prepared containing the information and documents specified in regulation 11(1)(a) to (g).

#### Commencement Information

**I8** Reg. 8 in force at 2.4.2006, see [reg. 1\(3\)](#)

#### Project subsystems: verification assessment procedure

**9.—**(1) Subject to regulation 15(3), the appropriate verification assessment procedure in relation to a project subsystem for the purpose of regulation 8(3)(b), shall be—

- (a) in so far as that subsystem is required to conform with all or part of a TSI, the procedures specified in the TSI or part of the TSI, with which that subsystem is required to conform;

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- (b) in so far as that subsystem is required to conform with notified national technical rules, such procedures as are reasonably appropriate to assess that project subsystem against the notified national technical rules with which it is required to conform; and
  - (c) the procedures set out in Schedule 9.
- (2) The notified body shall—
- (a) compile the technical file; and
  - (b) verify the interface between the project subsystem and the rail system in which it will be placed in service.

#### Commencement Information

**I9** Reg. 9 in force at 2.4.2006, see [reg. 1\(3\)](#)

#### Project subsystems: verification declaration

**10.**—(1) A project subsystem in relation to which a verification declaration has been drawn up shall be taken to meet the essential requirements in accordance with regulation 7 unless there are reasonable grounds for believing that it does not so conform.

(2) Paragraph (1) does not apply in relation to the Safety Authority where a person fails or refuses to make available to the Safety Authority the documentation which he is required to retain by the verification assessment procedure applying to the project subsystem or pursuant to regulation 11, or a copy of that documentation.

#### Commencement Information

**I10** Reg. 10 in force at 2.4.2006, see [reg. 1\(3\)](#)

#### Technical file and retention of documents

**11.**—(1) The technical file shall contain—

- (a) the items required by paragraph 4 of Schedule 9, including the certificate of conformity;
- (b) documents relating to the conditions and limits of use of the project subsystem;
- (c) documents relating to the characteristics of the project subsystem;
- (d) manuals and instructions relating to the servicing, constant or routine monitoring, adjustment, maintenance and configuration controls of the project subsystem;
- (e) documentation or records demonstrating compliance with the notified national technical rules where they are used;
- (f) documentation or records of notifications to the Commission pursuant to regulation 5(8) identifying to what extent TSIs apply to the project subsystem;
- (g) documentation or records of notifications to the Commission in relation to a derogation, pursuant to regulation 6; and
- (h) documents added to the file pursuant to paragraph (3).

(2) From the time a project subsystem authorised under regulation 4 is placed in service until it is permanently withdrawn from service (whether such service is in the United Kingdom or another Member State), the contracting entity shall keep the following documents—

- (a) the technical file, including the certificate of conformity; and

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(b) the verification declaration.

(3) The contracting entity shall ensure that after the technical file has been lodged with it by the notified body—

(a) any alterations made to the project subsystem are documented; and

(b) the documentation and any maintenance manuals in relation to the project subsystem are added to and kept as part of the technical file.

(4) Where the contracting entity is not the owner of the project subsystem when it is authorised under regulation 4, he shall within 60 days of the date of authorisation transfer the documents referred to in paragraph (2) to the owner of that subsystem, and thereafter for the purpose of paragraphs (2) and (3) the owner shall be regarded as the contracting entity.

(5) Where the owner of the project subsystem disposes of his interest in it, he shall within 60 days of the disposal transfer the documents referred to in paragraph (2) to the person acquiring that interest, and thereafter for the purpose of paragraphs (2) and (3) and this paragraph, the person acquiring that interest shall be regarded as the contracting entity.

(6) The contracting entity for the purpose of paragraphs (2) and (3) shall make the technical file available to the Safety Authority on demand.

#### **Commencement Information**

**I11** Reg. 11 in force at 2.4.2006, see [reg. 1\(3\)](#)

#### **Duty on operator to ensure essential requirements are met**

**12.—(1)** This regulation applies where a project subsystem is in use on, or is part of, the high-speed rail system or the conventional TEN rail system pursuant to an authorisation under regulation 4.

(2) The operator of the project subsystem shall ensure that the project subsystem, notwithstanding any alterations, is operated and maintained—

(a) in accordance with the essential requirements relevant to that subsystem;

(b) subject to paragraph (c), in conformity with the TSIs and notified national technical rules against which the subsystem was assessed for that authorisation;

(c) where a TSI and notified national technical rule referred to in paragraph (b) has been varied and replacement parts which conform to the TSI or notified national technical rule against which it was assessed are no longer available, in conformity with that varied TSI or rule; and

(d) in conformity with any functional TSI applying to that subsystem.

#### **Commencement Information**

**I12** Reg. 12 in force at 2.4.2006, see [reg. 1\(3\)](#)

#### **Fees payable to the Safety Authority**

**13.—(1)** A person applying to the Safety Authority for authorisation of a project subsystem under regulation 4 shall be liable to pay such fee to the Safety Authority as the Safety Authority may charge in respect of the Safety Authority's work in relation to the application.

(2) The fee payable under paragraph (1) shall—

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- (a) not exceed the sum of the costs reasonably incurred by the Safety Authority in carrying out the work referred to in paragraph (1); and
  - (b) be payable within 30 days from the date of the invoice that the Safety Authority has sent or given to the person who is required to pay the fees, such invoice to include a statement of the work done and the costs reasonably incurred including the period to which the statement relates.
- (3) A fee payable under this regulation shall be recoverable as a civil debt.
- (4) Failure to pay a fee under this regulation shall not constitute an offence under these Regulations.
- (5) This regulation shall not apply in relation to the Channel Tunnel system and the Intergovernmental Commission.

#### Commencement Information

**I13** Reg. 13 in force at 2.4.2006, see [reg. 1\(3\)](#)

#### Fees payable to the Competent Authority

**14.—(1)** The Competent Authority may charge such reasonable fee in connection with, or incidental to, carrying out its functions under regulations 5 and 6, as it may determine.

(2) This regulation shall not apply in relation to the Channel Tunnel system and the Intergovernmental Commission.

#### Commencement Information

**I14** Reg. 14 in force at 20.3.2006, see [reg. 1\(2\)](#)

#### Transitional conventional TEN projects and renewal projects on the high-speed rail system

**15.—(1)** This regulation applies to—

- (a) any project for the construction, upgrading or renewal of conventional rolling stock or any other subsystem of the conventional TEN rail system; and
- (b) any project for the renewal of high-speed rolling stock or any other subsystem of the high-speed rail system,

which, on 2nd April 2006, has reached the design stage.

(2) Where the contracting entity is required to appoint a notified body under regulation 8(1), the appointment may be made by 1st July 2006, notwithstanding that the design stage has been completed or the manufacture stage has commenced by that date.

(3) Notwithstanding anything in regulation 9, the notified body—

- (a) shall have regard to any documentation or evidence provided by the contracting entity on the assessment of work on the structural subsystem carried out before the notified body's appointment;
- (b) shall, so far as reasonably practicable, treat the assessment of work on the structural subsystem carried out before its appointment as the notified body's work under the verification assessment procedure;
- (c) shall not require any assessment work carried out before the notified body was appointed to be duplicated unless it would be unreasonable not to do so.

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**Commencement Information**

**I15** Reg. 15 in force at 2.4.2006, see [reg. 1\(3\)](#)

## PART 3

### *Interoperability Constituents*

#### **EC declaration of conformity or of suitability for use**

**16.—(1)** An EC declaration of conformity or an EC declaration of suitability for use (“EC declaration of conformity or suitability for use”) is a declaration drawn up by the relevant person in accordance with the requirements of Schedule 7, and which indicates that the interoperability constituent satisfies the requirements—

- (a) of such European specifications as have been published in the Official Journal that are relevant to the interoperability constituent;
  - (b) of such TSIs that are relevant to the interoperability constituent;
  - (c) where a TSI relevant to the interoperability constituent requires compliance with a European specification that has not been published in the Official Journal, of the latest version of that draft European specification if so required by the TSI.
- (2) In this regulation, “relevant person” means a person specified in regulation 19(2) or (3).

**Commencement Information**

**I16** Reg. 16 in force at 2.4.2006, see [reg. 1\(3\)](#)

#### **Effect of conformity and suitability declarations**

**17.—(1)** An interoperability constituent in relation to which an EC declaration of conformity or suitability for use has been drawn up shall be taken to—

- (a) meet such of the essential requirements as relate to an interoperability constituent of that type; and
- (b) conform to such of the TSIs, European specifications or draft European specifications as required by regulation 16,

unless there are reasonable grounds for believing that it does not so conform.

(2) Paragraph (1) does not apply to the Safety Authority where a person fails or refuses to make available to the Safety Authority the documentation which he is required to retain by any of the conformity or suitability for use assessment procedures which apply to the interoperability constituent in question or a copy of that documentation.

**Commencement Information**

**I17** Reg. 17 in force at 2.4.2006, see [reg. 1\(3\)](#)

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### Assessment procedure for interoperability constituents

18. The appropriate conformity or suitability for use assessment procedure for an interoperability constituent shall be carried out by a notified body in accordance with—

- (a) the procedures (if any) specified in any TSIs with which the interoperability constituent must comply;
- (b) the procedures (if any) specified in any European specifications with which the interoperability constituent must comply;
- (c) any relevant procedures set out in Schedule 7.

#### Commencement Information

**I18** Reg. 18 in force at 2.4.2006, see [reg. 1\(3\)](#)

### Prohibition on placing interoperability constituents on the market

19.—(1) No person shall place an interoperability constituent on the market with a view to its use on the trans-European high-speed rail system or trans-European conventional rail system, as the case may be, unless—

- (a) the interoperability constituent meets the essential requirements that are relevant to an interoperability constituent of that type;
- (b) the appropriate procedure for assessment of the conformity or suitability for use of the interoperability constituent has been carried out; and
- (c) an EC declaration of conformity or suitability for use in relation to that interoperability constituent has been drawn up.

(2) Subject to paragraph (3), an EC declaration of conformity or suitability for use shall be drawn up by the manufacturer of the interoperability constituent or his authorised representative established in the Community.

(3) Where an EC declaration of conformity or suitability for use has not been drawn up by the manufacturer or his authorised representative established in the Community, an EC declaration of conformity or suitability for use shall be drawn up by any person who—

- (a) places that interoperability constituent on the market; or
- (b) uses that interoperability constituent, or any part of it, in any interoperability constituent that he is manufacturing or assembling, or in any project subsystem that he is constructing, upgrading or renewing.

(4) Where a person draws up an EC declaration of conformity or suitability for use in relation to an interoperability constituent and that interoperability constituent is subject to other requirements pursuant to a European Community Directive, the person who draws up the EC declaration of conformity or suitability for use shall state in the declaration whether or not the interoperability constituent in question meets those other requirements.

(5) Nothing in these Regulations shall preclude a person from placing an interoperability constituent on the market for a purpose other than use on the trans-European high-speed rail system or the trans-European conventional rail system.

#### Commencement Information

**I19** Reg. 19 in force at 2.4.2006, see [reg. 1\(3\)](#)



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### Duties on operators

20. The operator of any interoperability constituent that is in use on, or is part of, the high-speed rail system or the conventional TEN rail system, shall ensure that while it is so in use it is—

- (a) correctly installed for the purpose for which it is intended to be used;
- (b) not used for any purpose other than the purpose for which it was designed; and
- (c) maintained in an efficient state, effective working order and good repair.

#### Commencement Information

I20 Reg. 20 in force at 2.4.2006, see [reg. 1\(3\)](#)

### Position after placing on the market

21. Nothing in these Regulations shall preclude any person from drawing up an EC declaration of conformity or suitability for use at any time in relation to an interoperability constituent which has been placed on the market, provided that person has followed the requirements of these Regulations in relation to that interoperability constituent.

#### Commencement Information

I21 Reg. 21 in force at 2.4.2006, see [reg. 1\(3\)](#)

### Recognition of assessments of other Member States

22. Nothing in these Regulations shall preclude any person from placing on the market relating to the trans-European high-speed rail system or trans-European conventional rail system an interoperability constituent that has successfully completed all the requirements of any scheme in force in another Member State for the purpose of implementing the High-Speed Directive or Conventional Directive insofar as relating to that rail system.

#### Commencement Information

I22 Reg. 22 in force at 2.4.2006, see [reg. 1\(3\)](#)

### Notification to the Commission of incorrect declaration

23.—(1) Where it appears to the Safety Authority that an interoperability constituent in relation to which an EC declaration of conformity or suitability for use has been drawn up fails to meet the essential requirements relating to it, it shall forthwith give notice of that fact in writing to the Commission, and where appropriate other Member States.

- (2) That notice shall specify—
  - (a) the steps taken to prohibit or restrict the use of that interoperability constituent;
  - (b) the reasons for taking those steps; and
  - (c) any measures taken against a person who drew up the declaration.

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#### Commencement Information

**I23** Reg. 23 in force at 2.4.2006, see [reg. 1\(3\)](#)

## PART 4

### *Notified Bodies*

#### Notified bodies

- 24.** For the purposes of these Regulations, a notified body is a body which has been—
- (a) appointed by the Strategic Rail Authority(**14**) as a notified body and notified to the Commission and other Member States pursuant to regulation 5 of the Railways (Interoperability) (High-Speed) Regulations 2002(**15**); or
  - (b) appointed by the Secretary of State as a notified body and notified to the Commission and other Member States pursuant to regulation 25 of these Regulations; or
  - (c) appointed by a Member State other than the United Kingdom, and notified by the Member State concerned to the Commission and the other Member States pursuant to article 20(1) of the Conventional Directive or article 20(1) of the High-Speed Directive.

#### Commencement Information

**I24** Reg. 24 in force at 20.3.2006, see [reg. 1\(2\)](#)

#### Appointment of notified bodies by the Secretary of State

**25.—(1)** The Secretary of State may from time to time appoint such persons as he thinks fit to be notified bodies for the purposes of these Regulations.

(2) The Secretary of State shall not appoint any person as a notified body in accordance with paragraph (1) unless he is satisfied that the person is capable of meeting the criteria specified in Schedule 10.

(3) An appointment—

- (a) shall relate to such descriptions of structural subsystems and interoperability constituents of the trans-European high-speed rail system or trans-European conventional rail system as the Secretary of State may specify; and
- (b) shall be made subject to such conditions as the Secretary of State may specify, including such conditions as are to apply upon or following termination of the appointment.

(4) Subject to paragraphs (5)(b) and (c) and (6), an appointment under this regulation shall be for such period as may be specified in the appointment.

(5) An appointment shall terminate—

- (a) upon the expiry of any period specified in the appointment pursuant to paragraph (4);
- (b) upon the expiry of 90 days notice in writing given by the notified body to the Secretary of State; or

**(14)** Established under s. 201 of the Transport Act 2000 c. 38. Section 1 and Schedule 1 to the Railways Act 2005 c. 14 provides for abolition of the Strategic Rail Authority and the transfer of its functions.

**(15)** [S.I. 2002/1166](#).

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(c) on any date specified for the termination of the appointment in accordance with paragraph (6),

whichever is the earliest.

(6) If at any time it appears to the Secretary of State in relation to a notified body appointed by him or the Strategic Rail Authority that—

(a) any of the conditions of the appointment of that notified body are not being complied with; or

(b) the notified body is not meeting the criteria specified in Schedule 10,

the Secretary of State may, by notice in writing to that notified body, specify a date on which the appointment of that person as a notified body shall terminate.

(7) Where the Secretary of State is minded to terminate the appointment of a person as a notified body pursuant to the grounds specified in paragraph (6) he shall—

(a) give notice in writing to the notified body of the reasons why he is minded to do so;

(b) give the notified body the opportunity to make representations within a period of 14 days beginning with the day on which such notice is given; and

(c) consider any representations made within that period by the notified body before making his decision.

(8) When the appointment of a notified body is terminated in accordance with paragraph (5) the Secretary of State may—

(a) give such directions as the Secretary of State considers appropriate, either to that notified body or to another notified body, for the purpose of making such arrangements as may be necessary or expedient for the determination of any matters which would, apart from the termination, have fallen to be determined by the notified body whose appointment has terminated; and

(b) without prejudice to the generality of sub-paragraph (a), authorise another notified body, to take over the functions of the notified body whose appointment has terminated, in respect of such matters as the Secretary of State may specify.

(9) The Secretary of State shall notify in writing the Commission and other Member States of the appointment or termination of appointment, as the case may be, of a notified body.

(10) Where it appears to the Secretary of State that a notified body appointed by another Member State fails to meet the criteria set out in Schedule 10, he shall notify the Article 21 Committee of that fact forthwith.

#### Commencement Information

**I25** Reg. 25 in force at 20.3.2006, see [reg. 1\(2\)](#)

#### Requirement on notified bodies to carry out functions

**26.**—(1) Where a contracting entity, manufacturer or his authorised representative established in the Community, or other interested person so requests in writing, a notified body shall carry out in relation to a structural subsystem or interoperability constituent the procedures and checks (including, where so provided as part of those procedures and checks, surveillance) required to ensure that the contracting entity, manufacturer or his authorised representative established in the Community, or other interested person, as the case may be, duly fulfils the obligations arising from the appropriate verification assessment procedure for a subsystem or the appropriate conformity or suitability for use assessment procedure for an interoperability constituent.

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- (2) A notified body shall not be required to comply with a request under paragraph (1) if—
- (a) the request relates to a subsystem or interoperability constituent of a description to which the appointment of that body does not relate;
  - (b) to do so would place that body in breach of a condition of its appointment;
  - (c) the documents submitted to it in relation to carrying out such functions are not in a language acceptable to that body;
  - (d) the person making the request has not submitted with its request the amount of the fee which that body requires to be submitted with the request pursuant to regulation 29; or
  - (e) at the time of the request the notified body reasonably believes that it will be unable to commence the required work in relation to that request within 3 months of receiving it.
- (3) In this regulation “interested person” means a person who is or expects to be subject to the duties imposed by regulation 19(3).

#### Commencement Information

**I26** Reg. 26 in force at 2.4.2006, see [reg. 1\(3\)](#)

#### Notified bodies: certificates of conformity etc.

**27.**—(1) Where a notified body is minded to decline to draw up a certificate of conformity in relation to a project subsystem, or is minded to decline to confirm that an EC declaration of conformity or suitability for use can be drawn up in respect of an interoperability constituent, it shall—

- (a) give notice in writing to the applicant of the reasons why it is minded to do so;
- (b) give the applicant the opportunity to make representations within a period of 28 days beginning with the day on which such notice is given; and
- (c) consider any representations made within that period by the applicant before making its decision.

(2) A notified body shall not draw up a certificate of conformity in relation to a project subsystem unless satisfied that the subsystem conforms to such of the TSIs or notified national technical rules as are required by regulation 7.

(3) A notified body shall not confirm that an EC declaration of conformity or suitability for use can be drawn up in respect of an interoperability constituent unless satisfied that that constituent conforms to such of the European specifications or TSIs as are required by regulation 16.

#### Commencement Information

**I27** Reg. 27 in force at 2.4.2006, see [reg. 1\(3\)](#)

#### Duties on notified bodies to consult

**28.** Notified bodies appointed by the Strategic Rail Authority or the Secretary of State shall consult other notified bodies appointed pursuant to the High-Speed Directive or the Conventional Directive throughout the European Community in a notified bodies coordination group in relation to the procedures for assessing conformity or suitability for use of interoperability constituents and the verification assessment procedure for subsystems.

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**Commencement Information**

**I28** Reg. 28 in force at 2.4.2006, see [reg. 1\(3\)](#)

**Fees of notified bodies**

**29.**—(1) Subject to paragraph (2), a notified body may charge such a fee in connection with, or incidental to, carrying out its functions under these Regulations as it may determine.

(2) The fee charged pursuant to paragraph (1) shall not exceed the sum of the following—

- (a) the costs incurred or to be incurred by the notified body in carrying out relevant work; and
- (b) an amount of profit which is reasonable in the circumstances having regard to—

- (i) the character and extent of the work carried out by the notified body on behalf of the person commissioning the work; and
- (ii) the commercial rate normally charged on account of profit for that work or similar work.

(3) Subject to paragraph (4) the power in paragraph (1) includes the power to require the payment of a fee, or a reasonable estimate of the fee, in respect of the work commissioned in advance of carrying out that work.

(4) Unless the parties otherwise agree, an amount charged in accordance with paragraph (3) shall not exceed a reasonable estimate of the fee for the work for the three months subsequent to the request for the advance payment.

**Commencement Information**

**I29** Reg. 29 in force at 2.4.2006, see [reg. 1\(3\)](#)

**Fees of the Secretary of State**

**30.** The Secretary of State may charge such reasonable fee in connection with, or incidental to, carrying out his functions under regulation 25 as he may determine.

**Commencement Information**

**I30** Reg. 30 in force at 2.4.2006, see [reg. 1\(3\)](#)

**PART 5**

*Registers*

**Registers of authorised infrastructure and authorised rolling stock**

**31.**—(1) An owner of authorised rolling stock shall keep a register of the authorised rolling stock of which he is the owner (“a rolling stock register”).

(2) An owner of authorised infrastructure shall keep a register of the authorised infrastructure of which he is the owner (“an infrastructure register”).

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(3) The particulars to be entered in a rolling stock register are, for each authorised rolling stock vehicle of which he is the owner—

- (a) its vehicle ID code;
- (b) its basic parameters;
- (c) the correlation of the basic parameters with the features laid down by any relevant TSI with which it is required to comply;
- (d) any information required by any relevant TSI with which it is required to comply.

(4) The particulars to be entered in an infrastructure register are, for authorised infrastructure of which he is the owner—

- (a) its basic parameters;
- (b) the correlation of the basic parameters with the features laid down by any relevant TSI with which it is required to comply;
- (c) any information required by any relevant TSI with which it is required to comply.

(5) The owner of authorised rolling stock or authorised infrastructure shall update the particulars in the relevant register—

- (a) each time a structural subsystem of which he is the owner is authorised pursuant to regulation 4;
- (b) when the registration body gives notice of the ID code assigned under regulation 33(4) to an authorised rolling stock vehicle of which he is the owner;
- (c) each time authorised rolling stock or authorised infrastructure is taken permanently out of use; or
- (d) each time he acquires ownership of authorised rolling stock or authorised infrastructure.

(6) Within 21 days of an event specified in paragraph (5) the owner of the authorised rolling stock or authorised infrastructure shall send to the Competent Authority a copy of the appropriate updated register.

(7) An owner of authorised rolling stock or authorised infrastructure who is not the operator of that rolling stock or infrastructure shall send to the operator of that rolling stock or infrastructure a copy of the rolling stock register or infrastructure register, as the case may be, at the same time that he is required to send a copy of the register to the Competent Authority in accordance with paragraph (6).

(8) For the purposes of paragraphs (5) to (7) the owner in the case of a change of ownership means the acquiring owner.

(9) The owner of authorised rolling stock or authorised infrastructure who disposes of his interest in that rolling stock or infrastructure shall give to the person who acquires that interest a copy of the particulars that he has kept in the register in respect of that rolling stock or infrastructure.

(10) In this regulation—

- (a) “authorised infrastructure” means a structural subsystem, other than rolling stock, authorised to be placed in service under regulation 4 and in use on or as part of the high-speed rail system or conventional TEN rail system;
- (b) “authorised rolling stock” means a rolling stock subsystem authorised to be placed in service under regulation 4 and in use on the high-speed rail system or conventional TEN rail system.

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#### Commencement Information

**I31** Reg. 31 in force at 2.4.2006, see [reg. 1\(3\)](#)

#### Publication and notification of registers

**32.—(1)** The Secretary of State shall annually—

(a) publish; and

(b) send to the other Member States and to the European Railway Agency,

a consolidated copy of the registers sent to the Competent Authority pursuant to regulation 31(6).

(2) The Secretary of State shall provide a copy of the whole or part of the consolidated registers to any person within 21 days of a written request by that person.

#### Commencement Information

**I32** Reg. 32 in force at 2.4.2006, see [reg. 1\(3\)](#)

#### National vehicle register

**33.—(1)** This regulation applies to rolling stock vehicles for which there is a requirement for authorisation under regulation 4.

(2) A contracting entity in relation to a rolling stock vehicle or its owner shall apply to the registration body for it to assign an ID code before the vehicle is placed in service.

(3) The registration body shall assign an ID code to each rolling stock vehicle for which an application is made and maintain a register of such rolling stock vehicles (“National Vehicle Register”).

(4) In the case of a rolling stock vehicle first placed in service outside the United Kingdom and clearly identified by a different coding system, the registration body may assign it with an ID code that is the same as that by which it is identified under the different coding system.

(5) The registration body may reserve ID codes for rolling stock vehicles notwithstanding an application has not been made.

(6) Any person who places in service a rolling stock vehicle shall ensure it is marked with the ID code assigned to it.

(7) Except as provided in paragraph (8), the contracting entity in relation to a vehicle or the owner of the vehicle shall, no later than 14 days after the date of authorisation, provide particulars to the registration body of the matters specified in paragraph (9)(b) to (e), and such further information as the registration body may reasonably require.

(8) In the case of a rolling stock vehicle authorised by the operation of regulation 4(8) the particulars required under paragraph (9) shall be provided before the vehicle is placed in service.

(9) The National Vehicle Register shall contain particulars in respect of each rolling stock vehicle authorised under regulation 4 that include—

(a) the ID code assigned to the vehicle;

(b) particulars of the verification declaration and the contracting entity;

(c) the identity of the owner or lessee of the vehicle;

(d) any restrictions on how the vehicle may be used;

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(e) safety critical data relating to the maintenance schedule of the vehicle.

(10) Where there is a material change to any of the particulars set out in paragraph (9), the owner of the vehicle shall give the registration body particulars of the change and the registration body shall alter the register accordingly.

(11) The registration body shall make the National Vehicle Register available for inspection—

(a) by any safety authority or investigating body designated in articles 16 and 21 of Directive [2004/49/EC](#) of the European Parliament and of the Council of 29th April 2004 on safety of the Community’s railways<sup>(16)</sup>;

(b) in response to a reasonable request—

(i) by any regulatory body designated in article 30 of Directive [2001/14/EC](#) of the European Parliament and of the Council of 21st February 2001 on the allocation of railway infrastructure capacity and the levying of charges for the use of railway infrastructure and safety certification<sup>(17)</sup>;

(ii) by the European Rail Agency;

(iii) by railway undertakings;

(iv) by infrastructure managers; and

(v) by owners of project subsystems.

(12) In Great Britain the Secretary of State and in Northern Ireland the DRDNI shall designate a person to be the registration body from time to time provided that person is independent of any railway undertaking; and different persons may be designated to maintain the register in different parts of the United Kingdom.

#### Commencement Information

**I33** Reg. 33 in force at 2.4.2006, see [reg. 1\(3\)](#)

## PART 6

### *Enforcement*

#### **Enforcement in Great Britain**

**34.—(1)** It shall be the duty of the Office of Rail Regulation to make adequate arrangements for the enforcement of these Regulations in Great Britain and accordingly a reference to the enforcing authority in the provisions applied for those purposes by paragraph (3) shall be construed as a reference to the Office of Rail Regulation.

(2) Subject to paragraph (4), the provisions of the 1974 Act<sup>(18)</sup> specified in paragraph (3) shall apply for the purposes of the enforcement in Great Britain of these Regulations as if they were Health and Safety Regulations for the purposes of that Act.

<sup>(16)</sup> O.J. L 164, 30.4.2004, p. 44.

<sup>(17)</sup> O.J. L 75, 15.3.2001, p. 29. Directive as amended by Commission Decision [2002/844/EC](#) (O.J. L 289, 26.10.2002, p. 30).

<sup>(18)</sup> [1974 c. 37](#). Section 20(7) was amended by the Civil Partnership Act [2004 \(c. 33\)](#), s. 261(1), Schedule 27, paragraph 49. Section 22(1) and (2) was amended by the Consumer Protection Act [1987 \(c. 43\)](#), section 3, Schedule 3. Section 22(4) was substituted by the Consumer Protection Act 1987, section 3, Schedule 3. Section 24 was amended by the Employment Rights (Dispute Resolution) Act [1998 \(c. 8\)](#), section 1(2)(a). Words omitted in 33(1)(c) were repealed by the Employment Protection Act [1975 \(c. 71\)](#), 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 \(c. 45\)](#), section 30, Schedule, Part 1. Section 33(1A) and (2A) was inserted by the Offshore Safety Act [1992 \(c. 15\)](#), section 4(2), (3) and (6). Section 33(2) was amended by the Criminal Law Act [1977 \(c. 45\)](#), section 31,



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- (3) The provisions of the 1974 Act referred to in paragraph (2) are—
- (a) sections 19 to 22 (enforcement);
  - (b) sections 23 (provisions supplementary to sections 21 and 22) and 24 (appeal against improvement or prohibition notice);
  - (c) section 26 (power to indemnify inspectors); and
  - (d) sections 33 to 42 (provision as to offences).
- (4) A failure to discharge a duty placed on the—
- (a) Office of Rail Regulation; or
  - (b) Safety Authority,

by these Regulations shall not be an offence under section 33(1)(c) of the 1974 Act.

#### Commencement Information

**I34** Reg. 34 in force at 2.4.2006, see [reg. 1\(3\)](#)

#### Enforcement in Northern Ireland

**35.**—(1) It shall be the duty of the Health and Safety Executive for Northern Ireland(**19**) to make adequate arrangements for the enforcement of these Regulations in Northern Ireland and accordingly a reference to an “enforcing authority” by the provisions applied for the purposes of such enforcement by paragraph (3) shall be construed as a reference to the Health and Safety Executive for Northern Ireland.

(2) Subject to paragraph 4, the provisions of the Health and Safety at Work (Northern Ireland) Order 1978(**20**) (“the 1978 Order”) specified in paragraph (3) shall apply for the purposes of the enforcement in Northern Ireland of these Regulations as if they were Health and Safety Regulations for the purpose of that Order, and any function of the Health and Safety Executive for Northern Ireland under any other provisions of that Order which is exercisable in relation to any function of the Health and Safety Executive for Northern Ireland under or in respect of Health and Safety Regulations (including their enforcement) shall be exercisable as if these Regulations were Health and Safety Regulations for the purposes of that Order.

- (3) The provisions of the 1978 Order referred to in paragraph (2) are—
- (a) article 20 to 24 (enforcement);
  - (b) articles 25 (provisions supplementary to articles 23 and 24) and 26 (appeal against improvement or prohibition notice);
  - (c) article 28 (power to indemnify inspectors);

Schedule 6. Section 33(3) was amended by the Offshore Safety Act 1992, section 4(4), (6) and the Magistrates' Court Act 1980 (c. 43), 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 33(6) was amended by the Gas Act 1986 (c. 44), section 67(1), Schedule 7, paragraph 18. So far as relevant to these Regulations, section 34 was amended by the Criminal Procedure (Scotland) Act 1975, section 461(1), Schedule 9, paragraph 51.

(19) 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.

(20) [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.

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- (d) articles 31 to 39 (provision as to offences); and
  - (e) article 44(1) to (3) (application to Crown).
- (4) A failure to discharge a duty placed on the—
- (a) Health and Safety Executive for Northern Ireland; or
  - (b) Safety Authority,

by these Regulations shall not be an offence under article 31(1)(c) of the 1978 Order.

#### Commencement Information

**I35** Reg. 35 in force at 2.4.2006, see [reg. 1\(3\)](#)

#### Notices relating to interoperability constituents not meeting the essential requirements

**36.—(1)** If the Office of Rail Regulation or the Health and Safety Executive for Northern Ireland is of the opinion that an interoperability constituent in relation to which an EC declaration of conformity or suitability for use has been drawn up does not meet the essential requirements relating to it, the Office of Rail Regulation or the Health and Safety Executive for Northern Ireland may serve a notice on the person who is using or intending to use that interoperability constituent in a project subsystem in relation to which that person is a contracting entity, to prohibit the use of or restrict the area of use of that interoperability constituent.

- (2) The information to be contained in a notice served under paragraph (1) is—
- (a) a statement that the Office of Rail Regulation or the Health and Safety Executive for Northern Ireland is of the opinion referred to in paragraph (1);
  - (b) the reasons for that opinion;
  - (c) a direction that the interoperability constituent to which that notice relates shall not be used, or that its area of use shall be restricted; and
  - (d) the date by which the contracting entity shall comply with the notice.

(3) Any notice served under paragraph (1) may be withdrawn by the Office of Rail Regulation or the Health and Safety Executive for Northern Ireland by serving written notice of the withdrawal on the contracting entity.

(4) Where a notice has been served on the contracting entity in accordance with this regulation the contracting entity shall—

- (a) comply with that notice; and
- (b) notify the person, (if any), who supplied him with the interoperability constituent in relation to which the notice under paragraph (1) was served—
  - (i) that a notice under paragraph (1) has been served,
  - (ii) of what the notice says, and
  - (iii) that he requires that person in turn to notify his supplier (if any) with the same information required by this paragraph.

#### Commencement Information

**I36** Reg. 36 in force at 2.4.2006, see [reg. 1\(3\)](#)

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### **Notice of improper drawing up of the EC declaration of conformity for an interoperability constituent**

37.—(1) Where the Office of Rail Regulation or the Health and Safety Executive for Northern Ireland has reasonable grounds for suspecting that the EC declaration of conformity has not been drawn up in accordance with the requirements of regulation 16 by the manufacturer of the interoperability constituent or his authorised representative established in the Community, it may give notice in writing to the manufacturer or his authorised representative established in the Community.

(2) A notice which is given under paragraph (1) shall—

- (a) state that the Office of Rail Regulation or the Health and Safety Executive for Northern Ireland considers that the EC declaration of conformity has not been properly drawn up in accordance with regulation 16;
- (b) specify the respect in which it is so considered and give particulars;
- (c) require the manufacturer or his authorised representative established in the Community—
  - (i) to secure that any interoperability constituent to which the notice relates conforms as regards the provisions concerning the proper drawing up of the declaration within such period as may be specified in the notice, or
  - (ii) to provide evidence within that period, to the satisfaction of the Office of Rail Regulation or the Health and Safety Executive for Northern Ireland, as the case may be, that the declaration has been properly drawn up; and
- (d) inform the manufacturer or his authorised representative established in the Community that if the non-conformity continues (or if satisfactory evidence has not been provided) within the period specified in the notice, further action may be taken in respect of that non-conformity under these Regulations.

(3) Where a notice has been served on the manufacturer or his authorised representative established in the Community, the person served shall comply or secure compliance with the notice.

#### **Commencement Information**

I37 Reg. 37 in force at 2.4.2006, see [reg. 1\(3\)](#)

### **Defence of due diligence**

38.—(1) Subject to the following provisions of this regulation, in any proceedings against any person for an offence under these Regulations it shall be a defence for that person to show that he took all reasonable steps and exercised all due diligence to avoid committing the offence.

(2) Where in any proceedings against any person for such an offence the defence provided in paragraph (1) involves an allegation that the commission of the offence was due to—

- (a) the act or default of another; or
- (b) reliance on information given by another,

that person shall not, without the leave of the court, be entitled to rely on the defence unless, within a period ending 7 clear days before the commencement of the hearing of the proceedings (or in Scotland, the trial diet), he has served a notice under paragraph (3) on the person bringing the proceedings.

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(3) A notice under this paragraph shall give such information identifying, or assisting in the identification of, the person who committed the act or default or gave the information as is in the possession of the person serving the notice at the time he serves it.

(4) A person shall not be entitled to rely on the defence provided by paragraph (1) by reason of his reliance on information supplied by another, unless he shows that it was reasonable in all the circumstances for him to have relied on the information, having regard in particular—

- (a) to the steps which he took, and those which might reasonably have been taken, for the purpose of verifying the information; and
- (b) to whether he had any reason to disbelieve the information.

#### Commencement Information

**I38** Reg. 38 in force at 2.4.2006, see [reg. 1\(3\)](#)

#### Liability of persons other than the principal offender

**39.**—(1) Where the commission by any person of an offence under these Regulations is due to the act or default of some other person in the course of any business of his, the other person shall be guilty of the offence and may be proceeded against and punished by virtue of this paragraph whether or not proceedings are taken against the first-mentioned person.

(2) Where a body corporate is guilty of an offence under these Regulations (including where it is so guilty by virtue of paragraph (1)) in respect of any act or default which is shown to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, any director, manager, secretary or other similar officer of the body corporate or any person who was purporting to act in any such capacity he, as well as the body corporate, shall be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

(3) Where the affairs of a body corporate are managed by its members, paragraph (2) shall apply in relation to the acts and defaults of a member in connection with its functions of management as if he were a director of the body corporate.

(4) In this regulation, references to a “body corporate” include references to a partnership in Scotland and, in relation to such partnership, any reference to a director, manager, secretary or other similar officer of a body corporate is a reference to a partner.

#### Commencement Information

**I39** Reg. 39 in force at 2.4.2006, see [reg. 1\(3\)](#)

## PART 7

### *Supplementary*

#### Revocation, transitional provision and savings

**40.**—(1) The Railways (Interoperability) (High-Speed) Regulations 2002<sup>(21)</sup> (“the High-Speed Regulations”) are revoked.

(21) [S.I. 2002/1166](#).

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(2) Notwithstanding paragraph (1), the High-Speed Regulations shall continue to have effect thereafter but only for the purposes provided in paragraph (3).

(3) Where on the coming into force of this regulation a contracting entity has made a request for a staged works decision or has obtained a staged works decision under regulation 17(2) or 17(6) of the High-Speed Regulations, the contracting entity may treat the High-Speed Regulations as continuing in force for the giving, and effect, of such a decision.

(4) From 2nd April 2006 a reference in the High-Speed Regulations to an authorisation being given pursuant to regulation 14 of the High-Speed Regulations shall be treated as a reference to regulation 4(1)(a) of these Regulations.

(5) Where immediately before 2nd April 2006 an appointment of a notified body had effect under the High-Speed Regulations it shall continue to have effect as an appointment in relation to the high-speed rail system, as if made as an appointment under regulation 25 of these Regulations for a period specified when appointed.

(6) Where, under the High-Speed Regulations, a structural subsystem has been authorised to be placed in service on the high-speed rail system or an interoperability constituent is placed on the market with a view to use on the high-speed rail system, it shall from 2nd April 2006, be treated as authorised or placed on the market, as the case may be, under these Regulations.

(7) From 2nd April 2006 any reference in the High-Speed Regulations to—

(a) the “Health and Safety Executive” shall be read as the “Office of Rail Regulation”;

(b) the “Authority” shall be read as the “Competent Authority”;

(c) the “supervisory authority” shall be read as the “Safety Authority”.

(8) Anything done by or in relation to the Health and Safety Executive under the High-Speed Regulations shall be treated and have effect on or after 2nd April 2006 as done by or in relation to the Office of Rail Regulation.

(9) Where a project for the upgrading of an existing structural subsystem on the high-speed rail system has reached the design stage by 2nd April 2006, the contracting entity may treat the subsystem as requiring authorisation to be placed in service without applying for a decision from the Competent Authority under regulation 5 of these Regulations.

(10) Nothing in these Regulations shall affect the validity of an accessibility compliance certificate issued under regulation 22(4) of the High-Speed Regulations.

#### **Commencement Information**

**I40** Reg. 40 in force at 2.4.2006, see [reg. 1\(3\)](#)

Signed by authority of the Secretary of State for Transport

16th February 2006

*Derek Twigg*  
Parliamentary Under Secretary of State  
Department for Transport

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PROSPECTIVE

## SCHEDULE 1

Regulation 2(2)

*(This Schedule reproduces the provisions of Annex I to the High-Speed Directive)*

**Commencement Information**

**I41** Sch. 1 in force at 20.3.2006, see [reg. 1\(2\)](#)

*THE TRANS-EUROPEAN HIGH-SPEED RAIL SYSTEM***THE INFRASTRUCTURE**

1. The infrastructure of the trans-European high-speed rail system shall be that of the lines of the trans-European transport network identified in Decision No. [1692/96/EC](#) of the European Parliament and of the Council of 23rd July 1996 on Community guidelines for the development of the trans-European transport network<sup>(22)</sup> or listed in any update of that Decision as a result of the revision provided for in Article 21 of that Decision.

The high-speed lines shall comprise—

- specially built high-speed lines equipped for speeds generally equal to or greater than 250 km/h,
- specially upgraded high-speed lines equipped for speeds of the order of 200 km/h,
- specially upgraded high-speed lines which have special features as a result of topographical, relief or town-planning constraints, on which the speed must be adapted to each case.

This infrastructure includes traffic management, tracking and navigation systems: technical installations for data processing and telecommunications intended for passenger services on these lines in order to guarantee the safe and harmonious operation of the network and efficient traffic management.

**THE ROLLING STOCK**

2. The rolling stock referred to in this Directive shall comprise trains designed to operate—
- either at speeds of at least 250 km/h on lines specially built for high speeds, while enabling operation at speeds exceeding 300 km/h in appropriate circumstances,
  - or at speeds of the order of 200 km/h on the lines of section 1, where compatible with the performance levels of these lines.

**COMPATIBILITY OF THE TRANS-EUROPEAN HIGH-SPEED RAIL SYSTEM**

3. The quality of rail services in Europe depends, inter alia, on excellent compatibility between the characteristics of the infrastructure (in the broadest sense, ie the fixed parts of all the subsystems

<sup>(22)</sup> OJ L 228, 9.9.1996, p. 1. Decision amended by Decision [1346/2001/EC](#) (OJ L 185, 6.7.2001, p. 1) and by Decision [884/2004/EC](#) (OJ L 167, 30.4.2004, p. 1). The lines in the UK forming part of the trans-European high-speed rail system are identified in Schedule 11 to these Regulations.

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concerned) and those of the rolling stock (including the onboard components of all the subsystems concerned).

## SCHEDULE 2

Regulation 2(2)

*(This Schedule reproduces the provisions of Annex I to the Conventional Directive)*

### Commencement Information

**I42** Sch. 2 in force at 20.3.2006, see [reg. 1\(2\)](#)

## THE TRANS-EUROPEAN CONVENTIONAL RAIL SYSTEM

### INFRASTRUCTURE

1. The infrastructure of the trans-European conventional rail system will be that on the lines of the trans-European transport network identified in Decision No. [1692/96/EC](#) of the European Parliament and of the Council of 23rd July 1996 on Community guidelines for the development of the trans-European transport network<sup>(23)</sup> or listed in any update to the same Decision as a result of the revision provided for in Article 21 of that Decision.

For the purposes of this Directive, this network may be subdivided into the following categories—

- lines intended for passenger services;
- lines intended for mixed traffic (passengers and freight);
- lines specially designed or upgraded for freight services;
- passenger hubs;
- freight hubs, including intermodal terminals;
- lines connecting the abovementioned elements.

This infrastructure includes traffic management, tracking, and navigation systems: technical installations for data processing and telecommunications intended for long-distance passenger services and freight services on the network in order to guarantee the safe and harmonious operation of the network and efficient traffic management.

### ROLLING STOCK

2. The rolling stock will comprise all the stock likely to travel on all or part of the trans-European conventional rail network, including—

- self-propelling thermal or electric trains;
- thermal or electric traction units;
- passenger carriages;
- freight wagons, including rolling stock designed to carry lorries.

Mobile railway infrastructure construction and maintenance equipment is included but is not the first priority.

<sup>(23)</sup> OJ L 228, 9.9.1996, p. 1. Decision as amended by Decision No. [1346/2001/EC](#) (OJ L 185, 6.7.2001, p. 1) and by Decision [884/2004/EC](#) (OJ L 167, 30.4.2004, p. 1).

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Each of the above categories is subdivided into—

- rolling stock for international use;
- rolling stock for national use.

## COMPATIBILITY OF THE TRANS-EUROPEAN CONVENTIONAL RAILWAY SYSTEM

3. The quality of rail services in Europe depends, inter alia, on excellent compatibility between the characteristics of the infrastructure (in the broadest sense, ie the fixed parts of all the subsystems concerned) and those of the rolling stock (including the onboard components of all the subsystems concerned). Performance levels, safety, quality of service and cost depend upon that compatibility.

## EXTENSION OF THE SCOPE

### 4

#### 1. Subcategories of lines and rolling stock

In order to deliver interoperability cost-effectively further subcategories of all categories of lines and rolling stock mentioned in this Annex will, where necessary, be developed. If necessary, the functional and technical specifications mentioned in Article 5(3) may vary according to the subcategory.

#### 2. Cost safeguards

The cost-benefit analysis of the proposed measures will take into consideration, among others, the following—

- cost of the proposed measure,
- reduction of capital costs and charges due to economies of scale and better utilisation of rolling stock,
- reduction of investment and maintenance/operating costs due to increased competition between manufacturers and maintenance companies,
- environmental benefits, due to technical improvements of the rail system,
- increase of safety in operation.

In addition, this assessment will indicate the likely impact for all the operators and economic agents involved.

## SCHEDULE 3

Regulation 2(2)

*(This Schedule reproduces the provisions of Annex II to the High-Speed Directive)*

### Commencement Information

**I43** Sch. 3 in force at 20.3.2006, see [reg. 1\(2\)](#)

## SUBSYSTEMS OF THE TRANS-EUROPEAN HIGH-SPEED RAIL SYSTEM

## SUBSYSTEMS



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## LIST OF SUBSYSTEMS

1. For the purposes of this Directive, the system constituting the trans-European high-speed rail system may be broken down into the following subsystems:

- (a) either structural areas:
  - infrastructure,
  - energy,
  - control and command and signalling,
  - traffic operation and management,
  - rolling stock,
- (b) or operational areas:
  - maintenance,
  - telematics applications for passenger and freight services.

## AREAS TO BE COVERED

2. For each subsystem, the list of aspects relating to interoperability is indicated in the mandates for drawing up TSIs given to the Agency.

Under Article 6(1), these mandates shall be established in accordance with the procedure set out in Article 21(2).

Where necessary, the list of aspects relating to interoperability indicated in the mandates is specified by the Agency in accordance with Article 5(3)(c).

## SCHEDULE 4

Regulation 2(2)

*(This Schedule reproduces Annex II to the Conventional Directive)*

### Commencement Information

**I44** Sch. 4 in force at 20.3.2006, see [reg. 1\(2\)](#)

## SUBSYSTEMS OF THE TRANS-EUROPEAN CONVENTIONAL RAIL SYSTEM

### LIST OF SUBSYSTEMS

1. For the purposes of this Directive, the system constituting the trans-European conventional rail system may be broken down into the following two subsystems, either:

- (a) structural areas:
  - infrastructure;
  - energy;
  - control and command and signalling;
  - traffic operation and management;
  - rolling stock; or
- (b) operational areas:

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- maintenance;
- telematics applications for passenger and freight services.

## DESCRIPTION OF THE SUBSYSTEMS

2. For each subsystem or part of a subsystem, the list of constituents and aspects relating to interoperability is proposed by the joint representative body at the time of drawing up the relevant draft TSI.

Without prejudging the choice of aspects and constituents relating to interoperability or the order in which they will be made subject to TSIs, the subsystems include, in particular:

### 2.1 Infrastructure:

The track points, engineering structures (bridges, tunnels, etc.), associated station infrastructure (platforms, zones of access, including the needs of persons with reduced mobility, etc.), safety and protective equipment.

### 2.2 Energy:

The electrification system, overhead lines and current collectors.

### 2.3 Control and command and signalling:

All the equipment necessary to ensure safety and to command and control movements of trains authorised to travel on the network.

### 2.4 Traffic operation and management:

The procedures and related equipment enabling a coherent operation of the different structural subsystems, both during normal and degraded operation, including in particular train driving, traffic planning and management.

The professional qualifications which may be required for carrying out cross-border services.

### 2.5 Telematics applications:

In accordance with Annex I, this subsystem comprises two elements:

- (a) applications for passenger services, including systems providing passengers with information before and during the journey, reservation and payment systems, luggage management and management of connections between trains and with other modes of transport;
- (b) applications for freight services, including information systems (real-time monitoring of freight and trains), marshalling and allocation systems, reservation, payment and invoicing systems, management of connections with other modes of transport and production of electronic accompanying documents.

### 2.6 Rolling stock:

Structure, command and control system for all train equipment, traction and energy conversion units, braking, coupling and running gear (bogies, axles, etc.) and suspension, doors, man/machine interfaces (driver, on-board staff and passengers, including the needs of persons with reduced mobility), passive or active safety devices and requisites for the health of passengers and on-board staff.

### 2.7 Maintenance:

The procedures, associated equipment, logistics centres for maintenance work and reserves allowing the mandatory corrective and preventive maintenance to ensure the interoperability of the rail system and guarantee the performance required.

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## SCHEDULE 5

Regulation 2(2)

*(This Schedule reproduces Annex III to the High-Speed Directive)*

### Commencement Information

**I45** Sch. 5 in force at 20.3.2006, see [reg. 1\(2\)](#)

## ESSENTIAL REQUIREMENTS FOR THE TRANS-EUROPEAN HIGH-SPEED RAIL SYSTEM

### ESSENTIAL REQUIREMENTS

#### 1. General requirements

##### 1.1 Safety

**1.1.1** The design, construction or assembly, maintenance and monitoring of safety-critical components, and more particularly of the components involved in train movements must be such as to guarantee safety at the level corresponding to the aims laid down for the network, including those for specific degraded situations.

**1.1.2** The parameters involved in the wheel/rail contact must meet the stability requirements needed in order to guarantee safe movement at the maximum authorized speed.

**1.1.3** The components used must withstand any normal or exceptional stresses that have been specified during their period in service. The safety repercussions of any accidental failures must be limited by appropriate means.

**1.1.4** The design of fixed installations and rolling stock and the choice of the materials used must be aimed at limiting the generation, propagation and effects of fire and smoke in the event of a fire.

**1.1.5** Any devices intended to be handled by users must be so designed as not to impair their safety if used foreseeably in a manner not in accordance with the posted instructions.

##### 1.2. Reliability and availability

The monitoring and maintenance of fixed or movable components that are involved in train movements must be organized, carried out and quantified in such a manner as to maintain their operation under the intended conditions.

##### 1.3 Health

**1.3.1** Materials likely, by virtue of the way they are used, to constitute a health hazard to those having access to them must not be used in trains and railway infrastructures.

**1.3.2** Those materials must be selected, deployed and used in such a way as to restrict the emission of harmful and dangerous fumes or gases, particularly in the event of fire.

##### 1.4 Environmental protection

**1.4.1** The repercussions on the environment of the establishment and operation of the trans-European high-speed rail system must be assessed and taken into account at the design stage of the system in accordance with the Community provisions in force.

**1.4.2** The materials used in the trains and infrastructures must prevent the emission of fumes or gases which are harmful and dangerous to the environment, particularly in the event of fire.

**Status:** This version of this Instrument contains provisions that are prospective.

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**1.4.3** The rolling stock and energy-supply systems must be designed and manufactured in such a way as to be electromagnetically compatible with the installations, equipment and public or private networks with which they might interfere.

## **1.5** Technical compatibility

The technical characteristics of the infrastructures and fixed installations must be compatible with each other and with those of the trains to be used on the trans-European high-speed rail system. If adherence to these characteristics proves difficult on certain sections of the network, temporary solutions, which ensure compatibility in the future, may be implemented.

## **2.** Requirements specific to each subsystem

### **2.1** Infrastructures

#### **2.1.1** Safety

Appropriate steps must be taken to prevent access to or undesirable intrusions into installations on lines travelled at high speed.

Steps must be taken to limit the dangers to which persons are exposed, particularly in stations through which trains pass at high speed.

Infrastructures to which the public has access must be designed and made in such a way as to limit any human health hazards (stability, fire, access, evacuation, platforms, etc.).

Appropriate provisions must be laid down to take account of the particular safety conditions in very long tunnels.

### **2.2** Energy

#### **2.2.1** Safety

Operation of the energy-supply systems must not impair the safety either of high-speed trains or of persons (users, operating staff, trackside dwellers and third parties).

#### **2.2.2** Environmental protection

The functioning of the energy-supply systems must not interfere with the environment beyond the specified limits.

#### **2.2.3** Technical compatibility

The electricity supply systems used throughout the trans-European high-speed rail system must:

- enable trains to achieve the specified performance levels;
- be compatible with the collection devices fitted to the trains.

### **2.3** Control and command and signalling

#### **2.3.1** Safety

The control and command and signalling installation and procedures used on the trans-European high-speed rail system must enable trains to travel with a level of safety which corresponds to the objectives set for the network.

#### **2.3.2** Technical compatibility

All new high-speed infrastructures and all new high-speed rolling stock manufactured or developed after adoption of compatible control and command and signalling must be tailored to the use of those systems.

The control and command and signalling equipment installed within the train drivers' cabs must permit normal operation, under the specified conditions, throughout the trans-European high-speed rail system.

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## 2.4 Rolling stock

### 2.4.1 Safety

The rolling-stock structures and those of the links between vehicles must be designed in such a way as to protect the passenger and driving compartments in the event of collision or derailment. The electrical equipment must not impair the safety and functioning of the control and command and signalling installations.

The braking techniques and the stresses exerted must be compatible with the design of the tracks, engineering structures and signalling systems.

Steps must be taken to prevent access to electrically-live constituents in order not to endanger the safety of persons.

In the event of danger devices must enable passengers to inform the driver and accompanying staff to contact him.

The access doors must incorporate an opening and closing system which guarantees passenger safety.

Emergency exits must be provided and indicated.

Appropriate provisions must be laid down to take account of the particular safety conditions in very long tunnels.

An emergency lighting system having a sufficient intensity and duration is an absolute requirement on board trains.

Trains must be equipped with a public address system which provides a means of communication to the public from on-board staff and ground control.

### 2.4.2 Reliability and availability

The design of the vital equipment and the running, traction and braking equipment and also the control and command system must, in a specific degraded situation, be such as to enable the train to continue without adverse consequences for the equipment remaining in service.

### 2.4.3 Technical compatibility

The electrical equipment must be compatible with the operation of the control and command and signalling installations.

The characteristics of the current-collection devices must be such as to enable trains to travel under the energy-supply systems for the trans-European high-speed rail system.

The characteristics of the rolling stock must be such as to allow it to travel on any line on which it is expected to operate.

### 2.4.4 Controls

Trains must be equipped with a recording device. The data collected by this device and the processing of the information must be harmonised.

## 2.5 Maintenance

### 2.5.1 Health

The technical installations and the procedures used in the maintenance centres must not constitute a danger to human health.

### 2.5.2 Environmental protection

The technical installations and the procedures used in the maintenance centres must not exceed the permissible levels of nuisance with regard to the surrounding environment.

### 2.5.3 Technical compatibility

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The maintenance installations on high-speed trains must be such as to enable safety, health and comfort operations to be carried out on all trains for which they have been designed.

## 2.6 Environment

### 2.6.1 Health

Operation of the trans-European high-speed rail system must remain within the statutory noise-nuisance limits.

### 2.6.2 Environmental protection

Operation of the trans-European high-speed rail system must not cause a level of ground vibrations which is unacceptable for activities and the immediate environment in the vicinity of the infrastructure and in a normal state of maintenance.

## 2.7 Operation

### 2.7.1 Safety

Alignment of the network operating rules and the qualifications of drivers and on-board staff must be such as to ensure safe international operation.

The operations and maintenance intervals, the training and qualifications of maintenance staff and the quality assurance system set up in the maintenance centres of the operators concerned must be such as to ensure a high level of safety.

### 2.7.2 Reliability and availability

The operation and maintenance periods, the training and qualifications of the maintenance staff and the quality assurance system set up by the operators concerned in the maintenance centres must be such as to ensure a high level of system reliability and availability.

### 2.7.3 Technical compatibility

The alignment of the operating rules of the networks and the qualifications of drivers, on-board staff and managers in charge of traffic must be such as to ensure operating efficiency on the trans-European high-speed rail system.

## SCHEDULE 6

Regulation 2(2)

*(This Schedule reproduces Annex III to the Conventional Directive)*

### Commencement Information

**I46** Sch. 6 in force at 20.3.2006, see [reg. 1\(2\)](#)

## ESSENTIAL REQUIREMENTS FOR THE TRANS-EUROPEAN CONVENTIONAL RAIL SYSTEM

### GENERAL REQUIREMENTS

#### 1

#### 1.1 Safety

*Status: This version of this Instrument contains provisions that are prospective.*

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**1.1.1** The design, construction or assembly, maintenance and monitoring of safety-critical components and, more particularly, of the components involved in train movements must be such as to guarantee safety at the level corresponding to the aims laid down for the network, including those for specific degraded situations.

**1.1.2** The parameters involved in the wheel/rail contact must meet the stability requirements needed in order to guarantee safe movement at the maximum authorised speed.

**1.1.3** The components used must withstand any normal or exceptional stresses that have been specified during their period in service. The safety repercussions of any accidental failures must be limited by appropriate means.

**1.1.4** The design of fixed installations and rolling stock and the choice of the materials used must be aimed at limiting the generation, propagation and effects of fire and smoke in the event of a fire.

**1.1.5** Any devices intended to be handled by users must be so designed as not to impair the safe operation of the devices or the health and safety of users if used foreseeably in a manner not in accordance with the posted instructions.

## **1.2 Reliability and availability**

The monitoring and maintenance of fixed or movable components that are involved in train movements must be organised, carried out and quantified in such a manner as to maintain their operation under the intended conditions.

## **1.3 Health**

**1.3.1** Materials likely, by virtue of the way they are used, to constitute a health hazard to those having access to them must not be used in trains and railway infrastructure.

**1.3.2** Those materials must be selected, deployed and used in such a way as to restrict the emission of harmful and dangerous fumes or gases, particularly in the event of fire.

## **1.4 Environmental protection**

**1.4.1** The environmental impact of establishment and operation of the trans-European conventional rail system must be assessed and taken into account at the design stage of the system in accordance with the Community provisions in force.

**1.4.2** The materials used in the trains and infrastructure must prevent the emission of fumes or gases which are harmful and dangerous to the environment, particularly in the event of fire.

**1.4.3** The rolling stock and energy-supply systems must be designed and manufactured in such a way as to be electromagnetically compatible with the installations, equipment and public or private networks with which they might interfere.

**1.4.4** Operation of the trans-European conventional rail system must respect existing regulations on noise pollution.

**1.4.5** Operation of the trans-European conventional rail system must not give rise to an inadmissible level of ground vibrations for the activities and areas close to the infrastructure and in a normal state of maintenance.

## **1.5 Technical compatibility**

The technical characteristics of the infrastructure and fixed installations must be compatible with each other and with those of the trains to be used on the trans-European conventional rail system.

If compliance with these characteristics proves difficult on certain sections of the network, temporary solutions, which ensure compatibility in the future, may be implemented.

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## REQUIREMENTS SPECIFIC TO EACH SUBSYSTEM

### 2

#### 2.1 Infrastructure

##### 2.1.1 Safety

Appropriate steps must be taken to prevent access to or undesirable intrusions into installations.

Steps must be taken to limit the dangers to which persons are exposed, particularly when trains pass through stations.

Infrastructure to which the public has access must be designed and made in such a way as to limit any human safety hazards (stability, fire, access, evacuation, platforms, etc.).

Appropriate provisions must be laid down to take account of the particular safety conditions in very long tunnels.

#### 2.2 Energy

##### 2.2.1 Safety

Operation of the energy-supply systems must not impair the safety either of trains or of persons (users, operating staff, trackside dwellers and third parties).

##### 2.2.2 Environmental protection

The functioning of the electrical or thermal energy-supply systems must not interfere with the environment beyond the specified limits.

##### 2.2.3 Technical compatibility

The electricity/thermal energy supply systems used must:

- enable trains to achieve the specified performance levels;
- in the case of electricity energy supply systems, be compatible with the collection devices fitted to the trains.

#### 2.3 Control and command and signalling

##### 2.3.1 Safety

The control and command and signalling installations and procedures used must enable trains to travel with a level of safety which corresponds to the objectives set for the network. The control and command and signalling systems should continue to provide for safe passage of trains permitted to run under degraded conditions.

##### 2.3.2 Technical Compatibility

All new infrastructure and all new rolling stock manufactured or developed after adoption of compatible control and command and signalling systems must be tailored to use of those systems.

The control and command and signalling equipment installed in the train drivers' cabs must permit normal operation, under the specified conditions, throughout the trans-European conventional rail system.

#### 2.4 Rolling stock

##### 2.4.1 Safety

The structure of the rolling stock and of the links between vehicles must be designed in such a way as to protect the passenger and driving compartments in the event of collision or derailment.



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The electrical equipment must not impair the safety and functioning of the control and command and signalling installations.

The braking techniques and the stresses exerted must be compatible with the design of the track, engineering structures and signalling systems.

Steps must be taken to prevent access to electrically-live constituents in order not to endanger the safety of persons.

In the event of danger, devices must enable passengers to inform the driver and accompanying staff to contact him.

The access doors must incorporate an opening and closing system which guarantees passenger safety.

Emergency exits must be provided and indicated.

Appropriate provisions must be laid down to take account of the particular safety conditions in very long tunnels.

An emergency lighting system of sufficient intensity and duration is compulsory on board trains.

Trains must be equipped with a public address system which provides a means of communication to the public from on-board staff and ground control.

#### **2.4.2 Reliability and availability**

The design of the vital equipment, of the running, traction and braking equipment and of the control and command system must be such as to enable the train to continue its mission, in a specific degraded situation, without adverse consequences for the equipment remaining in service.

#### **2.4.3 Technical compatibility**

The electrical equipment must be compatible with the operation of the control and command and signalling installations.

In the case of electric traction, the characteristics of the current-collection devices must be such as to enable trains to travel under the energy-supply systems for the trans-European conventional rail system.

The characteristics of the rolling stock must be such as to allow it to travel on any line on which it is expected to operate.

#### **2.4.4 Controls**

Trains must be equipped with a recording device. The data collected by this device and the processing of the information must be harmonised.

### **2.5 Maintenance**

#### **2.5.1 Health and safety**

The technical installations and the procedures used in the centres must ensure the safe operation of the subsystem and not constitute a danger to health and safety.

#### **2.5.2 Environmental protection**

The technical installations and the procedures used in the maintenance centres must not exceed the permissible levels of nuisance with regard to the surrounding environment.

#### **2.5.3 Technical compatibility**

The maintenance installations for conventional rolling stock must be such as to enable safety, health and comfort operations to be carried out on all stock for which they have been designed.

### **2.6 Operation and traffic management**

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### 2.6.1 Safety

Alignment of the network operating rules and the qualifications of drivers and on-board staff and of the staff in the control centres must be such as to ensure safe operation, bearing in mind the different requirements of cross-border and domestic services.

The maintenance operations and intervals, the training and qualifications of the maintenance and control centre staff and the quality assurance system set up by the operators concerned in the control and maintenance centres must be such as to ensure a high level of safety.

### 2.6.2 Reliability and availability

The maintenance operations and periods, the training and qualifications of the maintenance and control centre staff and the quality assurance system set up by the operators concerned in the control and maintenance centres must be such as to ensure a high level of system reliability and availability.

### 2.6.3 Technical compatibility

Alignment of the network operating rules and the qualifications of drivers, on-board staff and traffic managers must be such as to ensure operating efficiency on the trans-European conventional rail system, bearing in mind the different requirements of cross-border and domestic services.

## 2.7 Telematics applications for freight and passengers

### 2.7.1 Technical compatibility

The essential requirements for telematics applications guarantee a minimum quality of service for passengers and carriers of goods, particularly in terms of technical compatibility.

Steps must be taken to ensure:

- that the databases, software and data communication protocols are developed in a manner allowing maximum data interchange between different applications and operators, excluding confidential commercial data;
- easy access to the information for users.

### 2.7.2 Reliability and availability

The methods of use, management, updating and maintenance of these databases, software and data communication protocols must guarantee the efficiency of these systems and the quality of the service.

### 2.7.3 Health

The interfaces between these systems and users must comply with the minimum rules on ergonomics and health protection.

### 2.7.4 Safety

Suitable levels of integrity and dependability must be provided for the storage or transmission of safety-related information.

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## SCHEDULE 7

Regulation 2(2)

*(This Schedule substantially reproduces the provisions of Annex IV to the High-Speed Directive and to the Conventional Directive)*

### Commencement Information

**I47** Sch. 7 in force at 2.4.2006, see [reg. 1\(3\)](#)

## CONFORMITY AND SUITABILITY FOR USE OF INTEROPERABILITY CONSTITUENTS

### INTEROPERABILITY CONSTITUENTS

1. The “EC” declaration applies to the interoperability constituents involved in the interoperability of the trans-European high-speed rail systems and the trans-European conventional rail system, as referred to in Article 3 of the High-Speed Directive and Article 3 of the Conventional Directive. These interoperability constituents may be:

#### 1.1 Multiple-use constituents

These are constituents that are not specific to the trans-European high-speed or trans-European conventional rail systems and which may be used as such in other areas.

#### 1.2 Multiple-use constituents having specific characteristics

These are constituents which are not, as such, specific to the trans-European high-speed or trans-European conventional rail systems, but which must display specific performance levels when used for railway purposes.

#### 1.3 Specific constituents

These are constituents that are specific to railway applications.

### SCOPE

2. The “EC” declaration covers:

- either the assessment by a notified body or bodies of the intrinsic conformity of an interoperability constituent, considered in isolation, to the technical specifications to be met;
- or the assessment/judgement by a notified body or bodies of the suitability for use of an interoperability constituent, considered within its railway environment and, in particular in cases where the interfaces are involved, in relation to the technical specifications, particularly those of a functional nature, which are to be checked.

The assessment procedures implemented by the notified bodies at the design and production stages will draw upon the modules defined in Decision [93/465/EEC\(24\)](#), in accordance with the conditions referred to in the TSIs.

### CONTENTS OF THE ‘EC’ DECLARATION

3. The ‘EC’ declaration of conformity or of suitability for use and the accompanying documents must be dated and signed.

(24) OJ L 220, 30.8.1993, p. 23.

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That declaration must be written in the same language as the instructions and must contain the following:

- the Directive references;
- the name and address of the manufacturer or his authorised representative established within the Community (give trade name and full address, in the case of the authorised representative, also give the trade name of the manufacturer or constructor);
- description of interoperability constituent (make, type, etc.);
- description of the procedure followed in order to declare conformity or suitability for use (Article 13 of the High-Speed Directive or Article 13 of the Conventional Directive);
- all the relevant descriptions met by the interoperability constituent and, in particular, its conditions of use;
- name and address of the notified body or bodies involved in the procedure followed in respect of conformity or suitability for use and date of examination certificate together with, where appropriate, the duration and conditions of validity of the certificate;
- where appropriate, reference to the European specifications;
- identification of the signatory empowered to enter into commitments on behalf of the manufacturer or of the manufacturer's authorised representative established within the Community.

## SCHEDULE 8

Regulation 2(2)

*(This Schedule substantially reproduces the provisions of Annex V to the High-Speed Directive and to the Conventional Directive)*

### Commencement Information

**I48** Sch. 8 in force at 2.4.2006, see [reg. 1\(3\)](#)

### DECLARATION OF VERIFICATION OF SUBSYSTEMS

The EC declaration of verification and the accompanying documents must be dated and signed.

That declaration must be written in the same language as the technical file and must contain the following:

- the Directive references;
- name and address of the contracting entity or its authorised representative established within the Community (give trade name and full address; in the case of the authorised representative, also give the trade name of the contracting entity);
- a brief description of the subsystem;
- name and address of the notified body which conducted the EC verification referred to in Article 18 of the High-Speed Directive or Article 18 of the Conventional Directive;
- the references of the documents contained in the technical file;
- all the relevant temporary or definitive provisions to be complied with by the subsystems and in particular, where appropriate, any operating restrictions or conditions;
- if temporary: duration of validity of the EC declaration;

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- identity of the signatory.

## SCHEDULE 9

Regulation 2(2)

*(This Schedule substantially reproduces, with minor modifications, the provisions of Annex VI to the High-Speed Directive and to the Conventional Directive)*

### Commencement Information

**I49** Sch. 9 in force at 2.4.2006, see [reg. 1\(3\)](#)

## VERIFICATION PROCEDURE FOR SUBSYSTEMS

### INTRODUCTION

1. EC verification is the procedure whereby a notified body checks and certifies, at the request of a contracting entity or of its authorised representative established within the Community, that a subsystem:

- complies with the High-Speed Directive or the Conventional Directive;
- complies with the other regulations deriving from the Treaty, and
- may be put into operation.

### STAGES

2. The subsystem is checked at each of the following stages:

- overall design;
- construction of subsystem, including, in particular, civil-engineering activities, constituent assembly, overall adjustment;
- final testing of the subsystem.

### CERTIFICATE

3. The notified body responsible for EC verification draws up the certificate of conformity intended for the contracting entity or its authorised representative established within the Community, which in turn draws up the EC declaration of verification intended for the supervisory authority in the Member State in which the subsystem is located and/or operates.

### TECHNICAL FILE

4. The technical file accompanying the declaration of verification must be made up as follows:

- for infrastructure: engineering-structure plans, approval records for excavations and reinforcement, testing and inspection reports on concrete;
- for the other subsystems: general and detailed drawings in line with execution, electrical and hydraulic diagrams, control-circuit diagrams, description of data-processing and automatic systems, operating and maintenance manuals, etc.;
- list of interoperability constituents, as referred to in Article 3 of the High-Speed Directive or Article 3 of the Conventional Directive, incorporated into the subsystem;

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- copies of the EC declarations of conformity or suitability for use with which the abovementioned constituents must be provided in accordance with Article 13 of the High-Speed Directive or Article 13 of the Conventional Directive and accompanied, where appropriate, by the corresponding calculation notes and a copy of the records of the tests and examinations carried out by the notified bodies on the basis of the common technical specifications;
- the certificate from the notified body responsible for EC verification, accompanied by corresponding calculation notes and countersigned by itself, stating that the project complies with the applicable Directive, and mentioning any reservations recorded during performance of the activities and not withdrawn; the certificate should also be accompanied by the inspection and audit reports drawn up by the same body in connection with its task, as specified in sections 5.3 and 5.4.

## MONITORING

### 5

**5.1** The aim of EC monitoring is to ensure that the obligations deriving from the technical file have been met during production of the subsystem.

**5.2** The notified body responsible for checking production must have permanent access to building sites, production workshops, storage areas and, where appropriate, prefabrication or testing facilities and, more generally, to all premises which it considers necessary for its task. The contracting entity or its authorised representative within the Community must send it or have sent to it all the documents needed for that purpose and, in particular, the implementation plans and technical documentation concerning the subsystem.

**5.3** The notified body responsible for checking implementation must periodically carry out audits in order to confirm compliance with the High-Speed Directive or Conventional Directive. It must provide those responsible for implementation with an audit report. It may require to be present at certain stages of the building operations.

**5.4** In addition, the notified body may pay unexpected visits to the worksite or to the production workshops. At the time of such visits the notified body may conduct complete or partial audits. It must provide those responsible for implementation with an inspection report and, if appropriate, an audit report.

## SUBMISSION

**6.** The complete file referred to in paragraph 4 must be lodged with the contracting entity or its authorised agent established within the Community in support of the certificate of conformity issued by the notified body responsible for verification of the subsystem in working order. The file must be attached to the EC declaration of verification which the contracting entity sends to the Safety Authority.

A copy of the file must be kept by the contracting entity throughout the service life of the subsystem. The file must be sent to any other Member State that requests a copy.

## PUBLICATION

- 7.** Each notified body must periodically publish relevant information concerning:
- requests for EC verification received;
  - certificates of conformity issued;
  - certificates of conformity refused.

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## LANGUAGE

8. The files and correspondence relating to the EC verification procedures must be written in English or in a language accepted by the contracting entity.

## SCHEDULE 10

Reg 2(2)

*(This Schedule substantially reproduces the provisions of Annex VII to the High-Speed Directive and to the Conventional Directive)*

### Commencement Information

**I50** Sch. 10 in force at 20.3.2006, see [reg. 1\(2\)](#)

### *MINIMUM CRITERIA WHICH MUST BE TAKEN INTO ACCOUNT BY THE MEMBER STATES WHEN NOTIFYING BODIES*

1. The body, its Director and the staff responsible for carrying out the checks may not become involved, either directly or as authorised representatives, in the design, manufacture, construction, marketing or maintenance of the interoperability constituents or subsystems or in their use. This does not exclude the possibility of an exchange of technical information between the manufacturer or constructor and that body.

2. The body and the staff responsible for the checks must carry out the checks with the greatest possible professional integrity and the greatest possible technical competence and must be free of any pressure and incentive, in particular of a financial type, which could affect their judgement or the results of their inspection, in particular from persons or groups of persons affected by the results of the checks. In particular, the body and the staff responsible for the checks must be functionally independent of the authorities designated to issue authorisations for placing in service in the framework of the High-Speed Directive or the Conventional Directive, licences in the framework of Council Directive [95/18/EC](#) of 19th June 1995 on the licensing of railway undertakings<sup>(25)</sup> and safety certificates in the framework of Directive [2004/49/EC](#)<sup>(26)</sup>, and of the bodies in charge of investigations in the event of accidents.

3. The body must employ staff and possess the means required to perform adequately the technical and administrative tasks linked with the checks; it should also have access to the equipment needed for exceptional checks.

4. The staff responsible for the checks must possess:

- proper technical and vocational training;
- a satisfactory knowledge of the requirements relating to the checks that they carry out and sufficient practice in those checks;
- the ability to draw up the certificates, records and reports which constitute the formal record of the inspections conducted.

(25) OJ L 143, 27.6.1995, p. 70. Directive as amended by Directive [2001/13/EC](#) of the European Parliament and of the Council (OJ L 75, 15.3.2001, p. 26), and by Directive [2004/49/EC](#) of the European Parliament and of the Council (OJ L 163, 30.4.2004, p. 44)

(26) OJ L 163, 30.4.2004, p. 44.

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5. The independence of the staff responsible for the checks must be guaranteed. No official must be remunerated either on the basis of the number of checks performed or of the results of those checks.

6. The body must take out civil liability insurance unless that liability is covered by the State under national law or unless the checks are carried out directly by that Member State.

7. The staff of the body are bound by professional secrecy with regard to everything they learn in the performance of their duties (with the exception of the competent administrative authorities in the State where they perform those activities) in pursuance of the High-Speed Directive or of the Conventional Directive and any provision of national law implementing those Directives.

## SCHEDULE 11

Regulation 2(3)

### HIGH-SPEED RAIL SYSTEM

#### Commencement Information

**I51** Sch. 11 in force at 20.3.2006, see [reg. 1\(2\)](#)

The lines that in the United Kingdom form part of the trans-European high-speed rail system are—

- (a) the part of the Channel Tunnel railway line passing through the Channel Tunnel system;
- (b) the Channel Tunnel Rail Link from London St Pancras station to Cheriton;
- (c) London Euston station to Glasgow Central station, via Nuneaton, Stafford, Crewe, Preston, Penrith, Carstairs and Polmadie;
- (d) Colwich Junction to Stone station;
- (e) Norton Bridge to Manchester Piccadilly station via Macclesfield;
- (f) Crewe station to Stockport station via Wilmslow;
- (g) Weaver Junction to Liverpool Lime Street station via Runcorn;
- (h) Carstairs South Junction to Edinburgh Waverley station via Cobbinshaw Summit and Haymarket;
- (i) London King's Cross station to Edinburgh Waverley station via Peterborough, Doncaster, York and Newcastle;
- (j) London Paddington station to Cardiff Central station via Badminton;
- (k) Wootton Bassett Junction to Bristol Temple Meads station via Bath; and
- (l) Stoke Gifford Junction to Bristol Temple Meads station via Filton Abbey Wood.



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PROSPECTIVE

## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations give effect to three Directives concerning railway interoperability which have the purpose of establishing conditions for the inter-working (interoperability) of the trans-European rail system. They apply in relation to the United Kingdom parts of the trans-European rail system.

The [Railways \(Interoperability\) \(High-Speed\) Regulations 2002 \(S.I. 2002 No. 1166\)](#) (“High-Speed Regulations”) implemented Council Directive [96/48/EC](#) of 23rd July 1996 on the interoperability of the trans-European high-speed rail system (“High-Speed Directive”) (O.J. No. L 235 17.9.97, p. 6 corrected by O.J. No. L 262, 16.10.96, p. 8).

These Regulations revoke the High-Speed Regulations and replace them, in consolidated Regulations, with regulations that in addition implement Directive [2001/16/EC](#) of the European Parliament and of the Council of 19th March 2001 on the interoperability of the trans-European conventional rail system (“the Conventional Directive”) (O.J. No. L 110, 20.4.2001, p. 1), and Directive [2004/50/EC](#) of the European Parliament and of the Council of 29th April 2004 (O.J. No. L 164, 30.4.2004, p. 114) which made amendments to both the High-Speed Directive and the Conventional Directive.

The UK part of the trans-European rail system, high-speed and conventional, is divided into subsystems (*regulation 2 and Schedules 1 to 4*).

*Part 1* provides for interpretation and application of the Regulations. *Regulation 1* provides for certain regulations to come into force on 20th March 2006 and the remainder on 2nd April 2006. The first date allows for consideration of derogations (*regulation 6*) and for the appointment of notified bodies by the Secretary of State (*regulation 25*). *Regulation 2* (together with *Schedules 1 to 10*) deals with interpretation, including the definition of terms used in the Regulations. *Regulation 3* applies the Regulations to the trans-European rail system in the UK and its constituent parts, namely subsystems and interoperability constituents. However, for those parts of the high-speed and conventional trans-European rail system not previously subject to the High-Speed Regulations, they do not apply to a placing in service of the relevant subsystem or placing on the market of a relevant interoperability constituent where that occurs before 1st August 2006.

In *Part 2*, *regulations 4 and 5* restrict the placing in service of structural subsystems (e.g. infrastructure, rolling stock) that are new or have undergone major renewal or upgrade, to those authorised by the Safety Authority or ruled by the Competent Authority as not requiring authorisation. In Great Britain the Safety Authority is the Office of Rail Regulation, except in relation to the Channel Tunnel system where it is the Intergovernmental Commission. In Northern Ireland it is the Department for Regional Development in Northern Ireland (“DRDNI”). The Competent Authority means the Secretary of State (DfT) in Great Britain, except in relation to the Channel Tunnel system where it is the Intergovernmental Commission, and the DRDNI in Northern Ireland.

*Regulation 4* requires that for those subsystems for which an authorisation is needed (‘a project subsystem’) an application to the Safety Authority for authorisation must be made with the complete technical file and the contracting entity’s verification declaration. In authorising the placing in

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service of a subsystem, the Safety Authority must be satisfied that the contracting entity (effectively the party procuring the work) has drawn up a verification declaration, and that the subsystem has been designed, constructed and installed so as to meet the essential requirements when so placed into service and is compatible with the rail system of which it is to be a part.

In the case of major upgrade or renewal works a decision must first be made by the Competent Authority as to whether an authorisation is needed for the subsystem to be placed in service. *Regulation 5* makes provision for application to the Competent Authority for this decision, and the Authority is bound to require authorisation if there may be an adverse effect on safety. If authorisation is required, the Competent Authority can decide for conventional trans-European railways on the extent to which the requirements of relevant Technical Specifications for Interoperability (TSI) shall apply. (TSIs are standards drawn up by the Commission and notified national technical rules are standards notified by the United Kingdom to the Commission for use where the TSIs do not apply).

*Regulation 6* allows for derogations from conformity with TSIs, whether for subsystems or interoperability constituents, in specified circumstances.

*Regulation 7* specifies how the essential requirements are to be met by a subsystem where authorisation is required. This requires conformity with the relevant TSIs and notified national technical rules. *Regulation 8* (read with *Schedules 8 and 9*) requires the contracting entity to appoint a notified body to carry out the verification assessment procedure and for the contracting entity to draw up a verification declaration where the conditions are satisfied. The contracting entity must be satisfied the essential requirements are met (*regulation 7*), the verification assessment procedure has been carried out and the technical file prepared (*regulation 9*), and that the notified body has drawn up a certificate of conformity (*Schedule 9*). *Regulation 9* indicates the appropriate verification assessment procedure. Under *regulation 10* a structural subsystem for which there is a verification declaration will be taken to meet the essential requirements unless there are reasonable grounds for believing it does not. *Regulation 11* specifies the content of the technical file and provides for its retention and updating after it has been lodged with the contracting entity. *Regulation 12* places obligations on the operator of an authorised subsystem that has been placed in service to continue to meet the essential requirements, TSIs and notified national technical rules. *Regulations 13 and 14* permit the Safety Authority and the Competent Authority to charge for certain work (but not the Intergovernmental Commission for the Channel Tunnel system). *Regulation 15* makes transitional provisions for projects not previously subject to the High-Speed Regulations and which are underway and have reached the design stage when the Regulations come into force. It provides for notified bodies to make use of other assessment work carried out before their appointment.

*Part 3* (read with *Schedule 7*) contains requirements for 'interoperability constituents'. These are elementary components of a subsystem (e.g. in relation to the rolling stock subsystem, wheels) that must satisfy certain requirements to be placed on the railway market for use in the trans-European rail system.

*Regulation 16* provides that an EC declaration of conformity or suitability for use indicates the interoperability constituent satisfies the requirements, which are comprised in European specifications and TSIs. *Regulation 17* provides a presumption that an interoperability constituent for which an EC declaration has been made satisfies the essential requirements and requisite standards. *Regulation 18* (and *Schedule 7*) sets out the assessment procedure. *Regulation 19* prohibits an interoperability constituent being placed on the Trans-European rail system market without the manufacturer of the constituent, or other appropriate person, having drawn up the EC declaration.

*Regulation 20* places continuing requirements on an operator using an interoperability constituent on the trans-European rail system in the UK. Other provisions allow the drawing up of an EC declaration after the interoperability constituent has been placed on the market (*regulation 21*), provide for recognition of assessments carried out in other Member States (*regulation 22*) and

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notification to the Commission and other Member States where it appears to the Safety Authority that a declaration is incorrect (*regulation 23*).

*Part 4* concerns the bodies responsible for assessing conformity of subsystems and interoperability constituents to the relevant standards (“notified bodies”) (*regulation 24*). *Regulation 25* provides for their appointment. *Regulation 26* places duties on notified bodies when appointed to carry out the appropriate assessment processes for subsystems and interoperability constituents. *Regulation 27* makes provision for those cases where the notified body is not minded to draw up a certificate of conformity in relation to a project subsystem or confirm that an EC declaration in relation to an interoperability constituent can be drawn up. *Regulation 28* requires notified bodies to consult with other notified bodies in the Community in a coordination group. Provision for the recovery of fees by notified bodies and the Secretary of State is contained in *regulations 29 and 30*.

*Part 5* contains provisions for the keeping of registers of authorised rolling stock and infrastructure (*regulations 31 and 32*) and a National Vehicle Register (*regulation 33*). Authorised rolling stock vehicles are issued with an identification code.

Enforcement provisions are set out in *Part 6*. *Regulations 34 and 35* provide for the Regulations to be enforced by the Office of Rail Regulation in Great Britain and the Health and Safety Executive for Northern Ireland in Northern Ireland, on the basis that for the purposes of enforcement the Regulations are to be treated as Health and Safety Regulations. Action in relation to interoperability constituents is provided by notices under *regulations 36 and 37*. A defence of due diligence is provided in *regulation 38* and liabilities on persons other than the principal offender are imposed by *regulation 39*.

*Part 6* contains supplementary provisions. In *regulation 40* the High-Speed Regulations are revoked, subject to savings and transitional provisions for projects on the high-speed rail system.

A list of TSIs and of notified national technical rules applying in Great Britain can be obtained from the Department for Transport, Rail Standards & Safety, Zone 4/33 Great Minster House, 76 Marsham Street, London SW1P 4DR and those applying in Northern Ireland can be obtained from the Department for Regional Development, Railway Safety Team, River House, 48 High Street, Belfast, BT1 2AR.

A copy of the Regulatory Impact Assessment prepared in respect of these Regulations can be obtained from the Department for Transport, Rail Strategy Team, Zone 5/29 Great Minster House, 76 Marsham Street, London SW1P 4DR. It can also be accessed on the Office of Public Information website at [www.opsi.gov.uk](http://www.opsi.gov.uk). A copy has been placed in the Library of each House of Parliament. A copy of the Transposition Note is also available from the Rail Strategy team at the Department for Transport, and both documents are also at [www.dft.gov.uk/railways](http://www.dft.gov.uk/railways).

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**Changes and effects yet to be applied to :**

- Sch. 1 coming into force by [S.I. 2006/397](#) reg. 1(2)
- Sch. 2 coming into force by [S.I. 2006/397](#) reg. 1(2)
- Sch. 3 coming into force by [S.I. 2006/397](#) reg. 1(2)
- Sch. 4 coming into force by [S.I. 2006/397](#) reg. 1(2)
- Sch. 5 coming into force by [S.I. 2006/397](#) reg. 1(2)
- Sch. 6 coming into force by [S.I. 2006/397](#) reg. 1(2)
- Sch. 7 coming into force by [S.I. 2006/397](#) reg. 1(3)
- Sch. 8 coming into force by [S.I. 2006/397](#) reg. 1(3)
- Sch. 8 heading substituted by [S.I. 2007/3386](#) reg. 2(7)(a)
- Sch. 8 words substituted by [S.I. 2007/3386](#) reg. 2(7)(b)
- Sch. 8 words substituted by [S.I. 2007/3386](#) reg. 2(7)(c)
- Sch. 9 coming into force by [S.I. 2006/397](#) reg. 1(3)
- Sch. 9 substituted by [S.I. 2007/3386](#) reg. 2(8)
- Sch. 10 coming into force by [S.I. 2006/397](#) reg. 1(2)
- Sch. 11 coming into force by [S.I. 2006/397](#) reg. 1(2)
- Regulations revoked by [S.I. 2011/3066](#) reg. 47(1)
- reg. 1 coming into force by [S.I. 2006/397](#) reg. 1(2)
- reg. 2 coming into force by [S.I. 2006/397](#) reg. 1(2)
- reg. 2(1) substituted by [S.I. 2007/3386](#) reg. 2(2)(a)
- reg. 2(2) words substituted by [S.I. 2007/3386](#) reg. 2(2)(b)
- reg. 2(3) words inserted by [S.I. 2007/3386](#) reg. 2(2)(c)(ii)
- reg. 2(3) words inserted by [S.I. 2008/1746](#) reg. 4(2)
- reg. 2(3) words substituted by [S.I. 2007/3386](#) reg. 2(2)(c)(i)
- reg. 2(5)(a) word inserted by [S.I. 2007/3386](#) reg. 2(2)(d)(i)
- reg. 2(5)(b) substituted for reg. 2(5)(b)(c) by [S.I. 2007/3386](#) reg. 2(2)(d)(ii)
- reg. 3 coming into force by [S.I. 2006/397](#) reg. 1(2)
- reg. 3(2) words inserted by [S.I. 2008/1746](#) reg. 4(3)(a)
- reg. 3(3) substituted by [S.I. 2008/1746](#) reg. 4(3)(b)
- reg. 4 coming into force by [S.I. 2006/397](#) reg. 1(3)
- reg. 4(2)(a) word substituted by [S.I. 2007/3386](#) reg. 2(3)
- reg. 4(6) word substituted by [S.I. 2008/1746](#) reg. 4(4)(a)
- reg. 4(7)(a) word substituted by [S.I. 2008/1746](#) reg. 4(4)(b)
- reg. 5 coming into force by [S.I. 2006/397](#) reg. 1(3)
- reg. 5(8) words omitted by [S.I. 2008/1746](#) reg. 4(6)
- reg. 6 coming into force by [S.I. 2006/397](#) reg. 1(2)
- reg. 7 coming into force by [S.I. 2006/397](#) reg. 1(3)
- reg. 8 coming into force by [S.I. 2006/397](#) reg. 1(3)
- reg. 8(3)(c) word substituted by [S.I. 2007/3386](#) reg. 2(4)
- reg. 9 coming into force by [S.I. 2006/397](#) reg. 1(3)
- reg. 10 coming into force by [S.I. 2006/397](#) reg. 1(3)
- reg. 11 coming into force by [S.I. 2006/397](#) reg. 1(3)
- reg. 11(1)(a) word substituted by [S.I. 2007/3386](#) reg. 2(5)(a)(i)
- reg. 11(1)(a) word substituted by [S.I. 2007/3386](#) reg. 2(5)(a)(ii)
- reg. 11(2) words substituted by [S.I. 2007/3386](#) reg. 2(5)(b)
- reg. 12 coming into force by [S.I. 2006/397](#) reg. 1(3)
- reg. 12(2) words inserted by [S.I. 2008/1746](#) reg. 4(8)(a)

- reg. 13 coming into force by S.I. 2006/397 reg. 1(3)
- reg. 14 coming into force by S.I. 2006/397 reg. 1(2)
- reg. 15 coming into force by S.I. 2006/397 reg. 1(3)
- reg. 16 coming into force by S.I. 2006/397 reg. 1(3)
- reg. 17 coming into force by S.I. 2006/397 reg. 1(3)
- reg. 18 coming into force by S.I. 2006/397 reg. 1(3)
- reg. 19 coming into force by S.I. 2006/397 reg. 1(3)
- reg. 20 coming into force by S.I. 2006/397 reg. 1(3)
- reg. 21 coming into force by S.I. 2006/397 reg. 1(3)
- reg. 22 coming into force by S.I. 2006/397 reg. 1(3)
- reg. 23 coming into force by S.I. 2006/397 reg. 1(3)
- reg. 24 coming into force by S.I. 2006/397 reg. 1(2)
- reg. 25 coming into force by S.I. 2006/397 reg. 1(2)
- reg. 26 coming into force by S.I. 2006/397 reg. 1(3)
- reg. 27 coming into force by S.I. 2006/397 reg. 1(3)
- reg. 27 heading word substituted by S.I. 2007/3386 reg. 2(6)(a)
- reg. 27(1) words substituted by S.I. 2007/3386 reg. 2(6)(b)
- reg. 27(2) words substituted by S.I. 2007/3386 reg. 2(6)(c)
- reg. 28 coming into force by S.I. 2006/397 reg. 1(3)
- reg. 29 coming into force by S.I. 2006/397 reg. 1(3)
- reg. 30 coming into force by S.I. 2006/397 reg. 1(3)
- reg. 31 coming into force by S.I. 2006/397 reg. 1(3)
- reg. 32 coming into force by S.I. 2006/397 reg. 1(3)
- reg. 33 coming into force by S.I. 2006/397 reg. 1(3)
- reg. 34 coming into force by S.I. 2006/397 reg. 1(3)
- reg. 35 coming into force by S.I. 2006/397 reg. 1(3)
- reg. 36 coming into force by S.I. 2006/397 reg. 1(3)
- reg. 37 coming into force by S.I. 2006/397 reg. 1(3)
- reg. 38 coming into force by S.I. 2006/397 reg. 1(3)
- reg. 39 coming into force by S.I. 2006/397 reg. 1(3)
- reg. 40 coming into force by S.I. 2006/397 reg. 1(3)

**Changes and effects yet to be applied to the whole Instrument associated Parts and Chapters:**

Whole provisions yet to be inserted into this Instrument (including any effects on those provisions):

- reg. 4(9A) inserted by S.I. 2008/1746 reg. 4(4)(c)
- reg. 4A4B inserted by S.I. 2008/1746 reg. 4(5)
- reg. 11(7) inserted by S.I. 2008/1746 reg. 4(7)
- reg. 12(3)-(6) inserted by S.I. 2008/1746 reg. 4(8)(b)
- reg. 33(1A) inserted by S.I. 2008/1746 reg. 4(9)