
STATUTORY INSTRUMENTS

2005 No. 3049

The Railways Infrastructure (Access and Management) Regulations 2005

PART 4

INFRASTRUCTURE CHARGES

Establishing, determining and collecting charges

12.—(1) Subject to paragraph (3), the Office of Rail Regulation must establish the charging framework and the specific charging rules governing the determination of the fees to be charged in accordance with paragraph (5).

(2) Subject to paragraphs (3) and (7), the infrastructure manager must—

- (a) determine the fees to be charged for use of the infrastructure in accordance with the charging framework, the specific charging rules, and the principles and exceptions set out in Schedule 3; and
- (b) collect those fees.

(3) Paragraphs (1) and (2) do not apply where the infrastructure to which the charge relates is a rail link facility.

(4) Where paragraph (3) applies, the Secretary of State must establish the charging framework through the development agreement, and the infrastructure manager must, subject to paragraph (7)—

- (a) establish the specific charging rules governing the determination of the fees to be charged in accordance with paragraph (5);
- (b) determine the fees to be charged for the use of the infrastructure in accordance with the charging framework, the specific charging rules and the principles and exceptions set out in Schedule 3; and
- (c) collect those fees.

(5) Subject to the provisions in paragraphs (1) to (4), the infrastructure manager must—

- (a) charge fees for use of the railway infrastructure for which he is responsible; and
- (b) utilise such fees as are received to fund his business.

(6) Applicants must, subject to the right of appeal to the Office of Rail Regulation provided in regulation 29, pay such fees as are charged by the infrastructure manager for use of the railway infrastructure.

(7) Subject to paragraph (8), an infrastructure manager responsible for any of the functions of the infrastructure manager described in this Part and Schedule 3 must, in its legal form, organisation or decision-making functions, be independent of any railway undertaking and, where he is not so independent, that infrastructure manager must ensure that the functions described in this Part and Schedule 3 are performed by a charging body that is so independent.

(8) The separation required by paragraph (7) does not apply to the function of the collection of fees charged in accordance with paragraph (2)(b) and (4)(c).

(9) The infrastructure manager must be able to justify that the charges invoiced to each railway undertaking for access to the infrastructure comply with the methodology, rules and, where applicable, scales laid down in the network statement and, where information about the charges imposed is requested by either the Secretary of State or the Office of Rail Regulation, the infrastructure manager must supply the information requested.

(10) Infrastructure managers must co-operate to achieve the efficient operation of train services which cross more than one infrastructure network and must, in particular, aim to guarantee the optimum competitiveness of international rail freight.

(11) Infrastructure managers may establish such joint organisations as may be appropriate to enable the co-operation referred to in paragraph (10) to be achieved and any such co-operation or joint organisations shall be bound by the rules set out in these Regulations.

(12) The infrastructure manager must respect the commercial confidentiality of information provided to it by applicants for infrastructure capacity.

Infrastructure costs and accounts

13.—(1) The Office of Rail Regulation through the access charges review or, in the case of a rail link facility, the Secretary of State through the development agreement, must lay down conditions, including where appropriate advance payments, to ensure that, under normal business conditions and over a reasonable time period, the accounts of an infrastructure manager shall at least balance—

- (a) income from infrastructure charges;
- (b) surpluses from other commercial activities; and
- (c) public funds,

with infrastructure expenditure.

(2) The infrastructure manager must, with due regard to safety and to maintaining and improving the quality of the infrastructure service, be provided with incentives to reduce the costs of provision of infrastructure and the level of access charges.

(3) It shall be the responsibility of the Office of Rail Regulation through the access charges review or, in the case of a rail link facility, the Secretary of State through the development agreement, to ensure that the requirements set out in paragraph (2) are implemented.

Performance scheme

14.—(1) The infrastructure manager must establish a performance scheme as part of the charging system to encourage railway undertakings and the infrastructure manager to minimise disruption and improve the performance of the railway network.

(2) The performance scheme referred to in paragraph (1) may include—

- (a) penalties for actions which disrupt the operation of the rail network;
- (b) compensation for undertakings which suffer from disruption; and
- (c) bonuses that reward better than planned performance.

(3) The basic principles of the performance scheme must apply in a non-discriminatory manner throughout the network to which that scheme relates.

Reservation charges

15.—(1) The infrastructure manager may levy an appropriate charge for capacity that is requested but not used, and the imposition of this charge must provide incentives for efficient use of capacity.

(2) The infrastructure manager must provide, to any interested party, information about the infrastructure capacity allocated to applicants.