
STATUTORY INSTRUMENTS

2016 No. 645

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

PART 5

Allocation of Infrastructure Capacity

Framework agreements

21.—(1) Subject to the requirements of this regulation, and without prejudice to articles 101, 102 and 106 of the Treaty, an infrastructure manager may enter into a framework agreement with an applicant for the purpose of specifying the characteristics of the infrastructure capacity required by and offered to the applicant over a period of time exceeding one working timetable period.

(2) An applicant who is a party to a framework agreement must apply for the allocation of capacity in accordance with the terms of that agreement.

(3) Whilst seeking to meet the legitimate commercial needs of the applicant and without prejudice to paragraph (11), a framework agreement must not specify any train path in detail.

(4) The effect of a framework agreement must not be such as to preclude the use of the railway infrastructure subject to that framework agreement by other applicants or services.

(5) A framework agreement must contain terms permitting the amendment or limitation of any condition contained in that framework agreement if such amendment or limitation would enable better use to be made of the railway infrastructure.

(6) A framework agreement may contain penalties applicable on modification or termination of the agreement by any party.

(7) Other than in circumstances described in paragraphs (8), (9) and (10), a framework agreement made in accordance with paragraph (1) will in principle be for a period of five years, renewable for periods equal to its original duration, provided that the infrastructure manager may agree to a shorter or longer period in specific cases.

(8) Subject to paragraphs (9) and (10), a framework agreement for a period longer than five years must be justified by the existence of commercial contracts, specialised investments or risks.

(9) Subject to paragraph (10), a framework agreement in relation to railway infrastructure which has been designated in accordance with regulation 25(2) (“a designated infrastructure framework agreement”) may be for a period of up to fifteen years where there is a substantial and long-term investment justified by the applicant.

(10) A designated infrastructure framework agreement may be for a period in excess of fifteen years in exceptional circumstances, in particular where there is large-scale and long-term investment and particularly where such investment is covered by contractual commitments including a multi-annual amortisation plan.

(11) An application for a designated infrastructure framework agreement to which paragraph (9) or (10) applies may specify the capacity characteristics, including the frequency, volume and quality

of the train paths to be provided to the applicant for the duration of the framework agreement, in sufficient detail to ensure that these are clearly established.

(12) The infrastructure manager may reduce capacity reserved under the terms of a designated infrastructure framework agreement to which paragraph (9) or (10) applies where, over a continuous period of at least one month, that capacity has been used less than the threshold quota stipulated in the network statement.

(13) Whilst respecting commercial confidentiality, the general nature of each framework agreement must be made available by the infrastructure manager to any interested party.

(14) This regulation is without prejudice to section 18 of the Act(1) in the case of a framework agreement which is an access contract to which that section applies.

(15) Before entering into a framework agreement in relation to a rail link facility, and before amending any such agreement, the infrastructure manager and the applicant must obtain the approval of the Office of Rail and Road.

(16) Nothing in these Regulations has the effect of applying any of sections 17 to 22C of the Act(2) to a rail link facility.

(17) In fulfilling its duties under this regulation the infrastructure manager must observe the measures relating to the procedure and criteria for the application of this regulation set out in Commission Implementing Regulation (EU) 2016/545 of 7th April 2016 on procedures and criteria concerning framework agreements for the allocation of rail infrastructure capacity(3).

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- (1) 1993 c. 43. Section 18 is amended by the Transport Act 2000 (c. 38), sections 212(6) and 230(1) and (2), Schedule 27, paragraphs 17 and 22 and Schedule 31, Part 4; the Railways and Transport Safety Act 2003 (c. 20), Schedule 2, Part 1, paragraphs 1 and 3(b); the Railways Act 2005 (c. 14), Schedule 1, Part 1, paragraph 12(1) and (3); S.I. 2005/3049, Schedule 1, Part 1, paragraph 4(c); and S.I. 2015/1682, Schedule, Part 1, paragraph l(z).
- (2) Section 17 is amended by the Transport Act 2000 (c. 38), section 233(1), Schedule 27, paragraphs 17 and 21, and Schedule 31, Part 4; the Railways Act 2005 (c. 14), Schedule 1, Part 1, paragraph 12(1) and (2) and Schedule 11, paragraphs 1 and 3(a); S.I. 1998/1340, regulation 21(5); S.I. 2005/3049, Schedule 1, Part 1, paragraph 4(a) and (b); and S.I. 2015/1682, Schedule, Part 1, paragraph 1(y). Sections 19 to 22A and 22C are amended by S.I. 2015/1682, Schedule, Part 1, paragraph 1(aa) to (gg). Section 19 is amended by the Transport Act 2000 sections 230(3) and (4) and 233(2) and Schedule 31, Part 4; the Railways and Transport Safety Act 2003 (c. 20), Schedule 2, Part 1, paragraphs 1 and 3; and the Railways Act 2005, Schedule 1, Part 1, paragraph 12 and Schedule 11, paragraphs 1 and 3(b). Section 19A was inserted by the Transport Act 2000, section 231(1). Section 20 is amended by the Transport Act 2000, Schedule 27, paragraphs 17 and 23 and Schedule 31, Part 4; and the Railways and Transport Safety Act 2003, Schedule 2, Part 1, paragraphs 1, 3 and 9. Section 21 is amended by the Railways and Transport Safety Act 2003, Schedule 2, Part 1, paragraphs 1, 3 and 10, and Schedule 8. Section 22 is amended by the Competition Act 1988 (c. 41), Schedule 10, Part 4, paragraph 15; the Transport Act 2000, section 232(1) and Schedule 31, Part 4; the Railways and Transport Safety Act 2003, Schedule 2, Part 1, paragraphs 1 and 3; and S.I. 2014/892, Schedule 1, Part 2, paragraphs 99 and 104. Sections 22A, 22B and 22C were inserted by the Transport Act 2000 section 232(2). Section 22A is amended by S.I. 2005/3049, Schedule 1(1), paragraph 4(d). Section 22C is amended by the Railways and Transport Safety Act 2003, Schedule 2, Part 1, paragraphs 1 and 3.
- (3) O.J. No. L 94, 8.4.16, p. 1.