
EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations implement:

- (a) Council Directive [91/44/EC](#) of the Council of 29 July 1991 on the development of the Community's railways, as amended by Directive [2001/12/EC](#) of the European Parliament and of the Council of 26 February 2001 and Directive [2004/51/EC](#) of the European Parliament and of the Council of 29 April 2004 ("the amended 1991 Directive"); and
- (b) Council Directive 2001/14/EC dated 26 February 2001 on the allocation of railway infrastructure capacity and the levying of charges for the use of railway infrastructure as amended by Directive [2004/49/EC](#) dated 29 April 2004 on safety on the Community's railways both of the European Parliament and of the Council; and
- (c) Council Directive [95/18/EC](#) dated 19 June 1995 on the licensing of railway undertakings, as amended by two further Directives ("the amended 1995 Directive"). These are Directive [2001/13/EC](#) dated 26 February 2001, and Directive [2004/49/EC](#) dated 29 April 2004, both being of the European Parliament and the Council.

Part 1 contains preliminary provisions. Part 2 grants access and transit rights to international groupings and freight operators to the Northern Ireland rail network. It also grants all applicants the right of access to, and the supply of, the services listed in Schedule 1 to the Regulations.

Part 3 imposes certain separation requirements between the bodies responsible for management of the railway infrastructure and railway undertakings. The infrastructure manager is placed under a requirement to produce a network statement containing the information set out in regulation 10.

Part 4, together with Schedule 2, sets out the structure for the charging of fees for use of railway infrastructure, and the charging principles.

Part 5, together with Schedule 3, sets out the framework and timetable for the process of allocating infrastructure capacity. the trading of capacity is prohibited, and allocation in the form of fixed train paths cannot be granted for longer than one timetable period. Regulations 22 to 24 set out the procedure that must be followed where an element of the railway infrastructure is congested, and regulation 25 provides a 'use it or lose it' provision in respect of allocated capacity.

Part 6 allocates certain regulatory functions to the Department for Regional Development. Regulation 27 provides a right of appeal to the regulatory body for applicants aggrieved with various aspects of the allocation of capacity and the fees charged for the use of that capacity, and requires the regulatory body to make a decision on such appeals within two months. Regulation 28 requires the Department to monitor competition in the rail services market and to take appropriate action to deal with undesirable developments in the market, either arising out of its own investigations, or from complaints which have been submitted.

Part 7 imposes requirements for licensing of railway undertakings; the provision of train services without having a European licence is made a criminal offence (regulation 30). The Department for Regional Development is appointed as the body to issue European licences (regulation 31). Applicants for such licences must satisfy requirements as to good repute, professional competence, financial fitness and insurance cover for liabilities (regulation 31 and Schedule 4). Such licences are valid as long as the licence holder complies with the requirements referred to in Schedule 4 and the requirements to submit the licence for review or approval (regulation 32). The licence is subject to monitoring and review by the Department, who may suspend or revoke such licences in certain circumstances (regulation 33).

Status: *This is the original version (as it was originally made). This item of legislation is currently only available in its original format.*

In addition to requiring a European licence, railway undertakings providing services in Northern Ireland will require a Statement of National Regulatory Provisions (a “SNRP”) (regulation 34). One or more conditions will be included in a SNRP by the Department, but these conditions must be compatible with Community law and must not be discriminatory (regulation 36). SNRPs may be modified by consent (regulation 38).

Schedule 5 contains consequential amendments, and revocations to miscellaneous provisions.