

EXPLANATORY MEMORANDUM TO
THE RAILWAYS (INTEROPERABILITY) (AMENDMENT) REGULATIONS
2014

2014 No. 3217

1. This explanatory memorandum has been prepared by the Department for Transport and is laid before Parliament by Command of Her Majesty.

2. **Purpose of the instrument**

The Railways (Interoperability) (Amendment) Regulations 2014 are necessary to implement Directive 2014/38/EU, amending Annex III to Directive 2008/57/EC on the interoperability of the rail system within the Community¹. Directive 2014/38/EU clarifies how the essential requirement for environmental protection should address noise pollution in order for the relevant rail systems and subsystems to comply with the Interoperability Directive 2008/57/EC².

3. **Matters of special interest to the Joint Committee on Statutory Instruments *or* the Select Committee on Statutory Instruments**

None

4. **Legislative Context**

4.1 The Railways (Interoperability) Regulations 2011³ (“the 2011 Regulations”) implemented Directive 2008/57/EC on the interoperability of the rail system. The regulations created a framework for the authorisation of rail projects (for example, infrastructure and rolling stock) based on conformity with harmonised standards, supplemented by national rules.

4.2 Directive 2008/57/EC among other things sets out the essential requirements for the interoperability of railway systems within the European Union which are set out in regulation 12(2)(b) of the 2011 Regulations. Directive 2014/38/EU amends Directive 2008/57/EC to clarify how the essential requirement for environmental protection should address noise pollution in Annex III to the 2008 Directive. The Railways (Interoperability) (Amendment) Regulations 2014 are necessary to transpose the 2014 Directive into UK law.

4.3 The Transposition Note sets out the approach taken to transpose the requirements of Directive 2014/38/EU. The definition of “the Directive” in regulation 2(1) of the 2011 Regulations has been amended to include in that definition Directive 2014/38/EU. The inclusion of Directive 2014/38/EU in

¹ O.J. No. L 70, 11.3.2014, p20.

² O.J. No. L 191, 18.7.2008, p1.

³ S.I. 2011/3066 as amended by S.I. 2013/3023.

the definition means that the amendment which clarifies how the essential requirement for environmental protection should address noise pollution in paragraph 1.4.4 of Annex III to Directive 2008/57/EC is now incorporated into the 2011 Regulations. Noise pollution comes within the scope of environmental protection which is one of the essential requirements. Further detail on the requirements for noise pollution are set out in the Technical Specification for Interoperability (TSIs) for rolling stock and noise which set out the specifications to meet the essential requirements.

5. Territorial Extent and Application

This instrument applies to all of the United Kingdom including the British part of the Channel Tunnel. Responsibility for railways in Northern Ireland is devolved to the Northern Ireland Assembly and administered by the Department for Regional Development Northern Ireland (“DRDNI”). Following the agreement of the Northern Ireland Ministers, the transposition of Directive 2008/57/EC was done on a UK-wide basis by the 2011 Regulations and DRDNI have agreed the amendments being made by this instrument.

6. European Convention on Human Rights

As the instrument is subject to the negative resolution procedure and does not amend primary legislation, no statement is required.

7. Policy background

7.1 The objective of European railway interoperability is to create a harmonised European railway system that allows for the safe and uninterrupted movement of trains and to promote the single market in the rail sector. This is achieved through the harmonisation of the standards to which railway equipment is built and the harmonisation of the process by which equipment designs are verified and authorised to be placed into service.

7.2 The standardisation of railway equipment is intended to bring economic benefits through economies of scale. The harmonisation of authorisation processes is intended to open the European market for both the manufacture of railway equipment and the operation of railway services.

7.3 Annex III to Directive 2008/57/EC sets out a number of Essential Requirements which, when they apply to a rail project, must be met to achieve interoperability. TSIs are the EU technical specifications for interoperability and they set out the standards which must be met to comply with the Essential Requirements and to ensure the interoperability of the rail system. New or upgraded projects in the UK are required to comply with the relevant TSIs.

7.4 Currently, requirements for noise are dealt with in the TSI for rolling stock and noise. Directive 2014/38/EU removes an ambiguous reference within Annex III to Directive 2008/57/EC which refers to the operation of the rail system respecting existing regulations on noise pollution. This is replaced

with a more specific description that the design and operation of the rail system must not lead to an inadmissible level of noise generated by it.

7.5 This does not introduce a practical change for the rail industry as projects which are caught by the UK regulations already need to be compliant with the noise TSI; therefore the new Directive has no substantive effect on the current regime.

- Consolidation

7.6 The amendments made by this instrument to the 2011 Regulations are minor. The Department for Transport has no current plans to consolidate these Regulations.

8. Consultation outcome

As the amendments made by this instrument have no substantive effect on the current regime, a consultation has not been carried out. Relevant stakeholders have, however, been informed.

9. Guidance

Guidance on this change will be included on the Department for Transport's web pages, under the heading of 'Rail Interoperability and Standards'. Relevant stakeholders have been informed directly of this change.

10. Impact

10.1 The impact on business, charities or voluntary bodies is minimal, as projects which are caught by the 2011 Regulations already need to be compliant with the TSI for noise.

10.2 The impact on the public sector is minimal, as projects which are caught by the 2011 Regulations already need to be compliant with the TSI for noise.

10.3 An Impact Assessment has not been prepared for this instrument.

11. Regulating small business

The legislation applies to small business but it will not adversely impact upon them as the regulatory burden will not increase for any size of firm.

12. Monitoring & review

The 2011 Regulations currently contain provision for a five year statutory review. The amendments made to the 2011 Regulations by these Regulations will be reviewed under the terms of the existing statutory review provision.

13. Contact

Ian Jones at the Department for Transport can answer any queries regarding the instrument. Tel: 020 7944 5595 or email: interoperability@dft.gsi.gov.uk