
STATUTORY RULES OF NORTHERN IRELAND

2019 No. 15

**The Railways Infrastructure (Access, Management
and Licensing of Railway Undertakings)
(Amendment) Regulations (Northern Ireland) 2019**

Interpretation

3. In regulation 2 (interpretation)—

(a) after the definition of “the Department” insert—

““development”, in relation to railway infrastructure, means network planning, financial and investment planning as well as the building and upgrading of the infrastructure;”;

(b) for the definition of “the Directive” substitute—

““the Directive” means [Directive 2012/34/EU](#) of the European Parliament and of the Council of 21st November 2012 establishing a single European railway area (recast)(1);”;

(c) after the definition of “the environment” insert—

““essential functions”, in relation to infrastructure management, means decision-making concerning—

- (a) train path allocation, including both the definition and the assessment of availability and the allocation of individual train paths, and
- (b) infrastructure charging, including determination and collection of charges, in accordance with the charging framework and the capacity allocation framework established pursuant to regulations 14 and 19 respectively;”;

(d) after the definition of “international grouping” insert —

““maintenance”, in relation to railway infrastructure, means works intended to maintain the condition and capability of the existing infrastructure;

“management board” means the senior body of an undertaking performing executive and administrative functions, which is responsible and accountable for day-to-day management of the undertaking;”;

(e) after the definition of “the Office of Rail and Road” insert—

““operation”, in relation to railway infrastructure, means train path allocation, traffic management and infrastructure charging;”;

(f) after the definition of “public passenger transport” insert—

(1) OJ No. L 343, 14.12.2012, p.32; as amended by Directive (EU) 2016/2370 of the European Parliament and of the Council amending [Directive 2012/34/EU](#) as regards the opening of the rail market for domestic passenger transport services by rail and the governance of the railway infrastructure (OJ No. L 352, 23.12.2016, p.1).

““public-private partnership” means a binding arrangement between public bodies and one or more undertakings other than the main infrastructure manager, under which the undertakings—

- (a) partially or totally construct or fund railway infrastructure; or
- (b) acquire the right to exercise any of the functions of the infrastructure manager for a predefined period of time;”;

(g) after the definition of “Regulation No. 913/2010” insert—

““renewal”, in relation to railway infrastructure, means major substitution works on the existing infrastructure which do not change its overall performance”;

(h) after the definition of “service provider” insert—

““supervisory board” means the most senior body of an undertaking that fulfils supervisory tasks, including the exercise of control over the management board and general strategic decisions regarding the undertaking;”;

(i) after the definition of “transit rights” insert—

““upgrade” in relation to railway infrastructure, means major modification works to the infrastructure which improve its overall performance;”;

(j) after the definition of ““urban” or “suburban”” insert—

““vertically integrated undertaking” means an undertaking where, within the meaning of Council Regulation (EC) No. 139/2004 on the control of concentrations between undertakings (the EC Merger Regulation)(2)—

- (a) an infrastructure manager is controlled by an undertaking which at the same time controls one or several railway undertakings that operate rail services on the infrastructure manager’s network;
- (b) an infrastructure manager is controlled by one or several railway undertakings that operate rail services on the infrastructure manager’s network; or
- (c) one or several railway undertakings that operate rail services on the infrastructure manager’s network are controlled by an infrastructure manager,

and includes an undertaking consisting of distinct divisions, including an infrastructure manager and one or several divisions providing transport services that do not have a distinct legal personality.

Where an infrastructure manager and a railway undertaking are fully independent of each other, but both are controlled directly by a Member State without an intermediary entity, they are not considered to constitute a vertically integrated undertaking for the purposes of these Regulations”.

(2) OJ No. L 24, 29.1.2004, p.1.