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STATUTORY INSTRUMENTS

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**2005 No. 3049**

**The Railways Infrastructure (Access and Management) Regulations 2005**

**PART 2**

**ACCESS TO RAILWAY INFRASTRUCTURE AND SERVICES**

**Access and transit rights**

5.—(1) An international grouping is entitled, on equitable conditions—

- (a) in the case of an international grouping which includes a railway undertaking established in the United Kingdom, to such access and transit rights; or
- (b) in the case of any other international grouping, to such transit rights,

as may be necessary for the provision of international transport services between the EEA States where the undertakings constituting the grouping are established.

(2) A railway undertaking is entitled, on equitable conditions, to such access as may be necessary for the purpose of the operation of any type of rail freight service.

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

(4) Without prejudice to the generality of regulation 29, if an international grouping or railway undertaking is denied the entitlements conferred on it by this regulation, that international grouping or railway undertaking has a right of appeal to the Office of Rail Regulation in accordance with regulation 29.

**Access to terminals and ports**

6.—(1) Subject to paragraph (2), an international grouping or railway undertaking is entitled, for the purposes of the rail activities referred to in regulation 5, to track access to and the supply of services in terminals and ports linked to the rail network which serve, or potentially serve, more than one final customer.

(2) Requests by international groupings and railway undertakings, in accordance with the entitlements conferred by paragraph (1), may be subject to restrictions only if viable alternatives by rail under market conditions exist.

(3) The infrastructure manager or, as the case may be, service provider must ensure that the entitlements conferred by this regulation are honoured, and that access to, and the supply of, services is granted in a transparent and non-discriminatory manner.

(4) Without prejudice to the generality of regulation 29, if an international grouping or railway undertaking is denied the entitlements conferred on it by this regulation, or if the entitlements are made subject to restrictions other than in accordance with paragraph (2), that international grouping or railway undertaking has a right of appeal to the Office of Rail Regulation in accordance with regulation 29.

## **Access to services**

7.—(1) Subject to paragraph (2), applicants 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 2.

(2) If the infrastructure manager or service provider to whom a request has been made for the supply of a service referred to in paragraph (1) does not supply such a service, the infrastructure manager must, if he is the provider of the main infrastructure, use all reasonable endeavours to facilitate the supply of that service through the appropriate service provider.

(3) The infrastructure manager or, as the case may be, service provider must ensure that the entitlements granted by this regulation are honoured, and access to the services referred to in paragraph (1) must be provided in a non-discriminatory manner.

(4) Where the infrastructure manager or service provider supplies any of the services described in paragraph 2 of Schedule 2, requests for the supply of such services may only be refused if a viable alternative means of the service being provided under market conditions exists.

(5) Where the infrastructure manager or service provider offers to supply any of the services described in paragraph 3 of Schedule 2 he must, in response to a request from an applicant, supply the services to that applicant.

(6) An applicant may request the supply of any of the services described in paragraph 4 of Schedule 2 from an infrastructure manager or service provider but that infrastructure manager or service provider is under no obligation to supply the services requested.

(7) Without prejudice to the generality of regulation 29, 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 Regulation in accordance with regulation 29.