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STATUTORY INSTRUMENTS

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**2011 No. 3066**

**The Railways (Interoperability) Regulations 2011**

**PART 2**

**Subsystems**

**Requirement for authorisation**

**4.—**(1) No person is to put into use any structural subsystem unless—

- (a) the Safety Authority has given an authorisation under these Regulations for the placing in service of that subsystem;
- (b) the Competent Authority has decided under regulation 13 that for the upgrading or renewal of the subsystem, an authorisation is not required for the subsystem to be put into use; or
- (c) in the case of a vehicle, an authorisation—
  - (i) has been granted in accordance with the Directive in another Member State, or
  - (ii) was granted before 19th July 2008 and pursuant to article 21(12) of the Directive remains valid in another Member State.

(2) A structural subsystem is put into use when, having been constructed, upgraded or renewed, it is first used on or as part of the rail system in the United Kingdom for the transportation of passengers or freight or for the purpose for which it was designed.

(3) For the purposes of paragraph (2) use of a structural subsystem does not include any testing or trials conducted in the verification assessment procedure or for additional checks required by the Safety Authority.

**Application for authorisation**

**5.—**(1) A person may apply for an authorisation in respect of any structural subsystem to be placed in service if—

- (a) the authorisation is required under regulation 4(1);
- (b) an authorisation is not required under regulation 4(1) because regulation 3(2) or (5)(a) applies, but the person nevertheless wants an authorisation; or
- (c) an authorisation is not required under regulation 4(1) because regulation 4(1)(c) applies, but the person nevertheless wants an authorisation.

(2) In order for an application to be valid it must be made in writing to the Safety Authority and be accompanied by—

- (a) the technical file compiled in accordance with regulation 17; and
- (b) the verification declaration.

(3) Subject to paragraph (4), in considering an application the Safety Authority must not require checks already carried out under the verification assessment procedure to be carried out again.

(4) The Safety Authority may require such additional checks which the Safety Authority considers necessary in relation to the project subsystem if that subsystem appears to the Safety Authority not to meet the essential requirements.

(5) Where additional checks are required under paragraph (4) the Safety Authority must—

- (a) inform the applicant that the application cannot be determined before the additional checks are carried out; and
- (b) notify the Secretary of State in writing forthwith of the additional checks it requires and the reasons for requiring those checks.

(6) Paragraphs (2) and (4) are subject to regulations 6, 9 and 10.

(7) Paragraph (5)(b) does not apply to DRDNI.

(8) Paragraph (1)(c) does not apply in relation to the Channel Tunnel system.

#### **Authorisation for a vehicle already authorised for another Member State**

6.—(1) This regulation applies when an application is made pursuant to regulation 5(1)(c).

(2) When this regulation applies paragraph (3) applies instead of regulation 5(2) and paragraph (4) applies instead of regulation 5(4).

(3) In order for the application to be valid the application must be made in writing to the Safety Authority and accompanied by—

- (a) a copy of the authorisation referred to in regulation 4(1)(c) (“the first authorisation”);
- (b) if the first authorisation is a TSI conform authorisation, a technical file containing—
  - (i) a copy of the technical file from the first authorisation;
  - (ii) for a vehicle equipped with a data recorder not required by an applicable TSI, information on the procedures for collecting and evaluating the data;
  - (iii) the documentation relating to the maintenance history and any technical modifications undertaken after the first authorisation;
  - (iv) evidence on technical and operational characteristics that shows that the vehicle is compatible with the infrastructures and fixed installations, including climate conditions, energy supply system, control-command and signalling system, track gauge and infrastructure gauges, maximum permitted axle load and other constraints of the network; and
  - (v) any certificate of verification in relation to notified national technical rules;
- (c) if the first authorisation is not a TSI conform authorisation, a technical file containing—
  - (i) information on the procedure followed in relation to the first authorisation in order to show that vehicle complied with the safety requirements in force and information on any derogation that applies;
  - (ii) the technical data and information on the maintenance programme and operational characteristics, including, for a vehicle equipped with a data recorder, information on the procedures for collecting and evaluating the data;
  - (iii) the documentation relating to the maintenance and operational history and any technical modifications undertaken after the first authorisation;
  - (iv) evidence on technical and operational characteristics that shows that the vehicle is compatible with the infrastructures and fixed installations, including climate conditions, energy supply system, control-command and signalling system, track gauge and infrastructure gauges, maximum permitted axle load and other constraints of the network; and

- (v) any certificate of verification in relation to notified national technical rules;
  - (d) if the first authorisation was made, in accordance with Article 26 of the Directive, on the basis of a declaration of conformity to type, a copy of the declaration; and
  - (e) any verification declaration from the project entity made under paragraph (9).
- (4) If the first authorisation is a TSI conform authorisation, the Safety Authority may, after consultation with an applicant, require the applicant, by notice in writing, to carry out additional tests on the network concerned or risk analysis and to provide any additional information which the Safety Authority considers necessary in order to check—
- (a) technical compatibility between the vehicle and the network concerned, including the notified national technical rules applicable to the open points needed to ensure such compatibility; and
  - (b) compatibility with any notified national technical rules applicable to any specific case identified in any applicable TSI.
- (5) If the first authorisation is not a TSI conform authorisation the Safety Authority may, after consultation with an applicant, require the applicant, by notice in writing, to carry out additional tests on the network concerned or risk analysis and to provide any additional information which the Safety Authority considers necessary in order to verify that—
- (a) if there is a substantial safety risk, matters covered by the information referred to in paragraph (3)(c)(i) and (ii); and
  - (b) matters covered by the information referred to in paragraph (3)(c)(iii) and (iv),
- comply with any applicable notified national technical rules.
- (6) The infrastructure manager must, if requested by the applicant, make reasonable efforts to enable any tests required under paragraphs (4) and (5) to be completed before the date which is three months after the date on which the infrastructure manager received the request.
- (7) If there are any applicable notified national technical rules that must be assessed against in order to comply with requirements made by the Safety Authority under paragraphs (4) or (5), the project entity must, in order for the application to proceed, engage a designated body, or if the engagement is made before one year after the coming into force of these Regulations either a designated body or a notified body, to assess conformity with those rules.
- (8) A notified body engaged to assess conformity with notified national technical rules may only continue to carry out that function after the beginning of the day which is one year after the coming into force of these Regulations if it has also been appointed as a designated body under regulation 31 (whether or not the appointment as a notified body remains in place).
- (9) If a body is engaged in accordance with paragraph (7), in order for the application to proceed, the project entity must draw up a declaration in relation to the project subsystem after the body appointed under paragraph (7) has, in accordance with Annex VI to the Directive, drawn up a certificate of verification and compiled a technical file.
- (10) The Safety Authority may only require additional information, risk analysis and tests under paragraphs (4) and (5) to the extent they are necessary for verifying compatibility with national rules that are classified as Group B or Group C in the reference document.
- (11) “Group B” and “Group C” have the same meaning as in Annex VII to the Directive and the “reference document” means the document adopted and updated from time to time by the Commission in accordance with Articles 27(4) and 29(3) of the Directive.
- (12) This regulation does not apply in relation to the Channel Tunnel system.

**Authorisation decision**

- 7.—(1) The Safety Authority must determine an application by—
- (a) authorising the placing in service of the structural subsystem; or
  - (b) refusing the application for authorisation.
- (2) The Safety Authority must, and may only, issue an authorisation for the placing in service of a structural subsystem, where it is satisfied that—
- (a) the verification declaration, if required, has been drawn up in accordance with Annex V to the Directive;
  - (b) the project subsystem is technically compatible with the rail system into which it is being integrated; and
  - (c) the project subsystem has been so designed, constructed and installed as to meet the essential requirements relating to that subsystem when placed in service.
- (3) The Safety Authority may include conditions in an authorisation.
- (4) In this regulation “conditions” means—
- (a) restrictions or limitations on the use of the structural subsystem; or
  - (b) requirements that must be met by a time specified in the authorisation.
- (5) The Safety Authority must consider an application under regulation 5(1)(c) submitted in accordance with regulation 6 as soon as possible and make the decision as to whether to issue an authorisation on or before—
- (a) in the case of a vehicle with a TSI conform authorisation from another Member State, the later of—
    - (i) the date falling two months after the Safety Authority receives the technical file; and
    - (ii) if the applicant receives a notice under regulation 6(4) before the date referred to in (i), the date falling one month after the provision of all the information, risk analysis and results of the checks required by the notice; and
  - (b) in the case of a vehicle with an authorisation from another Member State which is not a TSI conform authorisation, the later of—
    - (i) the date falling four months after the Safety Authority receives the technical file; and
    - (ii) if the applicant receives a notice under regulation 6(5) before the date referred to in (i), the date falling two months after the provision of all the information, risk analysis and results of the checks required by the notice.
- (6) Where paragraph (5) applies and the Safety Authority fails to make a decision by the date required, the vehicle is deemed to be authorised with effect from the beginning of the day which is three months after that date.

**Determination of type**

- 8.—(1) If the Safety Authority issues an authorisation for the placing in service of a vehicle, the Safety Authority must issue a determination of type in relation to the vehicle.
- (2) If the Safety Authority issues an authorisation for the placing in service of a structural subsystem that is not a vehicle, the Safety Authority may, with the consent of the person who applied for the authorisation, issue a determination of type in relation to that subsystem.
- (3) The person who applied for the authorisation may make an application to the Safety Authority requesting the Safety Authority to make a determination of type under paragraph (2) and the Safety Authority must consider any such application.

(4) A determination of type must describe the basic design characteristics of the structural subsystem.

(5) If the Safety Authority considers it necessary as a result of changes to TSIs or notified national technical rules it may modify, suspend or withdraw a determination of type.

(6) The Safety Authority must notify the European Railway Agency of a determination of type for the placing in service of any vehicle and of any modification, suspension or withdrawal of such a determination in accordance with Annex II and section 5.2 of Annex I to Commission Implementing Decision 2011/665/EU of 4th October 2011 on the European register of authorised types of railway vehicles<sup>(1)</sup>, as Annex II and section 5.2 is amended from time to time.

(7) Following an authorisation under regulation 9 the Safety Authority is not required to make a further determination under this regulation.

(8) The Safety Authority must publish a list of the determination of types for structural subsystems that are not vehicles and keep the list up to date.

### **Type authorisation**

**9.**—(1) A person who proposes the placing in service of a structural subsystem that conforms to the description in a determination of type, as modified under regulation 8(5) if applicable, may make an application for an authorisation to the Safety Authority.

(2) An application must be in writing and be accompanied by—

- (a) a declaration by the project entity that the structural subsystem conforms to the description set out in the determination of type;
- (b) a statement as to whether there have been any changes to the applicable TSI or notified national technical rules since the Safety Authority made or modified the determination of type; and
- (c) if there are any such changes, a description of them.

(3) The Safety Authority must consider any application made under and in accordance with paragraphs (1) and (2) and must, and may only, issue an authorisation where it is satisfied that—

- (a) the project subsystem conforms to the description set out in the determination of type;
- (b) there have been no changes to the applicable TSI or notified national technical rules since the Safety Authority made or modified the determination of type which are material to the application; and
- (c) the project subsystem has been so designed, constructed and installed as to meet the essential requirements relating to that subsystem when placed in service.

(4) Subject to regulation 10, regulations 5(2) and (4) and 7(2) do not apply to an application for an authorisation under this regulation.

(5) If the application is for a vehicle the declaration referred to in paragraph (2)(a) must be consistent with Commission Regulation (EU) No. 201/2011 of 1st March 2011 on the model of declaration of conformity to an authorised type of railway vehicle<sup>(2)</sup>.

(6) In this regulation “conforms” means conforms in all the respects which materially affect compliance with the applicable essential requirements.

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(1) O.J. No. L 264, 8.10.2011, p32.

(2) O.J. No. L 57, 2.3.2011, p8.

**Type authorisation: changes to TSIs etc.**

**10.**—(1) If in the Safety Authority's opinion there have been changes to the applicable TSI or notified national technical rules that are material to an application made under regulation 9 the Safety Authority must give a notice in writing to the applicant specifying the changes that the Safety Authority considers to be material to the application.

(2) If having received a notice issued by the Safety Authority under paragraph (1) the applicant wishes to continue with the application, the applicant must provide to the Safety Authority the documentation referred to in regulation 5(2)(a) and (b).

(3) If the Safety Authority has received the further material referred to in paragraph (2), the Safety Authority may require additional tests in accordance with regulation 5(4) and (5).

(4) If the applicant has provided the documentation in accordance with paragraph (2), the Safety Authority must determine the application in accordance with regulation 7 as read with paragraph (5) of this regulation.

(5) For the purposes of paragraphs (2), (3) and (4) the documentation to be provided, the additional checks to be carried out and the authorisation to be issued must relate only to the changes to the applicable TSI or notified national technical rules.

**Revocation of authorisations**

**11.**—(1) The Safety Authority may revoke an authorisation before a structural subsystem is put into use if it is satisfied that the conditions of that authorisation are no longer met and that there is a significant safety risk arising as a result.

(2) Before revoking an authorisation the Safety Authority must give notice in writing to the person to whom the authorisation was issued ("the holder") that—

- (a) it is considering revoking that authorisation and the reasons why; and
- (b) within a period specified in the notice, which must be not less than 28 days from the date of the notice, the holder may make representations in writing to the Safety Authority or, if the holder so requests, may make oral representations to the Safety Authority.

(3) The Safety Authority must not revoke the authorisation unless the Safety Authority has considered the representations (if any) from the holder made during the period specified in the notice.

(4) Where the Safety Authority revokes an authorisation, it must give notice in writing of the revocation to the holder and include reasons for the revocation in the notice.

**List of projects for the renewal or upgrading of subsystems**

**12.**—(1) The Competent Authority may from time to time publish a list under this regulation that names or describes projects or types of project that are, in the opinion of the Competent Authority, projects or types of projects for the renewal or upgrading of structural subsystems.

(2) In deciding whether a project or type of project is for the renewal or upgrading of structural subsystem factors to be taken into account by the Competent Authority must include—

- (a) the scale of the project assessed by reference to its economic cost and benefits;
- (b) the impact of the project on the rail system having regard to its effect on safety, reliability and availability, health, environmental protection and technical compatibility<sup>(3)</sup>; and
- (c) the impact of the application of any relevant TSI to the subsystem and any interfacing subsystems.

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(3) See the general requirements listed in annex III to the Directive.

(3) If a project is named or described or is of a type named or described in accordance with this regulation it is for the purposes of these Regulations deemed to be a project for the renewal or upgrading of a structural subsystem.

#### **Authorisation requirements for the renewal or upgrading of subsystems**

**13.**—(1) In relation to a project for the renewal or upgrading of a structural subsystem, the project entity may apply in writing to the Competent Authority for a decision as to whether an authorisation is required.

(2) In order for an application made under paragraph (1) to be valid it must be accompanied by the following information—

- (a) a file setting out details of the project;
- (b) the project entity's assessment of whether there are any new or changed safety risks resulting from the works envisaged and how any such risks will be managed;
- (c) identification of any TSI, or part of a TSI, for which derogations may or will be sought pursuant to regulation 14; and
- (d) an indication of any TSI, or part of a TSI, which it is proposed should not apply if the Competent Authority determines that the subsystem requires authorisation.

(3) The Competent Authority may give notice in writing to the project entity requiring the project entity to provide, by a specified date, additional information that the Competent Authority considers necessary in order to make a decision.

(4) The project entity must provide the Competent Authority with such additional information requested under paragraph (3) as the project entity is reasonably able to supply and the project entity must give an explanation in writing where the information requested is not supplied.

(5) In making a decision as to the requirement for authorisation, factors to be taken into account by the Competent Authority must include—

- (a) the implementation strategy provided in relation to any applicable TSI; and
- (b) the extent of the proposed works.

(6) Except where the Competent Authority and the Safety Authority are the same person, the Competent Authority may only decide authorisation is not required if it has consulted the Safety Authority.

(7) If it appears to the Competent Authority that the proposed works may adversely affect the overall safety of the subsystem the Competent Authority must decide that the subsystem requires authorisation.

(8) Where the Competent Authority determines that the subsystem requires an authorisation the Competent Authority, subject to any derogations under regulation 14, must decide to what extent TSIs must apply to the project subsystem.

(9) The Competent Authority must make the decisions not later than four months after the submission of the information required by paragraph (2).

#### **Exemption from need to conform with TSIs (derogations)**

**14.**—(1) The Competent Authority may determine that, in the circumstances or cases specified in paragraph (2), the whole or part of a relevant TSI is not to apply in relation to a subsystem (“a derogation”).

(2) The circumstances or cases are—

- (a) any project which—

- (i) is for a proposed new subsystem;
  - (ii) is for the renewal or upgrading of an existing subsystem; or
  - (iii) concerns any element referred to in Article 1(1) of the Directive,
- and the project is at an advanced stage of development having regard to the impact that a change in technical specification would have on the project or the project is the subject of a contract in the course of performance when the applicable TSI is published;
- (b) any project concerning the renewal or upgrading of an existing subsystem, where the loading gauge, track gauge, space between tracks or electrification voltage in the applicable TSI is not compatible with those of the existing subsystem;
  - (c) a proposed new subsystem or a proposed renewal or upgrading of an existing subsystem where the rail network is separated or isolated by the sea or separated as a result of special geographical conditions from the rail network of the rest of the EU;
  - (d) any proposed renewal, extension or upgrading of an existing subsystem when the application of an applicable TSI would compromise the economic viability of the project or the compatibility of the project with the rail system in the United Kingdom;
  - (e) following an accident or natural disaster, where the conditions for the rapid restoration of the network do not economically or technically allow for partial or total application of an applicable TSI; and
  - (f) vehicles coming from or going to countries outside the EU the track gauge of which is different from that of the main rail network within the EU.
- (3) The Competent Authority is not to make a derogation from the application of a TSI or part of a TSI unless the Secretary of State has first forwarded a file to the Commission containing the information set out in Annex IX to the Directive.
- (4) Save for matters concerning the loading gauge and the track gauge and subject to paragraph (6), a derogation in relation to the circumstances or cases set out in paragraph (2)(b) has no effect unless the derogation has been permitted by the Commission by a decision in accordance with Articles 9(5) and 29(3) of the Directive.
- (5) Subject to paragraph (6), in the circumstances or cases set out in paragraph (2)(d) and (f) a derogation is to have no effect unless the derogation has been permitted by the Commission by a decision in accordance with Articles 9(5) and 29(3) of the Directive.
- (6) For the purposes of paragraphs (4) and (5) the Commission is deemed to have permitted the derogation if it has made no decision within six months of receiving the file referred to in paragraph (3).

### **Essential requirements for project subsystems**

**15.—**(1) For the purposes of these Regulations, the essential requirements for a project subsystem are deemed to be met if the project subsystem conforms with —

- (a) all applicable TSIs;
  - (b) where paragraph (2) applies, the requirements of all applicable notified national technical rules, subject to any dispensation granted under regulation 46(1); and
  - (c) where such a dispensation applies, any conditions of that dispensation.
- (2) This paragraph applies to a project subsystem where—
- (a) there are no applicable TSIs;
  - (b) a relevant TSI does not govern all elements of the project subsystem;



- (c) a derogation from conformity with the whole or part of a relevant TSI has been granted under regulation 14 in respect of that subsystem; or
- (d) the Competent Authority has determined under regulation 13 that the whole or part of a TSI does not apply to that subsystem.

### **Role of project entity**

**16.**—(1) In order for an application for an authorisation to be valid a project entity must—

- (a) engage a notified body to act in carrying out the verification assessment procedure, other than in relation to notified national technical rules, in accordance with regulation 17;
- (b) ensure that a notified body (whether that originally engaged or another) continues to be engaged until authorisation under these Regulations is given or refused; and
- (c) if there are applicable notified national technical rules, engage a designated body, or if the engagement is made before the day which is one year after the coming into force of these Regulations either a designated body or a notified body, to carry out the verification assessment procedure in relation to the notified national technical rules in accordance with regulation 17.

(2) The engagement of a notified body under paragraph (1)(a) must be made—

- (a) before completion of the design stage of the project subsystem; or
- (b) before commencement of the manufacture stage of the project subsystem,

whichever is the earlier.

(3) A project entity must not draw up a verification declaration in relation to that project subsystem unless—

- (a) the project entity is satisfied the essential requirements are met (including interfaces with the rail system);
- (b) the verification assessment procedure has been carried out by a notified body, and if applicable the body engaged under paragraph (1)(c), in accordance with regulation 17;
- (c) a certificate of verification has been drawn up by a notified body, and if applicable the body engaged under paragraph (1)(c), in accordance with Annex VI to the Directive; and
- (d) a technical file has been prepared containing the information and documents specified in regulation 17(2) and, if applicable, regulation 17(5).

(4) A notified body engaged to assess conformity with notified national technical rules may only continue to carry out that function after the beginning of the day which is one year after the coming into force of these Regulations if it has also been appointed as a designated body under regulation 31 (whether or not the appointment as a notified body remains in place).

(5) This regulation and regulation 17 do not apply where an authorisation is being applied for under regulation 5(1)(c).

(6) Where regulation 9 or 10 applies, this regulation and regulation 17 only apply to the extent necessary to satisfy the Safety Authority that an authorisation must be granted under these Regulations.

### **Project subsystems: verification assessment procedure**

**17.**—(1) The verification assessment procedure for a notified body carrying out an assessment other than in relation to notified national technical rules is—

- (a) in so far as that subsystem is required to conform with all or part of a TSI, the procedures specified in the TSI or part of the TSI with which that subsystem is required to conform; and
  - (b) the applicable procedure set out in Annex VI to the Directive.
- (2) The notified body carrying out an assessment other than in relation to notified national technical rules must—
- (a) compile a technical file containing—
    - (i) the items required by section 2.4 of Annex VI to the Directive, including the certificate of verification;
    - (ii) documents relating to the conditions and limits of use of the project subsystem;
    - (iii) documents relating to the characteristics of the project subsystem;
    - (iv) manuals and instructions relating to the servicing, constant or routine monitoring, adjustment and maintenance of the project subsystem;
    - (v) documentation or records of any decision of the Competent Authority under regulation 13(8) as to the extent to which any TSI applies to the project subsystem; and
    - (vi) documentation or records of notifications to the Commission in relation to a derogation, pursuant to regulation 14; and
  - (b) assess the interface between the project subsystem and the rail system to the extent that such an assessment is possible based on the available information referred to in paragraph (3).
- (3) The assessment under paragraph (2)(b) must be based on information available in the relevant TSI and in any registers kept in accordance with Article 34 (European register of authorised types of vehicles) and Article 35 (register of infrastructure) of the Directive.
- (4) The verification assessment procedure for a body carrying out an assessment in relation to notified national technical rules is the applicable procedure set out in Annex VI to the Directive.
- (5) The body carrying out an assessment in relation to notified national technical rules must compile a technical file in accordance with Annex VI to the Directive.

### **Project subsystems: verification declaration**

**18.—**(1) A project subsystem in relation to which a verification declaration has been drawn up is presumed for the purposes of these Regulations to meet the essential requirements unless there are reasonable grounds for believing that it does not so conform.

(2) The presumption set out in paragraph (1) does not apply where a person fails or refuses to make available to the Safety Authority the documentation which the person is required to retain by the verification assessment procedure applying to the project subsystem or pursuant to regulation 19, or a copy of that documentation.

### **Retention of documents**

**19.—**(1) From the time a project subsystem authorised under these Regulations is placed in service until it is permanently withdrawn from service (whether such service is in the United Kingdom or another Member State), the project entity who made the verification declaration must—

- (a) keep the following documents—
  - (i) the technical file compiled in accordance with regulations 6(3)(b) or 17(2)(a) or (5) (where there is more than one file the project entity must combine the files and keep them as one);

- (ii) the verification declaration; and
  - (iii) any declaration made in accordance with regulation 9(2)(a); and
- (b) provide a copy of the technical file to any other Member State that requests one.
- (2) The project entity must ensure that—
  - (a) any alterations made to the project subsystem are documented;
  - (b) the documentation recording any alterations and any maintenance manuals in relation to the project subsystem are added to and kept as part of the technical file; and
  - (c) any safety assessment report is added to and kept as part of the technical file.
- (3) Where the project entity is not the owner of the project subsystem when it is authorised under these Regulations, the project entity must within 60 days of the date of authorisation transfer the documents referred to in paragraphs (1) and (2) to the owner of the subsystem, and once this is done for the purpose of paragraphs (1) and (2) the owner is to be regarded for the purposes of this regulation as the project entity.
- (4) Where an owner of the project subsystem disposes of the owner's interest in it, the owner must within 60 days of the disposal transfer the documents referred to in paragraphs (1) and (2) to the person acquiring that interest, and once this is done for the purpose of paragraphs (1) and (2) and this paragraph, the person acquiring that interest is to be regarded for the purposes of this regulation as the project entity.
- (5) The project entity must make the technical file, or the documents kept in accordance with paragraph (7)(b), available to the Safety Authority on demand.
- (6) The duties of the project entity, or an owner of a project subsystem, under paragraphs (1), (2) (b) and (c) and (3) to (5) do not apply in respect of an authorisation deemed to be given under these Regulations by the operation of regulation 44.
- (7) In respect of a project subsystem authorised under regulation 9 the duties of the project entity under paragraphs (1) and (2) are limited to keeping—
  - (a) the declaration made in accordance with regulation 9(2)(a); and
  - (b) documentation recording any alterations and any maintenance manuals in relation to the project subsystem.

### **Continuing duty on operator in relation to standards**

**20.**—(1) This regulation applies where a project subsystem is in use on, or is part of, the rail system with an authorisation under these Regulations.

- (2) Subject to paragraph (3), the operator of the project subsystem must ensure that the project subsystem is operated and maintained—
  - (a) subject to sub-paragraph (b), in conformity with the TSIs and notified national technical rules against which the subsystem was assessed for that authorisation;
  - (b) where a TSI or notified national technical rule referred to in sub-paragraph (a) has been varied or replaced, either in conformity with the varied or replaced TSI or rule or in conformity with the original TSI or rule;
  - (c) in conformity with any functional TSI applying to that subsystem; and
  - (d) in accordance with any condition in the authorisation to the extent that the condition still applies.
- (3) Where—
  - (a) a project subsystem—

- (i) was assessed for authorisation against notified national technical rules that were the Rail Vehicle Accessibility Regulations 1998(4) as in force when the project was assessed, or
- (ii) is deemed under regulation 44(1)(b) to have been assessed against the requirements referred to in that sub-paragraph, and
- (b) an exemption order made or treated as having been made under section 183 of the Equality Act 2010(5) has effect in relation to that project subsystem,

the duty in paragraph (2)(a) to ensure that the project subsystem is operated and maintained in conformity with those Regulations or requirements is a duty to do so save to the extent the order exempted it from those Regulations or requirements, even though the order may include a provision for the expiry of such exemption.

(4) Paragraph (2) is without prejudice to regulation 45.

(5) In this regulation “project subsystem” includes a vehicle deemed to be authorised under these Regulations by the operation of regulation 44.

### **Fees payable to the Safety Authority**

**21.**—(1) The Safety Authority may charge a person applying for an authorisation a fee that must—

- (a) not exceed the sum of the costs reasonably incurred by the Safety Authority in carrying out the work relating to the application; and
- (b) be set out in an invoice that includes a statement of the work done and the costs reasonably incurred and specifies the period to which the statement relates.

(2) A fee charged under this regulation must be paid on or before the 30th day after the date of the invoice that the Safety Authority has sent or given to the person who is required to pay the fee, or on such later day as the Safety Authority has specified.

(3) A fee that has not been paid in accordance with paragraph (2) is recoverable as a civil debt.

(4) Failure to pay a fee does not constitute an offence.

(5) This regulation does not apply where the Intergovernmental Commission is the Safety Authority.

### **Fees payable to the Competent Authority**

**22.** The Competent Authority may charge such reasonable fee in connection with, or incidental to, carrying out its functions under regulations 13 and 14, as it may determine.

(4) [S.I. 1998/2456](#), amended by [S.I. 2000/3215](#) and [S.I. 2008/1746](#) and revoked by [S.I. 2010/432](#).

(5) [2010 c.15](#). See article 21(1) and schedule 7 of [S.I. 2010/2317](#) for saving provisions.