
STATUTORY INSTRUMENTS

2005 No. 3049

**The Railways Infrastructure (Access
and Management) Regulations 2005**

PART 5

ALLOCATION OF INFRASTRUCTURE CAPACITY

Capacity enhancement plan

25.—(1) The infrastructure manager must, within six months of the publication of a capacity analysis in accordance with regulation 24, produce a capacity enhancement plan.

(2) In producing the capacity enhancement plan, the infrastructure manager must—

- (a) consult such interested parties as he considers necessary, including those described in regulation 23(3); and
- (b) at least one month before the deadline for completion of the plan seek the prior approval of the Secretary of State or, if any part of the capacity enhancement plan relates to infrastructure in Scotland, Scottish Ministers, to the capacity enhancement plan.

(3) The capacity enhancement plan must identify the—

- (a) reasons for the congestion;
- (b) likely future development of traffic;
- (c) constraints on infrastructure development; and
- (d) options for and costs of enhancing the capacity, including the potential effect on access charges.

(4) On the basis of a cost benefit analysis of the potential measures for action identified in the capacity enhancement plan, that plan must include—

- (a) details of the action to be taken to enhance the capacity of the congested infrastructure; and
- (b) a timetable for the completion of the detailed measures identified in accordance with subparagraph (a).

(5) Subject to paragraph (6), if the utilisation of capacity on that element of the infrastructure which is the subject of the capacity enhancement plan attracts a scarcity charge, in accordance with paragraph 1(8) of Schedule 3, the infrastructure manager must cease the levying of such charge in situations where—

- (a) paragraph (1) applies but he does not produce a capacity enhancement plan for that part of the infrastructure which is subject to the scarcity charge, as required by this regulation; or
- (b) he fails to make progress with implementation of those areas of the action plan produced in accordance with paragraph (4).

(6) Paragraph (5) does not apply where—

- (a) the action plan produced in accordance with paragraph (4) cannot be implemented for reasons beyond the immediate control of the infrastructure manager; or

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(b) the options identified in that action plan are not economical or financially viable, provided that prior approval to continue to levy the scarcity charge is obtained from the Office of Rail Regulation or, in the case of a rail link facility, the Secretary of State.

(7) At the end of the six month period starting with the publication of the capacity analysis in accordance with regulation 24, whether or not the approval sought under paragraph (2)(b) has been received, the infrastructure manager must provide the parties consulted under paragraph (2)(a) with a copy of the plan and the timetable for completion of the measures identified to resolve the congestion.