
STATUTORY INSTRUMENTS

2005 No. 3049

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

PART 5

ALLOCATION OF INFRASTRUCTURE CAPACITY

Congested infrastructure

23.—(1) Where, after the co-ordination of requests for capacity and consultation with the applicants in accordance with regulation 20(4), it is not possible for the infrastructure manager to satisfy requests for infrastructure adequately, the infrastructure manager must declare that element of the infrastructure on which such requests cannot be satisfied to be congested.

(2) Where, during the preparation of the working timetable for the next timetable period, the infrastructure manager considers that an element of the infrastructure is likely to become congested during the period to which that working timetable relates, he must declare that element of the infrastructure to be congested.

(3) When infrastructure has been declared to be congested under the provisions of this regulation the infrastructure manager must inform—

- (a) existing users of that infrastructure;
- (b) new applicants for infrastructure capacity which includes that element of the infrastructure which has been declared to be congested;
- (c) the Office of Rail Regulation;
- (d) the Secretary of State; and
- (e) where any element of the infrastructure which has been declared to be congested is in Scotland, Scottish Ministers.

(4) When infrastructure has been declared to be congested in accordance with paragraphs (1) or (2) the infrastructure manager must undertake a capacity analysis of the congested infrastructure, as described in regulation 24, unless a capacity enhancement plan, as described in regulation 25, is in the process of being implemented.

(5) When an element of the infrastructure has been declared to be congested in accordance with paragraphs (1) or (2) and either—

- (a) a charge as described in paragraph 1(8) of Schedule 3 has not been levied; or
- (b) the charge described in paragraph (a) has been levied but has not achieved a satisfactory result,

the infrastructure manager may set priority criteria for the allocation of infrastructure capacity which includes that congested element of the infrastructure.

(6) The priority criteria referred to in paragraph (5) must—

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- (a) take account of the importance of a service to society, relative to any other service which will consequently be excluded; and
 - (b) ensure that freight services, and in particular international freight services, are given adequate consideration in the determination of those criteria.
- (7) If during the course of the working timetable period to which the declaration of congested infrastructure relates, but before the completion of the capacity analysis, the congestion is resolved, the infrastructure manager may revoke the declaration made in accordance with paragraph (1).
- (8) Where paragraph (7) applies, the infrastructure manager must inform the persons referred to in paragraph (3) that the declaration has been revoked.