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STATUTORY INSTRUMENTS

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**2011 No. 3066**

**The Railways (Interoperability) Regulations 2011**

**PART 7**

Supplementary

**Deemed authorisation**

- 44.—(1) Subject to paragraph (4), a vehicle to which this paragraph applies is deemed—
- (a) to have been authorised under these Regulations; and
  - (b) to have been assessed against the requirements of Part 1 of Schedule 1 to the Rail Vehicle Accessibility (Non-Interoperable Rail System) Regulations 2010 <sup>M1</sup>, as notified national technical rules, for the purposes of that authorisation.
- (2) Subject to paragraph (3), paragraph (1) applies to a vehicle which—
- (a) is constructed or adapted to transport passengers; and
  - (b) was first brought into use after 31st December 1998 and before 1st August 2006; and
  - (c) is used in the provision of a service for the carriage of passengers on the trans-European rail system located in Great Britain.
- (3) Paragraph (1) does not apply to—
- (a) a vehicle to the extent that immediately before 7th July 2008 the vehicle—
    - (i) was authorised or treated as having been authorised under the Railways (Interoperability) Regulations 2006 <sup>M2</sup>; and
    - (ii) had been assessed against the Rail Vehicle Accessibility Regulations 1998 <sup>M3</sup> as in force when the unit was assessed for that authorisation; or
  - (b) a vehicle which belongs to a class of vehicles first brought into use on or before 31st December 1998.
- (4) The deeming provisions of paragraph (1) do not apply for the purposes of—
- (a) regulation 45; and
  - (b) regulation 4(1) in so far as that regulation applies in relation to any upgrading or renewal of a vehicle to which paragraph (2) applies.

**Marginal Citations**

**M1** [S.I. 2010/432](#).

**M2** [S.I. 2006/397](#), as amended by [S.I. 2007/3386](#). [S.I. 2006/397](#) was also amended by the [Rail Vehicle Accessibility \(Interoperable Rail System\) Regulations 2008 \(S.I. 2008/1746\)](#), but as those amendments came into force on 7th July 2008 they are not relevant to paragraph (3)(a)(i). Regulation 40(6) of [S.I. 2006/397](#) provides for authorisations under the Railways (Interoperability)(High-Speed) Regulations 2002 (2002/1166) to be treated as an authorisation under [S.I. 2006/397](#). Consequently the reference in

paragraph (3)(a)(i) to a unit being authorised under the Railways (Interoperability) Regulations 2006 does not include a unit deemed to be authorised by virtue of regulation 4A of those Regulations, but does include a unit that was previously authorised under the Railways (Interoperability)(High-Speed) Regulations 2002.

**M3** S.I. 1998/2456, amended by S.I. 2000/3215 and S.I. 2008/1746 and revoked by S.I. 2010/432.

### Accessibility for people with reduced mobility

**45.** No person is to use a vehicle in the provision of a service for the carriage of passengers on the trans-European rail system located in the United Kingdom on or after 1st January 2020 unless it has been constructed, renewed, upgraded or modified to comply with the technical standards, and is operated to comply with the operational standards, required by—

- [<sup>F1</sup>(a) the TSI relating to persons with reduced mobility set out in the Annex to [Decision 2008/164/EC](#) of the European Commission of 21 December 2007, or any amended version of it, or Commission Regulation 1300/2014 of the European Commission of 18 November 2014 which replaced it, or the NTSN that replaced Commission Regulation 1300/2014, or any variation of that NTSN, or any NTSN which replaces it;]
- (b) Part 1 of Schedule 1 to the Rail Vehicle Accessibility (Non-Interoperable Rail System) Regulations 2010;
- (c) the Rail Vehicle Accessibility Regulations (Northern Ireland) 2001; or
- (d) the TSI, or amended version of it or TSI replacing it [<sup>F2</sup>or the NTSN], referred to in paragraph (a) except to the extent that—
  - (i) the vehicle or its operation complies with the technical or operational standards required by the provisions referred to in paragraphs (b) or (c),
  - (ii) a derogation from part of it [<sup>F3</sup>was granted under regulation 14 before IP completion day, or an exemption from part of it has been granted under regulations 14 and 14A],
  - (iii) a determination that part of it does not apply has been made under regulation 13(8), and
  - (iv) a dispensation that part of it does not apply for the purposes of this regulation has been granted under regulation 46.

#### Textual Amendments

- F1** Reg. 45(a) substituted (31.12.2020) by [The Railways \(Interoperability\) \(Amendment\) \(EU Exit\) Regulations 2019](#) (S.I. 2019/345), regs. 1(2), **2(48)(a)**; 2020 c. 1, Sch. 5 para. 1(1)
- F2** Words in reg. 45(d) inserted (31.12.2020) by [The Railways \(Interoperability\) \(Amendment\) \(EU Exit\) Regulations 2019](#) (S.I. 2019/345), regs. 1(2), **2(48)(b)(i)**; 2020 c. 1, Sch. 5 para. 1(1)
- F3** Words in reg. 45(d)(ii) substituted (31.12.2020) by [The Railways \(Interoperability\) \(Amendment\) \(EU Exit\) Regulations 2019](#) (S.I. 2019/345), regs. 1(2), **2(48)(b)(ii)** (as amended by [The Railways \(Miscellaneous Amendments, Revocations and Transitional Provisions\) \(EU Exit\) Regulations 2020](#) (S.I. 2020/786), regs. 1(2)(b)(i), **4(8)**); 2020 c. 1, **Sch. 5 para. 1(1)**

### Dispensations

**46.—(1)** The Competent Authority may grant a conditional or unconditional dispensation from [<sup>F4</sup>NTRs] for a particular case or description of case if the Competent Authority is satisfied that the dispensation is consistent with the essential requirements.

(2) If the Competent Authority has granted a dispensation that the Competent Authority considers has created <sup>F5</sup>... a rule or restriction of a strictly local nature the Competent Authority must notify the relevant owner that the rule or restriction must be referred to in the infrastructure register.

(3) Paragraph (1) does not apply in relation to the requirements of the Rail Vehicle Accessibility (Non-Interoperable Rail System) Regulations 2010 or the Rail Vehicle Accessibility Regulations (Northern Ireland) 2001.

(4) The Secretary of State may grant for a particular case or description of case a dispensation for the purposes of regulation 45(d)(iv).

#### Textual Amendments

- F4** Word in reg. 46(1) substituted (31.12.2020) by The Railways (Interoperability) (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/345), regs. 1(2), **2(49)(a)**; 2020 c. 1, Sch. 5 para. 1(1)
- F5** Words in reg. 46(2) omitted (31.12.2020) by virtue of The Railways (Interoperability) (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/345), regs. 1(2), **2(49)(b)**; 2020 c. 1, Sch. 5 para. 1(1)

#### Revocation and savings

**47.—(1)** The Railways (Interoperability) Regulations 2006, the Railways (Interoperability) (Amendment) Regulations 2007 and regulation 4 of the Rail Vehicle Accessibility (Interoperable Rail System) 2008 <sup>M4</sup> are revoked.

(2) Where immediately before the coming into force of these Regulations an appointment of a notified body had effect as an appointment under the Railways (Interoperability) Regulations 2006, it continues to have effect as if made as an appointment under regulation 31 of these Regulations for the period specified when appointed.

(3) Where, under the Railways (Interoperability) Regulations 2006, a structural subsystem has been authorised to be placed in service on the rail system, it is from the coming into force of these Regulations treated as authorised under these Regulations.

(4) Regulation 4(8), (9) and (9A) of the Railways (Interoperability) Regulations 2006 continue to have effect in relation to a contract made before the coming into force of these Regulations.

(5) A derogation in force immediately before the coming into force of these Regulations and granted by the Secretary of State in accordance with the High-Speed Directive or a derogation granted by the Competent Authority in accordance with the Conventional Directive is treated as a derogation granted under regulation 14 in accordance Article 9 of the Directive.

(6) Any person who immediately before the coming into force of these Regulations is the registration body designated under regulation 33(12) of the Railways (Interoperability) Regulations 2006 is treated on and from the coming into force of these Regulations as if the person was designated as the registration entity under regulation 36(11).

#### Marginal Citations

- M4** S.I. 2006/397 was amended by S.I. 2007/3386 and by regulation 4 of S.I. 2008/1746

#### [<sup>F6</sup>Further savings and transitional arrangements

**47A.—(1)** Where a structural subsystem was authorised to be placed in service on the rail system in accordance with regulation 7 or regulation 9 as they had effect before IP completion day and that authorisation has not been revoked, it is treated as authorised under these Regulations as they have effect on or after IP completion day.

(2) Where an application for authorisation was made pursuant to regulation 5 as it had effect before IP completion day and that authorisation was not issued before IP completion day, it is, on or after IP completion day, treated as a valid application under these Regulations and any EC declaration of verification and technical file submitted with that application are treated as a UK declaration of verification and technical file submitted in accordance with these Regulations as they have effect on or after IP completion day.

(3) Where an application for type authorisation was made pursuant to regulation 9 as it had effect before IP completion day and that authorisation was not issued before IP completion day, it is, on or after IP completion day, treated as a valid application under these Regulations and any reference to an applicable TSI or notified national technical rule in the documentation accompanying that application is treated as a reference to the applicable NTSN or NTR which replaces them.

(4) Where a Competent Authority has made a decision about the requirement for authorisation and the extent to which TSIs must apply to a project subsystem pursuant to regulation 13(8) before IP completion day, a reference to a TSI in that decision is treated as a reference to the NTSN that replaces it.

(5) Where an application for a decision by the Competent Authority as to whether an authorisation is required was made pursuant to regulation 13 as it had effect before IP completion day and the Competent Authority has not made the decision before IP completion day, it is treated as an application under regulation 13 as it has effect on or after IP completion day, and any reference in that application to TSIs or parts of TSIs is treated as a reference to the NTSNs or parts of NTSNs that replace them.

(6) A derogation granted against a TSI by the Competent Authority in accordance with Article 9 of the Directive and these Regulations as they had effect before IP completion day is treated on or after IP completion day as an exemption granted by the Competent Authority against the NTSN which replaces that TSI in accordance with regulations 14 and 14A.

(7) Except for a project subsystem authorised under regulation 9, if a project subsystem was authorised before IP completion day, the project entity must (in addition to the requirements of regulation 19(2)) keep the documents it was required to retain in accordance with regulation 19(1) (a) as it had effect before IP completion day.

(8) Where an interoperability constituent was placed on the market anywhere in the European Union before IP completion day, it is treated on or after IP completion day as an interoperability constituent placed on the UK market in accordance with Part 3.

(9) Where a notified body (as defined in regulation 30(2)) was engaged before IP completion day to carry out an EC verification assessment procedure in relation to TSIs or notified national technical rules pursuant to Annex VI of the Directive and regulation 16 as it had effect before IP completion day, the work carried out by that body before IP completion day is treated as work undertaken pursuant to regulation 16 and Schedule 4 as they have effect from IP completion day to carry out the UK verification assessment procedure in relation to NTSNs.

(10) Where a designated body was engaged before IP completion day to carry out an EC verification assessment procedure in relation to TSIs or notified national technical rules pursuant to Annex VI of the Directive and regulation 16 as it had effect before IP completion day, the work carried out by that body before IP completion day is treated as work undertaken pursuant to regulation 16 and Schedule 4 as they have effect from IP completion day to carry out the UK verification assessment procedure in relation to UK specific rules.

(11) A dispensation from a notified national technical rule granted by the Competent Authority pursuant to regulation 46 as it had effect before IP completion day, is treated on or after IP completion day as a dispensation from the NTR specified as replacing it.]

### Textual Amendments

- F6** Reg. 47A inserted (31.12.2020) by [The Railways \(Interoperability\) \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/345\)](#), regs. 1(2), **2(50)** ( as amended by [The Railways \(Miscellaneous Amendments, Revocations and Transitional Provisions\) \(EU Exit\) Regulations 2020 \(S.I. 2020/786\)](#), regs. 1(2)(b)(i), **4(9)**); 2020 c. 1, **Sch. 5 para. 1(1)**;

### Amendments to legislation

- 48.** The Schedule has effect.

### Review

- 49.**—(1) The Secretary of State must from time to time—
- (a) carry out a review of these Regulations,
  - (b) set out the conclusions of the review in a report, and
  - (c) publish the report.
- (2) In carrying out the review the Secretary of State must, so far as is reasonable, have regard to how the Directive is implemented in other Member States.
- (3) The report must in particular—
- (a) set out the objectives intended to be achieved by the regulatory system established by these Regulations,
  - (b) assess the extent to which those objectives are achieved, and
  - (c) assess whether those objectives remain appropriate and, if so, the extent to which they could be achieved with a system that imposes less regulation.
- (4) The first report under this regulation must be published before the end of the period of five years beginning with the day on which these Regulations come into force.
- (5) Reports under this regulation are afterwards to be published at intervals not exceeding five years.

**Changes to legislation:**

There are currently no known outstanding effects for the The Railways (Interoperability) Regulations 2011, PART 7.