

---

STATUTORY INSTRUMENTS

---

**2006 No. 397**

**The Railways (Interoperability) Regulations 2006**

**PART 3**

*Interoperability Constituents*

**EC declaration of conformity or of suitability for use**

**16.**—(1) An EC declaration of conformity or an EC declaration of suitability for use (“EC declaration of conformity or suitability for use”) is a declaration drawn up by the relevant person in accordance with the requirements of Schedule 7, and which indicates that the interoperability constituent satisfies the requirements—

- (a) of such European specifications as have been published in the Official Journal that are relevant to the interoperability constituent;
- (b) of such TSIs that are relevant to the interoperability constituent;
- (c) where a TSI relevant to the interoperability constituent requires compliance with a European specification that has not been published in the Official Journal, of the latest version of that draft European specification if so required by the TSI.

(2) In this regulation, “relevant person” means a person specified in regulation 19(2) or (3).

**Effect of conformity and suitability declarations**

**17.**—(1) An interoperability constituent in relation to which an EC declaration of conformity or suitability for use has been drawn up shall be taken to—

- (a) meet such of the essential requirements as relate to an interoperability constituent of that type; and
- (b) conform to such of the TSIs, European specifications or draft European specifications as required by regulation 16,

unless there are reasonable grounds for believing that it does not so conform.

(2) Paragraph (1) does not apply to the Safety Authority where a person fails or refuses to make available to the Safety Authority the documentation which he is required to retain by any of the conformity or suitability for use assessment procedures which apply to the interoperability constituent in question or a copy of that documentation.

**Assessment procedure for interoperability constituents**

**18.** The appropriate conformity or suitability for use assessment procedure for an interoperability constituent shall be carried out by a notified body in accordance with—

- (a) the procedures (if any) specified in any TSIs with which the interoperability constituent must comply;
- (b) the procedures (if any) specified in any European specifications with which the interoperability constituent must comply;

- (c) any relevant procedures set out in Schedule 7.

### **Prohibition on placing interoperability constituents on the market**

**19.**—(1) No person shall place an interoperability constituent on the market with a view to its use on the trans-European high-speed rail system or trans-European conventional rail system, as the case may be, unless—

- (a) the interoperability constituent meets the essential requirements that are relevant to an interoperability constituent of that type;
- (b) the appropriate procedure for assessment of the conformity or suitability for use of the interoperability constituent has been carried out; and
- (c) an EC declaration of conformity or suitability for use in relation to that interoperability constituent has been drawn up.

(2) Subject to paragraph (3), an EC declaration of conformity or suitability for use shall be drawn up by the manufacturer of the interoperability constituent or his authorised representative established in the Community.

(3) Where an EC declaration of conformity or suitability for use has not been drawn up by the manufacturer or his authorised representative established in the Community, an EC declaration of conformity or suitability for use shall be drawn up by any person who—

- (a) places that interoperability constituent on the market; or
- (b) uses that interoperability constituent, or any part of it, in any interoperability constituent that he is manufacturing or assembling, or in any project subsystem that he is constructing, upgrading or renewing.

(4) Where a person draws up an EC declaration of conformity or suitability for use in relation to an interoperability constituent and that interoperability constituent is subject to other requirements pursuant to a European Community Directive, the person who draws up the EC declaration of conformity or suitability for use shall state in the declaration whether or not the interoperability constituent in question meets those other requirements.

(5) Nothing in these Regulations shall preclude a person from placing an interoperability constituent on the market for a purpose other than use on the trans-European high-speed rail system or the trans-European conventional rail system.

### **Duties on operators**

**20.** The operator of any interoperability constituent that is in use on, or is part of, the high-speed rail system or the conventional TEN rail system, shall ensure that while it is so in use it is—

- (a) correctly installed for the purpose for which it is intended to be used;
- (b) not used for any purpose other than the purpose for which it was designed; and
- (c) maintained in an efficient state, effective working order and good repair.

### **Position after placing on the market**

**21.** Nothing in these Regulations shall preclude any person from drawing up an EC declaration of conformity or suitability for use at any time in relation to an interoperability constituent which has been placed on the market, provided that person has followed the requirements of these Regulations in relation to that interoperability constituent.

### **Recognition of assessments of other Member States**

**22.** Nothing in these Regulations shall preclude any person from placing on the market relating to the trans-European high-speed rail system or trans-European conventional rail system an interoperability constituent that has successfully completed all the requirements of any scheme in force in another Member State for the purpose of implementing the High-Speed Directive or Conventional Directive insofar as relating to that rail system.

### **Notification to the Commission of incorrect declaration**

**23.—**(1) Where it appears to the Safety Authority that an interoperability constituent in relation to which an EC declaration of conformity or suitability for use has been drawn up fails to meet the essential requirements relating to it, it shall forthwith give notice of that fact in writing to the Commission, and where appropriate other Member States.

(2) That notice shall specify—

- (a) the steps taken to prohibit or restrict the use of that interoperability constituent;
- (b) the reasons for taking those steps; and
- (c) any measures taken against a person who drew up the declaration.