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STATUTORY RULES OF NORTHERN IRELAND

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**2005 No. 537**

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

**PART II**

**ACCESS TO RAILWAY INFRASTRUCTURE AND SERVICES**

**Access and transit rights**

4.—(1) An international grouping is entitled to—

- (a) in the case of an international grouping which includes a railway undertaking established in Northern Ireland such access or transit rights, or
- (b) in the case of any other grouping, such transit rights,

as may be necessary for the provision of international transport services between the EEA States where the undertakings constituting the grouping are established.

(2) A railway undertaking is entitled to such access as may be necessary for the purpose of the operation of any type of rail freight service

(3) It is the duty of the infrastructure manager to ensure that the entitlements conferred by this regulation are honoured.

(4) Without prejudice to the generality of regulation 27, if an international grouping or railway undertaking is denied the entitlements conferred on it by this regulation, that international grouping or railway undertaking has a right of appeal to the Department in accordance with regulation 27.

**Access to services**

5.—(1) Subject to paragraph (2), applicants are entitled to services comprising—

- (a) the minimum access package; and
- (b) the track access to service facilities and the supply of services,

described in paragraphs 1 and 2 of Schedule 1.

(2) If the infrastructure manager or service provider to whom a request has been made for the supply of a service referred to in paragraph (1) does not supply such a service, the infrastructure manager must, if he is the provider of the main infrastructure, use all reasonable endeavours to facilitate the supply of that service through the appropriate service provider.

(3) The infrastructure manager or, as the case may be, service provider must ensure that the entitlements granted by this regulation are honoured, and access to the services referred to in paragraph (1) must be provided in a non-discriminatory manner.

(4) Where the infrastructure manager or service provider supplies any of the services described in paragraph 2 of Schedule 1, requests for the supply of such services may only be refused if a viable alternative means of the service being provided under market conditions exists.

(5) Where the infrastructure manager or service provider offers to supply any of the services described in paragraph 3 of Schedule 1 he must, in response to a request from an applicant, supply the services to that applicant.

(6) An applicant may request the supply of any of the services described in paragraph 4 of Schedule 1 from an infrastructure manager or service provider but that infrastructure manager or service provider is under no obligation to supply the services requested.

Without prejudice to the generality of regulation 27, if an applicant is denied the entitlements conferred on it by this regulation, that applicant has a right of appeal to the Department in accordance with regulation 27.

### **Access to training facilities**

6.—(1) Railway undertakings applying for a safety certificate in accordance with the requirements of Council Directive [2004/49/EC](#) shall be entitled to a fair and non-discriminatory access to training facilities for train drivers and staff accompanying the trains, whenever such training is necessary for the fulfilment of requirements to obtain that certificate.

(2) The services offered under paragraph (1) must include training on—

- (a) necessary route knowledge;
- (b) operating rules and procedures
- (c) the signalling and control command system; and
- (d) emergency procedures,

in respect of the routes operated.

(3) The infrastructure manager, and any of his staff with responsibility for safety critical tasks, must have a fair and non-discriminatory access to the services listed in paragraph (2)

(4) It is the responsibility of the safety authority set up in accordance with the requirements of Council Directive [2004/49/EC](#) to ensure that the provision of training services meets the safety requirements laid down in the National Safety Rules.

(5) If the training facilities to which access is granted by virtue of this regulation are available only through the services of one single railway undertaking, or the infrastructure manager, the Department must ensure that those facilities and services are available to applicants at a reasonable and non-discriminatory price, which is cost-related and may include a profit margin.

(6) Railway undertakings recruiting new train drivers, on-board staff, or staff with responsibility for safety critical tasks must take into account any training, qualifications and experience acquired by job-applicants from any previous employment with another railway undertaking.

(7) The staff described in paragraph (6) must be granted access to all documents attesting to their training, qualifications and experience, and be entitled to have copies of such documentation.

(8) It is the responsibility of each railway undertaking and infrastructure manager to provide the appropriate level of training and qualification of staff set out in article 8 and Annex III to Council Directive [2004/49/EC](#).

(9) For the purposes of this regulation—

- (a) “national safety rules” means any legislation and other requirements—
  - (i) applicable to Northern Ireland; and
  - (ii) which contain requirements (including common operating rules) relating to railway safety,

except that where the requirements in paragraph 9(a)(i) consist of common operating rules of the railway it shall not include such rules which regulate matters which are covered by a technical specification for interoperability; and

(b) “safety critical task” means—

(i) in relation to vehicle used on a railway—

(aa) driving, despatching or any other activity which is capable of controlling or affecting the movement of that vehicle;

(bb) signalling, and signalling operations, the operation of level crossing equipment, receiving and relaying of communications or any other activity which is capable of controlling or affecting the movement of that vehicle;

(cc) coupling or uncoupling;

(dd) installation of components;

(ee) maintenance; or

(ff) checking that that vehicle is working properly and, where carrying goods, is correctly loaded before being used;

(ii) in relation to a railway—

(aa) installation or maintenance of any part of it or of the telecommunications system relating to it or used in conjunction with it, or of the means of supplying electricity directly to that transport system or to any vehicles using it or to the telecommunications system;

(bb) controlling the supply of electricity directly to it or to any vehicles used on it; or

(cc) receiving and relaying of communications;

(iii) in relation to ensuring worker safety on a railway, any person ensuring the safety of any persons working on or near the track, whether or not the persons working on or near the track are carrying out safety critical work; and

(iv) in relation to training, any practical training or the supervision of any practical training in any of the tasks set out in sub-paragraphs (i) to (ii),

which could significantly affect the health or safety of persons on a railway.

(10) An applicant denied access to training facilities contrary to the provisions of this regulation shall have a right of appeal to the Department in accordance with regulation 27.