

Status: This version of this schedule contains provisions that are prospective.

Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to The Railways (Interoperability) Regulations 2006. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

PROSPECTIVE

SCHEDULE 10

Reg 2(2)

(This Schedule substantially reproduces the provisions of Annex VII to the High-Speed Directive and to the Conventional Directive)

Commencement Information

II Sch. 10 in force at 20.3.2006, see [reg. 1\(2\)](#)

MINIMUM CRITERIA WHICH MUST BE TAKEN INTO ACCOUNT BY THE MEMBER STATES WHEN NOTIFYING BODIES

- 1.** The body, its Director and the staff responsible for carrying out the checks may not become involved, either directly or as authorised representatives, in the design, manufacture, construction, marketing or maintenance of the interoperability constituents or subsystems or in their use. This does not exclude the possibility of an exchange of technical information between the manufacturer or constructor and that body.
- 2.** The body and the staff responsible for the checks must carry out the checks with the greatest possible professional integrity and the greatest possible technical competence and must be free of any pressure and incentive, in particular of a financial type, which could affect their judgement or the results of their inspection, in particular from persons or groups of persons affected by the results of the checks. In particular, the body and the staff responsible for the checks must be functionally independent of the authorities designated to issue authorisations for placing in service in the framework of the High-Speed Directive or the Conventional Directive, licences in the framework of Council Directive [95/18/EC](#) of 19th June 1995 on the licensing of railway undertakings⁽¹⁾ and safety certificates in the framework of Directive [2004/49/EC](#)⁽²⁾, and of the bodies in charge of investigations in the event of accidents.
- 3.** The body must employ staff and possess the means required to perform adequately the technical and administrative tasks linked with the checks; it should also have access to the equipment needed for exceptional checks.
- 4.** The staff responsible for the checks must possess:
 - proper technical and vocational training;
 - a satisfactory knowledge of the requirements relating to the checks that they carry out and sufficient practice in those checks;
 - the ability to draw up the certificates, records and reports which constitute the formal record of the inspections conducted.
- 5.** The independence of the staff responsible for the checks must be guaranteed. No official must be remunerated either on the basis of the number of checks performed or of the results of those checks.

(1) OJ L 143, 27.6.1995, p. 70. Directive as amended by Directive [2001/13/EC](#) of the European Parliament and of the Council (OJ L 75, 15.3.2001, p. 26), and by Directive [2004/49/EC](#) of the European Parliament and of the Council (OJ L 163, 30.4.2004, p. 44)

(2) OJ L 163, 30.4.2004, p. 44.

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6. The body must take out civil liability insurance unless that liability is covered by the State under national law or unless the checks are carried out directly by that Member State.

7. The staff of the body are bound by professional secrecy with regard to everything they learn in the performance of their duties (with the exception of the competent administrative authorities in the State where they perform those activities) in pursuance of the High-Speed Directive or of the Conventional Directive and any provision of national law implementing those Directives.

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Changes and effects yet to be applied to :

- Sch. 10 coming into force by [S.I. 2006/397 reg. 1\(2\)](#)
- Regulations revoked by [S.I. 2011/3066 reg. 47\(1\)](#)

Changes and effects yet to be applied to the whole Instrument associated Parts and Chapters:

Whole provisions yet to be inserted into this Instrument (including any effects on those provisions):

- reg. 4(9A) inserted by [S.I. 2008/1746 reg. 4\(4\)\(c\)](#)
- reg. 4A4B inserted by [S.I. 2008/1746 reg. 4\(5\)](#)
- reg. 11(7) inserted by [S.I. 2008/1746 reg. 4\(7\)](#)
- reg. 12(3)-(6) inserted by [S.I. 2008/1746 reg. 4\(8\)\(b\)](#)
- reg. 33(1A) inserted by [S.I. 2008/1746 reg. 4\(9\)](#)