

**EXPLANATORY MEMORANDUM TO**  
**THE RAILWAYS (INTEROPERABILITY) (AMENDMENT) REGULATIONS 2015**  
**2015 No. 2022**

**1. Introduction**

- 1.1 This Explanatory Memorandum has been prepared by the Department for Transport and is laid before Parliament by Command of Her Majesty.

**2. Purpose of the instrument**

- 2.1 The Railways (Interoperability) (Amendment) Regulations 2015 are necessary to implement Directive 2014/106/EU which contains some minor and technical amendments to Annexes V and VI of the Railway Interoperability Directive (2008/57/EC). These changes clarify the process for an applicant to declare that their rail project meets required technical standards and the verification procedure for these standards that is carried out by third parties. The Regulations also make a minor amendment to the definition of ‘safety assessment report’ so that it contains the information set out in Annex III to Commission Implementing Regulation (EU) 402/2013 which replaces Commission Regulation (EC) 352/2009 and a minor amendment to the provisions dealing with infrastructure registers so that these are kept in accordance with the latest EU specifications.

**3. Matters of special interest to Parliament**

*Matters of special interest to the Joint Committee on Statutory Instruments*

- 3.1 None.

*Other matters of interest to the House of Commons*

- 3.2 As this instrument is subject to the negative procedure and has not been prayed against, consideration as to whether there are other matters of interest to the House of Commons does not arise at this stage.

**4. Legislative Context**

- 4.1 These Regulations amend the Railways (Interoperability) Regulations 2011 in order to implement Commission Directive 2014/106/EU which amends Annexes V and VI to Directive 2008/57/EC on the interoperability of the rail system within the Community. The Regulations also make a minor amendment to ensure the register of infrastructure kept by the owner of infrastructure is maintained in accordance with the infrastructure specifications set out in the Annex to Commission Implementing Decision 2014/880/EU which replaces Commission Implementing Decision 2011/633/EU and a minor amendment to the definition of ‘safety assessment report’ so that this is provided in accordance with Commission Implementing Regulation (EU) 402/2013 on the common safety method for risk evaluation and assessment which replaces Commission Regulation (EC) 352/2009.
- 4.2 The Railways (Interoperability) Regulations 2011 (“the 2011 Regulations”) implemented Directive 2008/57/EC on the interoperability of the rail system. The regulations created a framework for the authorisation of rail projects (for example,

infrastructure and rolling stock) based on conformity with harmonised standards, supplemented by national rules.

- 4.3 Directive 2008/57/EC sets out in Annexes V and VI the process for declaring and verifying that rail projects meet harmonised standards and national rules and the checks to be made by third parties when compiling a technical file as evidence of compliance. Regulations 7(2)(a) and 17(1)(b) of the 2011 Regulations set out the requirements for applicants seeking to obtain an authorisation and for third parties undertaking the verification assessment procedure to follow the processes set out in Annexes V and VI respectively.
- 4.4 Directive 2014/106/EU amends Annex V of Directive (2008/57/EC) to clarify the roles and responsibilities of the project making the declaration that standards have been met. It also amends Annex VI concerning the procedure for the third party carrying out the verification process.
- 4.5 The Railways (Interoperability) (Amendment) Regulations 2015 also make a minor amendment to Regulation 2(1)(b) of the 2011 Regulations to amend the definition of ‘safety assessment report’ which is now to contain the information set out in Annex III to Commission Implementing Regulation (EU) 402/2013 which replaces Commission Regulation (EC) 352/2009. They also make a minor amendment to Regulation 35 of the 2011 Regulations which deals with a register of infrastructure. Commission Implementing Decision 2014/880/EU replaces an earlier Decision 2011/633/EU and sets out revised specifications for the content of the infrastructure register. The 2011 Regulations are amended so that an owner of infrastructure is required to keep a register of the technical characteristics of their assets in accordance with the latest specifications.
- 4.6 The Transposition Note submitted with this Explanatory Memorandum sets out the approach taken to transpose the requirements of Directive 2014/106/EU. The definition of “the Directive” in regulation 2 (1) of the 2011 Regulations has been amended to include in that definition Directive 2014/106/EU. The inclusion of Directive 2014/106/EU in the definition means that the process set out in Annexes V and VI of the Directive are now incorporated into the 2011 Regulations.

## **5. Extent and Territorial Application**

- 5.1 This instrument extends to all of the United Kingdom including the British part of the Channel Tunnel.
- 5.2 This instrument applies to all of the United Kingdom including the British part of the Channel Tunnel.
- 5.3 Responsibility for railways in Northern Ireland is devolved to the Northern Ireland Assembly and administered by the Department for Regional Development Northern Ireland (“DRDNI”). Following the agreement of the Northern Ireland Ministers, the transposition of Directive 2008/57 was done on a UK-wide basis by the 2011 Regulations and DRDNI have agreed amendments being made by this instrument.

## **6. European Convention on Human Rights**

- 6.1 As the instrument is subject to the negative resolution procedure and does not amend primary legislation, no statement is required.

## **7. Policy background**

### *What is being done and why*

- 7.1 The objective of railway interoperability is to create a harmonised European railway system that allows for the safe and uninterrupted movement of trains and to promote the single market in the rail sector. This is achieved through the harmonisation of the standards to which railway equipment is built and the harmonisation of the process by which equipment designs are verified and authorised to be placed into service. Technical Specifications for Interoperability (TSIs) set out the standards which must be met to comply with the essential requirements of the interoperability of the rail system. New or upgraded projects in the UK are required to comply with the relevant TSIs.
- 7.2 The standardisation of railway equipment is intended to bring economic benefits through economies of scale. The harmonisation of authorisation processes is intended to open the European market for both the manufacture of railway equipment and the operation of railway services.
- 7.3 Annexes V and VI to Directive 2008/57/EC set out how projects are verified as compliant with EU and national standards. This is a major part of the interoperability process as it provides an assurance that the standards have been met to achieve interoperability. These annexes cover technical issues and are only of specialised interest to those involved in carrying out rail projects or those involved in their assessment. The effect of the revised annexes are mostly a clarification of roles and responsibilities and do not introduce a practical change for the rail industry.
- 7.4 There is also a requirement for a ‘safety assessment report’ to be included with an applicant’s declaration of verification which relates to the safe integration of the placing in service of the subsystem. The definition of ‘safety assessment report’ in the 2011 Regulations has been amended so that it now contains the information set out in Annex III to Commission Regulation (EU) 402/2013 which replaces Commission Regulation (EC) 352/2009.
- 7.5 In order to facilitate the placing into service of rail vehicles, infrastructure owners are required to keep a register detailing certain technical characteristics. There is already a requirement under the 2011 Regulations for owners to keep such a register that complies with a specification set out in a Commission Decision. As this technical specification has been revised via a new Decision it is now necessary to require compliance with the latest Decision in the Regulations.

### *Consolidation*

- 7.6 The amendments made by this instrument to the 2011 Regulations are minor. The Department for Transport has no current plans to consolidate these Regulations.

## **8. Consultation outcome**

- 8.1 As the amendments made by this instrument have no substantive effect on the current regime, a consultation has not been carried out. Relevant stakeholders have, however, been informed.

## **9. Guidance**

- 9.1 Guidance on this change will be included on the Department for Transport's web pages, under the heading of 'Rail Interoperability and Standards'.
- 9.2 Relevant stakeholders have been informed directly of this change.

## **10. Impact**

- 10.1 There is no impact on business, charities or voluntary bodies.
- 10.2 There is no impact on the public sector.
- 10.3 An Impact Assessment has not been prepared for this instrument.

## **11. Regulating small business**

- 11.1 The legislation applies to small businesses but it will not adversely impact upon them as the regulatory burden will not increase for any size of firm.

## **12. Monitoring & review**

- 12.1 The 2011 Regulations currently contain provision for a five year statutory review. The amendments made to the 2011 Regulations by these Regulations will be reviewed under the terms of the existing statutory review provision.

## **13. Contact**

- 13.1 Ian Jones at the Department for Transport can answer any queries regarding the instrument. Tel: 020 7944 5595 or email: [interoperability@dft.gsi.gov.uk](mailto:interoperability@dft.gsi.gov.uk)