
STATUTORY INSTRUMENTS

2011 No. 3066

The Railways (Interoperability) Regulations 2011

PART 6

Appeals and Enforcement

Notices relating to interoperability constituents not meeting the essential requirements

41.—(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 is unlikely when used as intended to 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 in writing on any person who is using or intending to use that interoperability constituent in a project subsystem—

- (a) prohibiting the use of or restricting the area of use of that interoperability constituent; or
- (b) where there is a serious safety risk, requiring the recall or withdrawal of the 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which that notice relates must not be used, or that its area of use shall be restricted, or that it must be recalled or withdrawn; and
- (d) the date by which the person must 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(3) Any notice served under paragraph (1) may be withdrawn by the Office of Rail Regulation or the Health and Safety Executive for Northern Ireland by serving notice of the withdrawal on the person.

(4) Where a notice has been served on a person (“P”) in accordance with this regulation P must—

- (a) comply with that notice; and
- (b) notify the person (if any) who supplied P 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 P requires that person in turn to notify the supplier (if any) with the same information contained in the notice from P.