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## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations implement the provisions of Directive [2008/57/EC](#) (the “Directive”) of the European Parliament and of the Council of 17th June 2008 (O.J. No. L 191, 18.7.2008, p1, as amended by Commission Directive [2009/131/EC](#) O.J. No. L 273, 17.10.2009, p12 and Commission Directive 2011/18/EU O.J. No. L 57, 2.3.2011, p21) on the interoperability of the rail system within the Community (now the EU).

The Directive is a recast of two earlier rail interoperability Directives, which were repealed with effect from 19 July 2010. The two earlier Directives, defined in *regulation 2* as the Conventional Directive and the High-Speed Directive, were implemented in the United Kingdom by the Railways (Interoperability) Regulations 2006 (the “2006 Regulations”) (S.I. 2006/397, as amended by S.I. 2007/3386 and S.I. 2008/1746). These Regulations in effect consolidate and amend the 2006 Regulations. The 2006 Regulations are, therefore, revoked subject to appropriate savings being made (*regulation 47*).

*Regulation 3* provides for the application of the Regulations, including provisions for parts of the of the United Kingdom rail system to be excluded from the scope of the Regulations. These exclusion provisions are subject to voluntary arrangements provided for in *regulation 5*.

*Regulation 4* restricts the putting into use of structural subsystems (e.g. infrastructure, vehicles) that are new or have undergone renewal or upgrade. The Competent Authority can make decisions under *regulation 12* as to whether a project or type of project is for the renewal or upgrading of a structural subsystem. Only those authorised by the Safety Authority or ruled by the Competent Authority as not requiring authorisation (*regulation 13*) or, in the case of vehicles, having a valid authorisation for another Member State may be put into use. In Great Britain the Safety Authority is the Office of Rail Regulation. In Northern Ireland it is the Department for Regional Development in Northern Ireland (“DRDNI”). The Competent Authority means the Secretary of State in Great Britain and the DRDNI in Northern Ireland.

*Regulation 5 and regulations 16 to 19* set out the process for making an application to the Safety Authority for authorisation, the information that must be provided and the assessments that must be undertaken. These include assessments in relation to EU technical specifications for interoperability (“TSIs”) and, if any national technical rules have been notified to the Commission, assessments in relation to those rules. The Competent Authority may grant derogations from the application of TSIs in the circumstances set out in *regulation 14*.

If an authorisation is sought in respect of a vehicle that is authorised for use in another Member State the authorisation process is modified by *regulation 6*.

*Regulation 7* provides the Safety Authority must give an authorisation if satisfied that a verification declaration has been drawn up in accordance with Annex V to the Directive, and that the subsystem has been designed, constructed and installed so as to meet the essential requirements when placed into service and is technically compatible with the rail system.

*Regulation 15* provides that the essential requirements are deemed to be met by conformity with any applicable TSI and notified national technical rules.

*Regulation 8* provides that the Safety Authority must make a determination of type that describes the basic design characteristics of a vehicle for which an authorisation has been issued. The Safety Authority may, with the consent of the applicant, make a determination of type where a non-vehicle authorisation has been issued.

Where a determination of type has been made a process for obtaining an authorisation of a subsystem that conforms to the determination is available under *regulations 9 and 10*.

*Regulation 11* provides that the Safety Authority may revoke an authorisation and the process for making a revocation decision.

**Changes to legislation:** There are currently no known outstanding effects for the *The Railways (Interoperability) Regulations 2011*. (See end of Document for details)

*Regulation 20* places obligations on the operator of an authorised subsystem that has been placed in service to continue to meet TSIs and notified national technical rules.

*Regulations 21 and 22* permit the Safety Authority and the Competent Authority to charge for certain work.

*Part 3* contains requirements for “interoperability constituents”. These are components of a subsystem that must satisfy requirements to be placed on the railway market for use in the rail system.

*Part 4* concerns the bodies responsible for assessing conformity of subsystems and interoperability constituents to the relevant standards, called “notified bodies”, or, in the case of the assessment of notified national technical rules “designated bodies”. Provision for the recovery of fees by notified bodies, designated bodies and the Secretary of State are contained in *regulations 33 and 34*.

*Part 5* contains provisions for the keeping of registers of infrastructure (*regulation 35*) and a National Vehicle Register (*regulation 36*). Authorised vehicles are issued with a vehicle number. Enforcement and appeal provisions are set out in *Part 6*. The recall and withdraw notice powers in *regulations 41* gives effect, in relation to the part that needs to be transposed for these Regulations, to Regulation (EC) No 765/2008 of the European Parliament and of the Council of 9 July 2008 setting out the requirements for accreditation and market surveillance relating to the marketing of products (OJ No. L218 13/8/2008 p.30 – see Article 20(1)).

*Part 7 contains supplementary provisions*. Passenger rail vehicles falling under *regulation 44* are to be authorised and assessed against notified national technical rules relating to rail vehicle accessibility. All passenger rail vehicles operated on the United Kingdom's part of the trans-European rail system must comply with accessibility standards by 2020 (*regulation 45*).

*Regulation 46* enables dispensations from notified national technical rules to be granted and partial dispensations in relation to *regulation 45*.

*Regulation 49* requires the Secretary of State to review the operation and effect of these Regulations and publish a report within five years after they come into force and within every five years after that. Following a review it will fall to the Secretary of State to consider whether the Regulations should remain as they are, or be revoked or be amended. A further instrument would be needed to revoke the Regulations or to amend them.

*The Schedule* makes consequential amendments to rail vehicle accessibility legislation and rail safety regulations.

A list of TSIs and of notified national technical rules applying in Great Britain can be obtained from the Department for Transport, Great Minster House, 33 Horseferry Road, London SW1P 4DR and those applying in Northern Ireland can be obtained from the Department for Regional Development, River House, 48 High Street, Belfast, BT1 2AR.

A full impact assessment of the effect that this instrument will have on the costs of business and the voluntary sector is annexed to the Explanatory Memorandum which is available alongside the instrument on [www.legislation.gov.uk](http://www.legislation.gov.uk).

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