
STATUTORY RULES OF NORTHERN IRELAND

2005 No. 537

**The Railways Infrastructure (Access, Management
and Licensing of Railway Undertakings)
Regulations (Northern Ireland) 2005**

**PART I
PRELIMINARY**

Citation and commencement

1.—(1) These Regulations may be cited as the Railways Infrastructure (Access, Management and Licensing of Railway Undertakings) Regulations (Northern Ireland) 2005 and, with the exception of regulations 10, 15, 16, 21, 22, 23, and 24, shall come into operation on 3rd January 2006.

(2) Regulations 10, 15, 16, 21, 22, 23, and 24 shall come into operation on 15th March 2008.

Interpretation

2.—(1) In these Regulations—

“access and transit rights” or “transit rights” means access and transit rights or transit rights in relation to railway infrastructure;

“*ad hoc* request” means a request for individual train paths made outside the timetable for the capacity allocation process as set out in Schedule 3;

“allocation body” means a body or undertaking, other than the infrastructure manager, which is responsible, by virtue of regulation 15(3), for the functions and obligations of the infrastructure manager under Part 5 and Schedule 3;

“applicant” means—

- (a) a railway undertaking licensed in accordance with the provisions of Directive [95/18/EC](#), as amended by Directive [2001/13/EC](#);
- (b) an international grouping of railway undertakings; or
- (c) a legal entity with public service or commercial interest in procuring infrastructure capacity, in particular public authorities under Regulation (EEC) no. 1191/69(1), shippers, freight forwarders, and combined transport operators;

“charging scheme” means the framework and rules governing the determination of access charges as set out in Part 4;

“charging system” means the charging system established by the infrastructure manager to determine access charges;

(1) Regulation (EEC) no. 1191/69 of the Council of 26 June 1969 on action by Member States concerning the obligations inherent in the concept of a public service in transport by rail, road and inland waterway (O.J. L156, 28.6.1969, p. 1). Regulation last amended by Regulation (EC) No. 1893 (O.J.L 169, 29.6. 1991, p. 1)

“the Council Directives” means—

- (a) Council Directive No [91/440/EC](#) of 29th July 1991 on the development of the Community’s railways⁽²⁾ as amended by Directive [2001/12/EC](#)⁽³⁾ and Council Directive [2004/51/EC](#)⁽⁴⁾; and
- (b) Council Directive No.[2001/14/EC](#) of 26th February 2001 on the allocation of railway infrastructure and the levying of charges for the use of railway infrastructure and safety certification⁽⁵⁾, as amended by Council Directive [2004/49/EC](#)⁽⁶⁾;
- (c) Council Directive [95/18/EC](#) dated 19th June 1995 on the licensing of railway undertakings⁽⁷⁾, as amended by Directive [2001/13/EC](#) dated 26th February 2001⁽⁸⁾ and Directive [2004/49/EC](#) dated 29th April 2004⁽⁹⁾ of the European Parliament and of the Council;

“the Department” means the Department for Regional Development;

“EEA state” means a Member State, Norway, Iceland or Liechtenstein;

“European licence” means a licence granted to a railway undertaking pursuant to these Regulations (valid throughout the territory of any EEA State) by which the capacity of the railway undertaking as such is recognised and which authorises the undertaking to provide in and between EEA States such as train services as may be specified in the licence;

“framework agreement” means a legally binding agreement made on the basis of public or private law, setting out the rights and obligations of an applicant and the infrastructure manager in relation to the infrastructure capacity to be allocated and the charges to be levied over a period in excess of one working timetable period;

“infrastructure manager” means the body or undertaking that is responsible in particular for establishing and maintaining railway infrastructure.

“railway infrastructure” means all the items listed in Annex IA to Commission (EEC) No. [2598/70](#)⁽¹⁰⁾;

“SNRP” means a statement of national regulatory provisions, issued under regulation 36;

“service provider” means a body or undertaking that supplies any of the services—

- (a) to which access is granted by virtue of regulation 5; or
- (b) listed in paragraph 2, 3 or 4 of Schedule 1

“the Treaty” means the consolidated versions of the Treaty on European Union and of the Treaty establishing the European Community⁽¹¹⁾;

“train service” means a service for the transport of goods or passengers (or both) by rail;

“transit rights” means rights of transit through a Member State using the railway infrastructure located in the Member State;

“working day” means any day which is not a Saturday, Sunday, or a public holiday; and

“working timetable period” means the calendar year commencing at midnight on the second Saturday in December.

(2) O.J. No. L237, 24.8.91, p. 25: the text of the Directive is subject to the amendments in a corrigendum published in O.J. No. L305, 6.11.91, p. 22

(3) O.J. No. L175, 15.3.01, p. 1

(4) O.J. No. L164, 30.4.04, p. 16

(5) O.J. No. L175, 15.3.01, p. 75

(6) O.J. No. L164, 30.4.04, p. 58

(7) O.J. No. L143, 27.6.1995, p. 70

(8) O.J. No. L175, 15.3.2001, p. 26

(9) O.J. No. L164, 30.4.2004, p. 44, to which there has been a corrigendum, which is not relevant to these Regulations

(10) O.J. No. L278, 23.12.70, p. 1–5

(11) 2002/C325/01

(2) Except where a definition in paragraph (1) applies, expressions used in these Regulations and in the Council Directives have the meanings given by the Directives.

(3) The Interpretation Act (Northern Ireland) 1954⁽¹²⁾ shall apply to these Regulations as it applies to an Act of the Northern Ireland Assembly.

Scope

3.—(1) These Regulations apply to—

- (a) the management of railway infrastructure;
- (b) the rail transport activities of the railway undertakings established or to be established in an EEA State; and
- (c) the licensing of railway undertakings and groupings in respect of international services and international combined transport goods services which they operate.