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STATUTORY INSTRUMENTS

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**1998 No. 1340**

**The Railways Regulations 1998**

**PART II**

**INFRASTRUCTURE MANAGEMENT**

**Separation of accounts between transport operations and infrastructure management and prohibition of transfer of state aid**

5. Any railway undertaking which is also an infrastructure manager shall—
- (a) prepare and maintain accounts for business relating to the provision of transport services which are separate from its accounts for business relating to the management of railway infrastructure; and
  - (b) ensure that there is no transfer of state aid granted to the undertaking between the provision of transport services and the management of railway infrastructure.

**Balancing infrastructure fees and infrastructure expenditure**

6.—(1) An infrastructure manager shall ensure that, under normal business conditions over a reasonable period of time, the expenditure on railway infrastructure which he incurs does not exceed the income which he receives from infrastructure fees and State contributions.

(2) An infrastructure manager may finance the development of railway infrastructure, including the provision or renewal of capital assets, and may make a return on the capital employed in his undertaking.

**Calculation of, and rules for the determination of, fees for the use of railway infrastructure**

7.—(1) Infrastructure managers shall charge, and be paid, fees for the use by railway undertakings and international groupings of railway infrastructure for which they are responsible.

(2) Infrastructure fees shall be determined so as to avoid any discrimination in the charging for services of an equivalent nature in the same market.

(3) Infrastructure fees shall be determined in accordance with the rules in Schedule 1 and, in relation to a fee to be charged under an agreement which is an access contract entered into pursuant to a direction under section 17 or 18 of the Railways Act 1993, it shall fall to the Regulator, in consultation with the infrastructure manager and the person by whom the fee is payable or a person acting on his behalf, to determine the fee in accordance with those rules as if in rules 2, 4 and 5 the references to an amount determined by agreement were references to an amount determined by the Regulator in consultation with those persons.

(4) The rules in Schedule 1 apply to the determination of fees on the conclusion, modification or renewal of agreements for the use of railway infrastructure.

### **Information to be provided by infrastructure managers**

8.—(1) Whenever requested in writing to do so by the International Rail Regulator, an infrastructure manager shall provide him with such information concerning infrastructure fees charged by that infrastructure manager as the International Rail Regulator shall consider necessary to enable him to decide whether or not infrastructure fees are charged on a non-discriminatory basis.

(2) An infrastructure manager shall inform in good time railway undertakings using the railway infrastructure operated by that infrastructure manager in order to provide international services and international combined transport goods services of any major changes in the quality or capacity of the railway infrastructure concerned.

### **International Rail Regulator**

9.—(1) There shall continue to be an officer known as the “International Rail Regulator” appointed by the Secretary of State to perform the functions conferred on him by these Regulations.

(2) The Secretary of State shall appoint a person to hold office as the International Rail Regulator.

(3) An appointment of a person to hold the office as the International Rail Regulator shall be for a term not exceeding five years, but previous appointment to that office shall not affect eligibility for re-appointment.

(4) The Secretary of State may remove a person from office as the International Rail Regulator on the ground of incapacity or misbehaviour.

(5) Subject to paragraphs (3) and (4), a person appointed as the International Rail Regulator shall hold and vacate office as such in accordance with the terms of his appointment.

(6) The provisions of Schedule 2 shall have effect with respect to the International Rail Regulator.

(7) At any time when there is no person holding office as the International Rail Regulator the functions conferred on the holder of that office by these Regulations shall be exercisable by the Secretary of State.