
STATUTORY INSTRUMENTS

2000 No. 1674

TRANSPORT

**The Railways (Interoperability)
(Notified Bodies) Regulations 2000**

<i>Made</i>	- - - -	<i>26th June 2000</i>
<i>Laid before Parliament</i>		<i>27th June 2000</i>
<i>Coming into force</i>	- -	<i>18th July 2000</i>

The Secretary of State for the Environment, Transport and the Regions, being a Minister designated⁽¹⁾ for the purposes of section 2(2) of the European Communities Act 1972⁽²⁾ in relation to measures relating to railways and railway transport, in exercise of the powers conferred on him by that section hereby makes the following Regulations:—

Citation and commencement

1.—(1) These Regulations may be cited as the Railways (Interoperability) (Notified Bodies) Regulations 2000 and shall come into force on 18th July 2000.

Interpretation

2.—(1) In these Regulations, unless the context otherwise requires—

“notified bodies” means the persons appointed by the Secretary of State pursuant to Regulation 4; and

“the Railways Interoperability Directive” means Council Directive No.96/48/EC of 23rd July 1996 on the Interoperability of the trans-European high speed rail system⁽³⁾.

(2) Subject to paragraph (1) above, expressions used in these Regulations and the Railways Interoperability Directive shall have the same meanings as in the Railways Interoperability Directive.

Functions of Notified Bodies

3. Notified bodies shall be responsible in Great Britain for—

(1) S.I.1996/266.

(2) 1972 c. 68.

(3) OJ No. L235, 17.9.96, p. 6.

- (a) assessing the conformity or suitability for use of interoperability constituents against the relevant essential requirements by applying the procedures referred to in annex IV of the Railways Interoperability Directive;
- (b) applying the procedures for the verification of structural subsystems referred to in annex VI of the Railways Interoperability Directive in respect of the rail network schemes specified in Schedule 1 to these Regulations; and
- (c) consulting other notified bodies appointed pursuant to the Railways Interoperability Directive throughout the European Community in relation to the functions referred to in paragraphs (a) and (b) above to ensure that, particularly in the absence of technical specifications for interoperability, the procedures for assessment and verification required under the Railways Interoperability Directive are consistently applied within the European Community.

Notified bodies appointed by the Secretary of State

4.—(1) Subject to paragraph (2), the Secretary of State shall appoint such persons as he sees fit to be notified bodies.

(2) The Secretary of State shall not appoint any person as a notified body unless he is satisfied by the person to be appointed that that person will be capable of meeting the minimum criteria specified in Schedule 2 in carrying out any of the functions specified in regulation 3.

(3) An appointment—

- (a) may relate to such descriptions of the subsystems and interoperability constituents as the Secretary of State may specify;
- (b) may be made subject to such conditions as the Secretary of State may specify, including any such conditions as are to apply upon or following termination of the appointment; and
- (c) subject to paragraphs 4 and 5 below, an appointment under this regulation may be for such period as may be specified in the appointment.

(4) An appointment shall terminate—

- (a) at the expiry of any period specified in the appointment pursuant to paragraph 4(3)(c);
- (b) upon the expiry of 90 days notice in writing given by the notified body to the Secretary of State; or
- (c) on any date specified for the termination of the appointment in accordance with paragraph (5) below,

whichever is the earliest.

(5) If at any time it appears to the Secretary of State that—

- (a) any of the conditions of the appointment of a notified body are not being complied with; or
- (b) a notified body is no longer meeting the minimum criteria specified in Schedule 2,

the Secretary of State may, by notice in writing to that notified body, specify a date on which the appointment of that person as a notified body shall terminate.

(6) When the appointment of a notified body terminates in accordance with paragraph (4) above the Secretary of State may—

- (a) give such directions as the Secretary of State shall consider appropriate, either to the notified body whose appointment is terminating or to another notified body, for the purpose of making such arrangements as may be necessary or expedient for the determination of any matters which would, apart from the termination, have fallen to be determined by the notified body whose appointment is terminating; and

- (b) without prejudice to the generality of the forgoing, authorise another notified body to take over the functions of the notified body whose appointment has terminated in respect of such matters as the Secretary of State may specify.

Fees

5.—(1) Subject to paragraph (2), a notified body appointed by the Secretary of State may charge such fees in connection with or incidental to, carrying out the functions referred to in regulation 3 as it may determine; provided that such fees shall not exceed the sum of the following—

- (a) the costs incurred or to be incurred by the notified body in performing the relevant function; and
- (b) an amount on account of profit which is reasonable in the circumstances having regard to—
 - (i) the character and extent of the work done by the body on behalf of the applicant; and
 - (ii) the commercial rate normally charged on account of profit for that work or similar work.

(2) The power in paragraph (1) includes the power to require the payment of fees or a reasonable estimate thereof in advance of carrying out the work requested by the applicant.

Notification to the European Commission and other Member States

6. The Secretary of State shall notify the European Commission and other Member States of the appointment or termination of appointment, as the case may be, of a notified body.

Signed by the authority of the Secretary of State for the Environment, Transport and the Regions

Gus MacDonald
Minister of State,
Department of the Environment, Transport and
the Regions

26th June 2000

SCHEDULE 1

Regulation 3

RAIL NETWORK SCHEMES

1. The rail network schemes for the purposes of regulation 3 are—
 - (a) that part of the Channel Tunnel railway line passing through the Channel Tunnel system;
 - (b) the Channel Tunnel Rail Link from London St Pancras station to Cheriton;
 - (c) London Euston station to Glasgow Central station, via Nuneaton, Stafford, Crewe, Warrington Bank Quay, Penrith, Carstairs and Polmadie;
 - (d) Colwich Junction to Stone station;
 - (e) Norton Bridge to Manchester Piccadilly via Macclesfield;
 - (f) Crewe station to Stockport via Wilmslow;
 - (g) Weaver Junction to Liverpool Lime Street station via Runcorn;
 - (h) Carstairs South Junction to Edinburgh via Cobbinshaw Summit and Haymarket;
 - (i) London King’s Cross station to Edinburgh via Sandy, Retford, Hambleton South Junction, York, Darlington, Newcastle and Morpeth;
 - (j) London Paddington station to Cardiff Central station via Bristol Parkway station;
 - (k) Wootton Bassett Junction to Bristol Temple Meads station via Bath Spa station; and
 - (l) Stoke Gifford Junction to Bristol Temple Meads station via Filton Abbey Wood.
2. In this Schedule “the Channel Tunnel system” shall have the meaning given by section 1(7) of the Channel Tunnel Act 1987(4) to the words “the Tunnel System”.

SCHEDULE 2

Regulation 4

MINIMUM CRITERIA FOR THE APPOINTMENT OF NOTIFIED BODIES

The minimum criteria for the purposes of regulation 4 are—

1. The notified body must be able to demonstrate that it, those engaged in its management and those of its employees who are responsible for carrying out the assessment and verification operations are not, and will not become, involved either directly or indirectly, or as authorised representatives in, the design, manufacture, construction, marketing or maintenance of interoperability constituents or subsystems or their use. However, this requirement shall not be taken to preclude the possibility of an exchange of technical information between the manufacturer or constructor of interoperability constituents and the notified body.
2. The notified body must be able to demonstrate that it and the employees who will carry out the assessment and verification operations will act with the greatest possible independence, professional integrity and technical competence and be free of any pressure or incentive. In particular, the notified body must demonstrate that the employees who carry out the assessment and verification operations are not to be remunerated on the basis of the number of inspections performed or the results of those inspections.
3. The notified body must be able to demonstrate that it possesses the resources required to enable it to perform adequately the technical and administrative tasks linked with conducting the assessment and verification operations. It must also have access to the equipment needed for the assessment and verification operations which may be required in exceptional cases.

(4) 1987 c. 53.

4. The notified body must be able to demonstrate that those of its employees who are responsible for carrying out the assessment and verification operations:—

- (a) have had proper technical and vocational training in relation to the operations that they are to carry out;
- (b) possess a satisfactory knowledge of the requirements relating to the operations that they carry out and sufficient practice in carrying those operations;
- (c) possess the ability to draw up any such certificates, records and reports as may be required as formal record of the inspections conducted; and
- (d) are required to maintain professional confidentiality with regard to everything they learn in the performance of their duties.

5. The notified body must demonstrate that it has in place and can maintain appropriate insurance in respect of any liability that it might incur in relation to the performance of its functions as a notified body.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations implement Council Directive 96/48 of 23rd July 1996 on the interoperability of the trans-European high speed rail system.

The Secretary of State is empowered to appoint one or more persons as notified bodies to be responsible for assessing interoperability constituents within Great Britain. The functions of such bodies and the minimum criteria for their appointment are specified.