
STATUTORY INSTRUMENTS

2011 No. 3066

The Railways (Interoperability) Regulations 2011

PART 1

Interpretation and Application

Citation, commencement and extent

- 1.—(1) These Regulations may be cited as the Railways (Interoperability) Regulations 2011.
- (2) These Regulations come into force on 16th January 2012.

Interpretation

- 2.—(1) In these Regulations—

“the 1974 Act” means the Health and Safety at Work etc. Act 1974⁽¹⁾;

“certificate of verification” means a certificate drawn up by a notified body or a designated body as part of the verification assessment procedure for a structural subsystem;

“the Channel Tunnel system” has the meaning given by section 1(7) of the Channel Tunnel Act 1987⁽²⁾ to the words “the tunnel system”;

“the Commission” means the Commission of the EU;

“Competent Authority” means—

- (a) in Great Britain, the Secretary of State; and
- (b) in Northern Ireland, the DRDNI;

“contracting entity” means the person who contracts or intends to contract with another person for that other person to design, construct, renew or upgrade a subsystem;

“Conventional Directive” means Directive [2001/16/EC](#) of the European Parliament and the Council of 19th March 2001 on the interoperability of the trans-European conventional rail system⁽³⁾;

“the Directive” means Directive [2008/57/EC](#) of the European Parliament and of the Council of 17th June 2008 on the interoperability of the rail system within the Community (Recast)⁽⁴⁾

“designated body” means a person appointed under regulation 31 as a designated body;

“determination of type” means a determination made by the Safety Authority pursuant to regulation 8;

(1) [1974 c.37](#).

(2) [1987 c.53](#).

(3) O.J. No. L 110, 20.4.2001, p1. This Directive was repealed with effect from 19th July 2010 by the Directive.

(4) O.J. No. L 191, 18.7.2008, p1, as amended by Commission Directive [2009/131/EC](#) (O.J. No. L 273, 17.10.2009, p12) and Commission Directive 2011/18/EU (O.J. No. L 57, 2.3.2011, p21).

“DRDNI” means the Department for Regional Development established by article 3(1) of the Departments (Northern Ireland) Order 1999⁽⁵⁾;

“EC declaration of conformity or suitability for use” is a declaration drawn up in accordance with regulation 25;

“essential requirements” means all the conditions set out in Annex III to the Directive that must be met by the rail system, subsystems and interoperability constituents, including interfaces;

“European Railway Agency” means the agency for railway safety and interoperability established by Regulation (EC) No. 881/2004 of the European Parliament and the Council of 29th April 2004 establishing a European Railway Agency⁽⁶⁾;

“European specification” means a common technical specification, a European technical approval or a national standard transposing a European standard, the terms used in this definition having the meaning given in Annex XXI to Directive 2004/17/EC of the European Parliament and of the Council of 31st March 2004 coordinating the procurement procedures of entities operating in the water, energy, transport and postal services sectors⁽⁷⁾;

“European vehicle number” has the meaning given in regulation 36;

“functional subsystem” means a functional subsystem as specified in section 1(b) of Annex II to the Directive;

“functional TSI” means a TSI applying to a functional subsystem;

“High-Speed Directive” means Council Directive 96/48/EC of 23rd July 1996 on the interoperability of the trans-European high-speed rail system⁽⁸⁾;

“infrastructure register” means a register kept in accordance with regulation 35;

“Intergovernmental Commission” has the same meaning as in the Channel Tunnel Act 1987;

“interoperability” has the meaning given in article 2 of the Directive;

“interoperability constituent” means any elementary component, group of components, sub-assembly or complete assembly of equipment that is incorporated or intended to be incorporated into a subsystem upon which the interoperability of the rail system depends directly or indirectly; and the concept of a “constituent” covers both tangible objects and intangible objects such as software;

“National Vehicle Register” has the meaning given in regulation 36;

“network” means the lines, stations, terminals, and all kinds of fixed equipment needed to ensure safe and continuous operation of the rail system;

“notified body” has the meaning given in regulation 30;

“notified national technical rules” means the standards, technical specifications and technical rules in use in the United Kingdom which have been notified by the Secretary of State to the Commission pursuant to article 17(3) of the Directive or Article 16(3) of the High-Speed Directive or Article 16(3) of the Conventional Directive, including any variations from time to time notified;

“Official Journal” means the Official Journal of the EU;

“operator”, in relation to the use of an interoperability constituent or a project subsystem, means the infrastructure manager or railway undertaking having the management of that interoperability constituent or project subsystem for the time being;

(5) S.I. 1999/283 (N.I.1).

(6) O.J. No. L 164 30.4.2004, p1.

(7) O.J. No. L 134, 30.4.2004, p1. There have been amendments to the Directive, but Annex XXI has not been amended.

(8) O.J. No. L 235 17.9.1996, p6. This Directive was repealed with effect from 19th July 2010 by the Directive.

“owner”, in relation to a structural subsystem, means any person who has an estate or interest in, or right over that subsystem, and whose agreement is needed before another may use it;

“placing in service” means all the operations by which a subsystem is put into its design operating state; and cognate expressions shall be construed accordingly;

“place on the market” means making an interoperability constituent available for purchase with a view to its use on the rail system; and cognate expressions shall be construed accordingly;

“project” means a scheme for the construction or upgrading or renewal of the whole or part of any subsystem of the rail system, and where it is intended to carry out that construction, upgrading or renewal in parts, each of which are to be placed in service on a permanent basis independently of the other parts, it means any such part;

“project entity” means, in relation to a project, a contracting entity or manufacturer or the authorised representative established in the EU of a contracting entity or manufacturer;

“project subsystem” means—

- (a) the whole of a structural subsystem which is subject to the requirement for authorisation under these Regulations, other than when the structural subsystem is subject to the requirement because part of it is being upgraded or renewed,
- (b) in the case of a structural subsystem which is subject to the requirement for authorisation under these Regulations because part of it is being upgraded or renewed, that part of the subsystem, or
- (c) a structural subsystem in respect of which a person has voluntarily made an application for authorisation under these Regulations;

“put into use” has the meaning given in regulation 4(2);

“rail system” has the same meaning as in the Directive⁽⁹⁾;

“registration entity” means the person designated under regulation 36(11);

“renewal” means any major substitution work on a subsystem or part subsystem which does not change the overall performance of the subsystem; and cognate words shall be construed accordingly;

“safety assessment report” means a report provided in accordance with Article 7 of Commission Regulation (EC) 352/2009 of 24th April 2009 on the adoption of a common safety method on risk evaluation and assessment⁽¹⁰⁾;

“Safety Authority” means the Office of Rail Regulation⁽¹¹⁾ except—

- (a) in relation to Northern Ireland, where it means the DRDNI, and
- (b) in relation to the Channel Tunnel system, where it means the Intergovernmental Commission;

“structural subsystem” means a structural subsystem as specified in section 1(a) of Annex II to the Directive;

“subsystem” means the whole, or, as the context requires, part of a subdivision of the rail system as specified in sections 1(a) and 1(b) of Annex II to the Directive, namely structural subsystems and functional subsystems and includes a structural or functional subsystem that is intended to become the whole or part of a subdivision of the rail system;

“trans-European rail system” means the trans-European conventional and high-speed rail systems as set out in sections 1 and 2 of Annex I to the Directive, as those sections are amended from time to time;

⁽⁹⁾ The term includes the trans-European rail system.

⁽¹⁰⁾ O.J. No. L 108, 29.4.2009, p4.

⁽¹¹⁾ Established under section 15 of the Railways and Transport Safety Act 2003 (c.20).

“TSI” means technical specifications for interoperability adopted by the Commission, including any variations from time to time adopted, in accordance with the Directive or the Conventional Directive or the High Speed Directive and in force by which each subsystem or part subsystem is covered in order to meet the essential requirements and ensure the interoperability of the rail system;

“TSI conform authorisation” means an authorisation given for a vehicle which was in conformity with all applicable TSIs when it was placed in service and where those TSIs covered a significant part of the essential requirements and included a TSI on rolling stock;

“upgrading” means any major modification work on a subsystem or part of a subsystem which improves the overall performance of the subsystem; and cognate words shall be construed accordingly;

“vehicle” means a railway vehicle that runs on its own wheels on railway lines with or without traction and is composed of one or more structural and functional subsystems or parts of such subsystems;

“verification assessment procedure” means the procedure referred to in regulation 17;

“verification declaration” means—

- (a) an EC declaration of verification in relation to a structural subsystem drawn up by a project entity pursuant to regulation 16(3); or
- (b) in the case of an application for an authorisation under regulation 5(1)(c), the declaration drawn up by a project entity pursuant to regulation 6(9);

“writing” includes any text transmitted using electronic communications that is received, or accessible by the person to whom it is sent, in legible form.

(2) Other expressions used in these Regulations have the same meaning as in the Directive.

(3) Except for the references to the EU in the definitions of “the Commission” and “Official Journal”, a reference to the EU includes a reference to the European Economic Area, and a reference to a Member State includes a reference to an EEA state.

Application

3.—(1) Subject to paragraphs (2) and (5), these Regulations apply to—

- (a) the parts of the rail system located in the United Kingdom;
- (b) subsystems located, operated or intended to be operated in the United Kingdom; and
- (c) interoperability constituents.

(2) These Regulations do not apply to any part of the rail system that the Secretary of State determines falls within one or more of these categories—

- (a) metros, trams and other light rail systems;
- (b) networks that are functionally separate from the rest of the rail system and intended only for the operation of local, urban or suburban passenger services, as well as railway undertakings operating solely on these networks;
- (c) infrastructure and vehicles reserved for a strictly local, historical or touristic use.

(3) A person may make an application to the Secretary of State for a determination under paragraph (2) and the Secretary of State must consider any such application.

(4) The Secretary of State must publish and keep up to date a list of the parts of the rail system that are excluded from the scope of these Regulations by virtue of determinations made under paragraph (2).

(5) These Regulations do not apply to—

- (a) privately owned railway infrastructure and vehicles exclusively used on such infrastructure that exist solely for use by the owner for its freight operations; or
 - (b) railways the lines of which have a gauge of less than 350 millimetres and vehicles running on such lines.
- (6) Paragraphs (2) and (5)(a) are subject to the voluntary arrangements provided for in regulation 5(1)(b) and (c).
- (7) References in this regulation to the Secretary of State shall in their application to Northern Ireland have effect as references to DRDNI.