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STATUTORY RULES OF NORTHERN IRELAND

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**2016 No. 420**

**The Railways Infrastructure (Access, Management  
and Licensing of Railway Undertakings)  
Regulations (Northern Ireland) 2016**

**PART 2**

**ACCESS TO RAILWAY INFRASTRUCTURE AND SERVICES**

**Access and transit rights**

4.—(1) A railway undertaking is entitled, on equitable, non-discriminatory and transparent conditions, access rights to such railway infrastructure as may be necessary for the purpose of operating all types of rail freight or <sup>F1</sup>... passenger services.

(2) An international grouping which includes a railway undertaking established in Northern Ireland, for the purpose of operating all types of rail freight or international passenger services, is entitled to such access or transit rights as may be necessary for the provision of international transport services between [<sup>F2</sup>Northern Ireland and the Republic of Ireland].

(3) The access rights described in paragraph (1) include access to railway infrastructure connecting the service facilities referred to in paragraph 2 of Schedule 1.

(4) The access rights described in paragraph (1) for the purposes of operating rail freight services include the right of access to railway infrastructure serving, or potentially serving, more than one final customer.

(5) The access rights of a railway undertaking for the purposes of the operation of [<sup>F3</sup>a passenger service] include the right to pick up passengers at any station located on [<sup>F4</sup>the route] and set them down at another<sup>F5</sup>....

<sup>F6</sup>(6) .....

[<sup>F7</sup>(7) The Office of Rail and Road may, in accordance with regulation 33, limit the rights granted by this regulation to passenger services between a place of departure and a destination where one or more public service contracts cover the same route or an alternative route if the exercise of any such right would compromise the economic equilibrium of the public service contract or contracts in question.]

<sup>F8</sup>(8) .....

(9) It is the duty of the infrastructure manager to ensure that the entitlements conferred by this regulation are honoured.

(10) Without prejudice to the generality of regulation 32, if a railway undertaking is denied the entitlements conferred on it by this regulation other than pursuant to a decision of the Office of Rail and Road under paragraph (7) [<sup>F9</sup>and regulation 33] that railway undertaking has a right of appeal to the Office of Rail and Road in accordance with regulation 32.

### Textual Amendments

- F1** Word in reg. 4(1) omitted (15.3.2019) by virtue of [The Railways Infrastructure \(Access, Management and Licensing of Railway Undertakings\) \(Amendment\) Regulations \(Northern Ireland\) 2019 \(S.R. 2019/15\)](#), regs. 1(1), **5(a)**
- F2** Words in reg. 4(2) substituted (31.12.2020) by [The Railways \(Amendment\) \(EU Exit\) Regulations \(Northern Ireland\) 2019 \(S.I. 2019/826\)](#), regs. 1(2), **5**; 2020 c. 1, Sch. 5 para. 1(1)
- F3** Words in reg. 4(5) substituted (15.3.2019) by [The Railways Infrastructure \(Access, Management and Licensing of Railway Undertakings\) \(Amendment\) Regulations \(Northern Ireland\) 2019 \(S.R. 2019/15\)](#), regs. 1(1), **5(b)(i)**
- F4** Words in reg. 4(5) substituted (15.3.2019) by [The Railways Infrastructure \(Access, Management and Licensing of Railway Undertakings\) \(Amendment\) Regulations \(Northern Ireland\) 2019 \(S.R. 2019/15\)](#), regs. 1(1), **5(b)(ii)**
- F5** Words in reg. 4(5) omitted (15.3.2019) by virtue of [The Railways Infrastructure \(Access, Management and Licensing of Railway Undertakings\) \(Amendment\) Regulations \(Northern Ireland\) 2019 \(S.R. 2019/15\)](#), regs. 1(1), **5(b)(iii)**
- F6** Reg. 4(6) omitted (15.3.2019) by virtue of [The Railways Infrastructure \(Access, Management and Licensing of Railway Undertakings\) \(Amendment\) Regulations \(Northern Ireland\) 2019 \(S.R. 2019/15\)](#), regs. 1(1), **5(c)**
- F7** Reg. 4(7) substituted (15.3.2019) by [The Railways Infrastructure \(Access, Management and Licensing of Railway Undertakings\) \(Amendment\) Regulations \(Northern Ireland\) 2019 \(S.R. 2019/15\)](#), regs. 1(1), **5(d)**
- F8** Reg. 4(8) omitted (15.3.2019) by virtue of [The Railways Infrastructure \(Access, Management and Licensing of Railway Undertakings\) \(Amendment\) Regulations \(Northern Ireland\) 2019 \(S.R. 2019/15\)](#), regs. 1(1), **5(e)**
- F9** Words in reg. 4(10) substituted (15.3.2019) by [The Railways Infrastructure \(Access, Management and Licensing of Railway Undertakings\) \(Amendment\) Regulations \(Northern Ireland\) 2019 \(S.R. 2019/15\)](#), regs. 1(1), **5(f)**

### Access to services

- 5.—(1) Subject to paragraph (2), all railway undertakings are entitled to services comprising—
- (a) the minimum access package; and
  - (b) the track access to service facilities and the supply of services,

described in paragraphs 1 and 2 of Schedule 1.

(2) The services described in paragraph (1) must be supplied by the infrastructure manager or, as the case may be, service provider in an equitable, non-discriminatory and transparent manner.

(3) Requests by railway undertakings for access to, and the supply of, services described in paragraph 2 of Schedule 1 must be answered within a reasonable time limit as stipulated by the Office of Rail and Road.

(4) Subject to paragraph (7), where an infrastructure manager or a service provider supplies any of the services described in paragraph 2 of Schedule 1, a request for access to and supply of such services may only be refused if a viable alternative exists which would enable the railway undertaking to operate the freight or passenger service concerned on the same or an alternative route under economically acceptable conditions.

(5) Where—

- (a) a request referred to in paragraph (3) concerns access to and supply of services described in sub-paragraphs 2(a), (b), (c), (d), (e) and (f) of Schedule 1; and

- (b) such request is made to a service provider which is under the direct or indirect control of a dominant body or firm,

the infrastructure manager or service provider must justify, in writing, any decision to refuse such a request, and provide information about the viable alternative described in paragraph (4).

(6) Paragraph (4) does not oblige the infrastructure manager or service provider to make investments in resources or facilities in order to accommodate all requests by railway undertakings.

(7) Where the infrastructure manager or service provider of services referred to in paragraph 2 of Schedule 1, encounters a conflict between different requests, it must attempt to meet all requests in so far as possible. If no viable alternative is available, and it is not possible to accommodate all requests for capacity for the relevant facility on the basis of demonstrated need, the applicant may complain to the Office of Rail and Road.

(8) Where a service facility described in paragraph 2 of Schedule 1 has not been in use for at least two consecutive years and interest by a railway undertaking for access to this facility has been expressed to the service provider on the basis of demonstrated need, the service provider must—

- (a) offer the operation of the service facility, or part of it, for lease as a rail service facility; and
- (b) publicise this offer.

(9) Paragraph (8) does not apply if the service provider can demonstrate that ongoing redevelopment work reasonably prevents the use of the service facility by any railway undertaking.

(10) Where the infrastructure manager or service provider offers to supply any of the services described in paragraph 3 of Schedule 1, as an additional service he must, in response to a request from an applicant, supply the services to that applicant in a non-discriminatory manner

(11) An applicant may request the supply of any of the services described in paragraph 4 of Schedule 1 from an infrastructure manager or service provider but that infrastructure manager or service provider is under no obligation to supply the services requested. Where the infrastructure manager or service provider does offer to supply such services, it must do so in a non-discriminatory manner.

(12) Without prejudice to the generality of regulation 32, if an applicant is denied the entitlements conferred on it by this regulation, that applicant has a right of appeal to the Office of Rail and Road in accordance with regulation 32.

<sup>F10</sup>(13) .....

**Textual Amendments**

**F10** Reg. 5(13) omitted (31.12.2020) by virtue of [The Railways \(Amendment\) \(EU Exit\) Regulations \(Northern Ireland\) 2019 \(S.I. 2019/826\)](#), regs. 1(2), 6; 2020 c. 1, Sch. 5 para. 1(1)

**Access to training facilities**

6.—(1) Railway undertakings applying for a safety certificate in accordance with [<sup>F11</sup>Part 2 of the Railways (Safety Management) Regulations (Northern Ireland) 2006] shall be entitled to a fair and non-discriminatory access to training facilities for train drivers and staff accompanying the trains, whenever such training is necessary for the fulfilment of requirements to obtain that certificate.

- (2) The services offered under paragraph (1) must include training on—
  - (a) necessary route knowledge;
  - (b) operating rules and procedures
  - (c) the signalling and control command system; and
  - (d) emergency procedures,

in respect of the routes operated.

(3) The infrastructure manager, and any of his staff with responsibility for safety critical tasks, must have a fair and non-discriminatory access to the services listed in paragraph (2).

(4) It is the responsibility of the [F12Department] to ensure that the provision of training services meets the safety requirements laid down in the National Safety Rules.

(5) If the training facilities to which access is granted by virtue of this regulation are available only through the services of one single railway undertaking, or the infrastructure manager, the Department must ensure that those facilities and services are available to applicants at a reasonable and non-discriminatory price, which is cost-related and may include a profit margin.

(6) Railway undertakings recruiting new train drivers, on-board staff, or staff with responsibility for safety critical tasks must take into account any training, qualifications and experience acquired by job-applicants from any previous employment with another railway undertaking.

(7) The staff described in paragraph (6) must be granted access to all documents attesting to their training, qualifications and experience, and be entitled to have copies of such documentation.

(8) It is the responsibility of each railway undertaking and infrastructure manager to provide the appropriate level of training and qualification of staff set out in [F13national safety rules] and Annex III to Council Directive 2004/49/EC.

(9) For the purposes of this regulation—

(a) “national safety rules” means any legislation and other requirements—

(i) applicable to Northern Ireland; and

(ii) which contain requirements (including common operating rules) relating to railway safety,

except that where the requirements in paragraph (9)(a)(i) consist of common operating rules of the railway it shall not include such rules which regulate matters which are covered by a technical specification for interoperability; and

(b) “safety critical task” means—

(i) in relation to vehicle used on a railway—

(aa) driving, despatching or any other activity which is capable of controlling or affecting the movement of that vehicle;

(bb) signalling, and signalling operations, the operation of level crossing equipment, receiving and relaying of communications or any other activity which is capable of controlling or affecting the movement of that vehicle;

(cc) coupling or uncoupling;

(dd) installation of components;

(ee) maintenance; or

(ff) checking that that vehicle is working properly and, where carrying goods, is correctly loaded before being used;

(ii) in relation to a railway—

(aa) installation or maintenance of any part of it or of the telecommunications system relating to it or used in conjunction with it, or of the means of supplying electricity directly to that transport system or to any vehicles using it or to the telecommunications system;

(bb) controlling the supply of electricity directly to it or to any vehicles used on it; or

(cc) receiving and relaying of communications;

- (iii) in relation to ensuring worker safety on a railway, any person ensuring the safety of any persons working on or near the track, whether or not the persons working on or near the track are carrying out safety critical work; and
- (iv) in relation to training, any practical training or the supervision of any practical training in any of the tasks set out in sub-paragraphs (i) to (ii),

which could significantly affect the health or safety of persons on a railway.

(10) An applicant denied access to training facilities contrary to the provisions of this regulation shall have a right of appeal to the Department in accordance with regulation 32(3).

(11) For the purposes of this regulation the provisions of regulation 32(3) shall apply to the Department as the appellant authority.

**Textual Amendments**

- F11** Words in [reg. 6\(1\)](#) substituted (31.12.2020) by [The Railways \(Amendment\) \(EU Exit\) Regulations \(Northern Ireland\) 2019 \(S.I. 2019/826\)](#), regs. 1(2), [7\(2\)](#); 2020 c. 1, Sch. 5 para. 1(1)
- F12** Word in [reg. 6\(4\)](#) substituted (31.12.2020) by [The Railways \(Amendment\) \(EU Exit\) Regulations \(Northern Ireland\) 2019 \(S.I. 2019/826\)](#), regs. 1(2), [7\(3\)](#); 2020 c. 1, Sch. 5 para. 1(1)
- F13** Words in [reg. 6\(8\)](#) substituted (31.12.2020) by [The Railways \(Amendment\) \(EU Exit\) Regulations \(Northern Ireland\) 2019 \(S.I. 2019/826\)](#), regs. 1(2), [7\(4\)](#); 2020 c. 1, Sch. 5 para. 1(1)

**Cross-border agreements**

7.—(1) The Department must ensure that provisions contained in cross-border agreements do not discriminate between railway undertakings, or restrict their freedom to operate cross-border services.

- <sup>F14</sup>(2) .....
- <sup>F14</sup>(3) .....
- <sup>F14</sup>(4) .....

**Textual Amendments**

- F14** [Reg. 7\(2\)-\(4\)](#) omitted (31.12.2020) by virtue of [The Railways \(Amendment\) \(EU Exit\) Regulations \(Northern Ireland\) 2019 \(S.I. 2019/826\)](#), regs. 1(2), [8](#); 2020 c. 1, Sch. 5 para. 1(1)

**Changes to legislation:**

There are currently no known outstanding effects for the The Railways Infrastructure (Access, Management and Licensing of Railway Undertakings) Regulations (Northern Ireland) 2016, PART 2.