
STATUTORY INSTRUMENTS

2011 No. 3066

The Railways (Interoperability) Regulations 2011

PART 3

Interoperability Constituents

Prohibition on placing interoperability constituents on the market

23. Subject to regulation 28, no person may place an interoperability constituent on the market for which there is an applicable TSI with a view to its use on the rail system unless—

- (a) the interoperability constituent meets the essential requirements that are relevant to an interoperability constituent of that type;
- (b) the appropriate procedure for assessing 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.

Assessment procedure for interoperability constituents

24.—(1) If required by the applicable TSI, the procedures for assessing the conformity or suitability for use of an interoperability constituent must be carried out by a notified body.

(2) The appropriate procedures for assessing the conformity or suitability for use of an interoperability constituent are, subject to paragraph (3), the procedures indicated in the applicable TSI.

(3) Spare parts for subsystems that were placed in service before the applicable TSI came into force are not subject to the procedures referred to in paragraph (2).

EC declaration of conformity or suitability for use

25.—(1) Where an EC declaration of conformity or suitability for use has not been drawn up by the manufacturer or the manufacturer's authorised representative established in the EU, an EC declaration of conformity or suitability for use must 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 other interoperability constituent that the person is manufacturing or assembling, or in any project subsystem that the person is constructing, upgrading or renewing

before the person places the interoperability constituent on the market with a view to its use on the rail system or uses it or any part of it on the rail system.

(2) An EC declaration of conformity or suitability for use must be drawn up in accordance with the requirements of Annex IV to the Directive.

(3) A person may only draw up an EC declaration of conformity or suitability for use if satisfied that the interoperability constituent satisfies the relevant conditions—

- (a) of the applicable TSI, or
- (b) of European specifications developed to comply with the conditions of the applicable TSI.

(4) If an interoperability constituent is subject to other requirements of an EU Directive, a person may only draw up an EC declaration of conformity or suitability for use if satisfied that the interoperability constituent meets those other requirements and the person must state in the declaration that the interoperability constituent meets those other requirements.

Effect of conformity and suitability declarations

26.—(1) An interoperability constituent in relation to which an EC declaration of conformity or suitability for use has been drawn up is presumed for the purpose of these Regulations to—

- (a) meet such of the essential requirements as relate to an interoperability constituent of that type; and
- (b) conform to the applicable TSI,

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 any of the procedures for assessing the conformity or suitability for use of that interoperability constituent or a copy of that documentation.

Duties on operators

27. The operator of any interoperability constituent for which there is an applicable TSI that is in use on, or is part of, the rail system located in the United Kingdom must ensure that 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 effective working order and good repair.

Recognition of assessments of other Member States

28. Nothing in these Regulations shall preclude any person from placing on the market relating to the 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 Directive.

Notification to the Commission of incorrect declaration

29.—(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 must immediately give notice of that fact in writing to the Commission and the other Member States.

(2) That notice must specify—

- (a) whether the failure to comply was due to the inadequacy of a TSI; and
- (b) if it was not—
 - (i) the steps taken to prohibit or restrict the use of that interoperability constituent or withdraw or recall the interoperability constituent;
 - (ii) the reasons for taking those steps; and

(iii) any measures taken against a person who drew up the declaration.