

STATUTORY INSTRUMENTS

2019 No. 1310

The Railways (Safety, Access, Management and Interoperability) (Miscellaneous Amendments and Transitional Provision) (EU Exit) Regulations 2019

PART 3

Amendments to retained direct EU legislation

Amendments to Commission Implementing Regulation (EU) No 869/2014 on new rail passenger services

9. In Commission Implementing Regulation (EU) No 869/2014 of 11 August 2014 on new rail passenger services, in Article 18 (fees), for “Member States or, where appropriate, regulatory bodies” substitute “ The Office of Rail and Road ”^{M1} .

Commencement Information

- II** Reg. 9 in force at 31.12.2020 on IP completion day (in accordance with [2020 c. 1, Sch. 5 para. 1\(1\)](#)), see [reg. 1\(2\)\(d\)](#)

Marginal Citations

- M1** The Office of Rail and Road was established by section 15 of the [Railways and Transport Safety Act 2003 \(c. 20\)](#) as the Office of Rail Regulation and subsequently renamed by the Office of Rail Regulation (Change of Name) Regulations (S.I 2015/1682).

Amendment to Commission Implementing Regulation (EU) 2017/2177 on access to service facilities and rail-related services

10.—(1) Commission Implementing Regulation (EU) 2017/2177 of 22 November 2017 on access to service facilities and rail-related services is amended as follows.

(2) In Article 1 (subject matter)—

- (a) for “points 2, 3 and 4 of Annex II to Directive 2012/34” substitute “ paragraphs 2, 3 and 4 of Schedule 2 to the 2016 GB Regulations or, as the case may be, paragraphs 2, 3 and 4 of Schedule 1 to the 2016 NI Regulations ”;
- (b) after “railway undertakings”, in the first place it occurs, insert “ and any other entities who are entitled to request access to service facilities and rail related services ”;
- (c) omit the third sentence.

(3) In Article 2 (exemptions)—

- (a) in paragraphs 1 and 4, for “regulatory body”, substitute “ Office of Rail and Road ”;

- (b) in paragraphs 2, 3 and 5, for “Regulatory bodies” substitute “ The Office of Rail and Road ”;
 - (c) in paragraph 3, for “their website” substitute “ its website ”.
- (4) In Article 3 (definitions)—
- (a) in point (1), for “point 2 of Annex II to Directive 2012/34/EU” substitute “ paragraph 2 of Schedule 2 to the 2016 GB Regulations or, as the case may be, paragraph 2 of Schedule 1 to the 2016 NI Regulations ”;
 - (b) in point (2), for “points 2, 3 and 4 of Annex II to Directive 2012/34” substitute “ paragraphs 2, 3 and 4 of Schedule 2 to the 2016 GB Regulations or, as the case may be, paragraphs 2, 3 and 4 of Schedule 1 to the 2016 NI Regulations ”;
 - (c) in point (7), for “national railway transport services markets” substitute “ railway transport services markets in the United Kingdom ”;
 - (d) in point (10), for “Article 48(1) of Directive 2012/34/EU” substitute regulation 24(1) of the 2016 GB Regulations or, as the case may be, regulation 24(1) of the 2016 NI Regulations”;
 - (e) after point (11) insert—
 - “(12) ‘2016 GB Regulations’ means the Railways (Access, Management and Licensing of Railway Undertakings) Regulations 2016; ^{M2}
 - (13) ‘2016 NI Regulations’ means the Railways Infrastructure (Access, Management and Licensing of Railway Undertakings) Regulations (Northern Ireland) 2016. ”. ^{M3}
- (5) In Article 5 (publication of service facility description)—
- (a) in paragraph 1, for “Article 2(3) or (4) of Directive 2012/34/EU” substitute “ regulation 4(6) and (7) of the 2016 GB Regulations or, as the case may be, regulation 3(6) and (7) of the 2016 NI Regulations ”;
 - (b) in paragraph 2—
 - (i) for “Article 27(4) of Directive 2012/34/EU” substitute “ regulation 13(9) of the 2016 GB Regulations or, as the case may be, regulation 13(9) of the 2016 NI Regulations ”;
 - (ii) for “regulatory bodies” substitute “ the Office of Rail and Road ”;
 - (c) in paragraph 4, for “regulatory body” substitute “ Office of Rail and Road ”.
- (6) In Article 6 (additional information)—
- (a) in paragraph 1, for “regulatory body” substitute “ Office of Rail and Road ”;
 - (b) in paragraph 2, for “points 2(a) to (g) of Annex II to Directive 2012/34/EU” substitute “ paragraph 2(b) to (i) of Schedule 2 to the 2016 GB Regulations or, as the case may be, paragraph 2(b) to (h) of Schedule 1 to the 2016 NI Regulations ”.
- (7) In Article 7—
- (a) in paragraph 1, for “point 2 of Annex II to Directive 2012/34/EU” substitute “ paragraph 2 of Schedule 2 to the 2016 GB Regulations or, as the case may be, paragraph 2 of Schedule 1 to the 2016 NI Regulations ”;
 - (b) in paragraph 2—
 - (i) for “point 2 of Annex II to Directive 2012/34/EU” substitute, in both places the words occur, “paragraph 2 of Schedule 2 to the 2016 GB Regulations or, as the case may be, paragraph 2 of Schedule 1 to the 2016 NI Regulations”;
 - (ii) for “points 3 and 4 of Annex II to Directive 2012/34” substitute “ paragraphs 3 and 4 of Schedule 2 to the 2016 GB Regulations or, as the case may be, paragraphs 3 and 4 of Schedule 1 to the 2016 NI Regulations ”;
 - (c) in paragraph 4, for “regulatory body” substitute “ Office of Rail and Road ”.

- (8) In Article 9 (response to requests)—
- (a) in paragraph 1—
 - (i) for “point 2 of Annex II to Directive 2012/34/EU” substitute “ paragraph 2 of Schedule 2 to the 2016 GB Regulations or, as the case may be, paragraph 2 of Schedule 1 to the 2016 NI Regulations ”;
 - (ii) for “regulatory body substitute “ Office of Rail and Road ”;
 - (iii) for “Article 13(4) of Directive 2012/34/EU” substitute “ regulation 6(3) of the 2016 GB Regulations or, as the case may be, regulation 5(3) of the 2016 NI Regulations ”;
 - (b) in paragraph 3—
 - (i) for “Regulatory bodies” substitute “ The Office of Rail and Road ”;
 - (ii) for “Article 13(4) of Directive 2012/34/EU” substitute “ regulation 6(3) of the 2016 GB Regulations or, as the case may be, regulation 5(3) of the 2016 NI Regulations ”;
 - (iii) for “Article 27(4) of Directive 2012/34/EU” substitute “ regulation 13(9) of the 2016 GB Regulations or, as the case may be, regulation 13(9) of the 2016 NI Regulations ”;
 - (c) in paragraph 4—
 - (i) for “points (a) to (d) and (f) to (i) of point 2 of Annex II”, in both places the words occur, substitute “ paragraph 2(a) to (f) and (h) to (j) of Schedule 2 to the 2016 GB Regulations or, as the case may be, paragraph 2(a) to (f), (h) and (i) of Schedule 1 to the 2016 NI Regulations ”;
 - (ii) for “Article 13(4) of Directive 2012/34/EU” substitute “ regulation 6(3) of the 2016 GB Regulations or, as the case may be, regulation 5(3) of the 2016 NI Regulations ”;
 - (iii) for “regulatory bodies” in the first place it occurs, substitute “ the Office of Rail and Road ”;
 - (iv) for “Where regulatory bodies have” substitute “ Where the Office of Rail and Road has ”;
 - (v) for “Article 48(1) of Directive 2012/34/EU”, and for “Article 48(1) of the Directive”, substitute “ regulation 24(2) of the 2016 GB Regulations or, as the case may be, regulation 24(2) of the 2016 NI Regulations ”;
 - (vi) for “regulatory body” substitute “ Office of Rail and Road ”;
 - (vii) for “point (e) of point 2 of Annex II” substitute “ paragraph 2(g) of Schedule 2 to the 2016 GB Regulations or, as the case may be, paragraph 2(g) of Schedule 1 to the 2016 NI Regulations ”;
 - (d) in paragraph 5—
 - (i) for “points 3 and 4 of Annex II to Directive 2012/34” substitute “ paragraphs 3 and 4 of Schedule 2 to the 2016 GB Regulations or, as the case may be, paragraphs 3 and 4 of Schedule 1 to the 2016 NI Regulations ”;
 - (ii) for “regulatory body” substitute “ Office of Rail and Road ”;
 - (iii) for “points 3 and 4 of Annex II” substitute “ paragraphs 3 and 4 of Schedule 2 to the 2016 GB Regulations or, as the case may be, paragraphs 3 and 4 of Schedule 1 to the 2016 NI Regulations ”;
 - (iv) for “point (e) of point 4 of Annex II” substitute “ paragraph 4(e) of Schedule 2 to the 2016 GB Regulations or, as the case may be, paragraph 4(e) of Schedule 1 to the 2016 NI Regulations ”.
- (9) In Article 10 (coordination procedure)—
- (a) in paragraph 1—

- (i) for “point 2 of Annex II to Directive 2012/34/EU” substitute “ paragraph 2 of Schedule 2 to the 2016 GB Regulations or, as the case may be, paragraph 2 of Schedule 1 to the 2016 NI Regulations ”;
 - (ii) for “points 3 and 4 of Annex II to Directive 2012/34” substitute “ paragraphs 3 and 4 of Schedule 2 to the 2016 GB Regulations or, as the case may be, paragraphs 3 and 4 of Schedule 1 to the 2016 NI Regulations ”;
 - (b) in paragraph 2, for “point 2 of Annex II to Directive 2012/34/EU” substitute “ paragraph 2 of Schedule 2 to the 2016 GB Regulations or, as the case may be, paragraph 2 of Schedule 1 to the 2016 NI Regulations ”;
 - (c) in paragraph 4, for “regulatory body” substitute “ Office of Rail and Road ”;
 - (d) in paragraph 5—
 - (i) for “point 2 of Annex II to Directive 2012/34/EU” substitute “ paragraph 2 of Schedule 2 to the 2016 GB Regulations or, as the case may be, paragraph 2 of Schedule 1 to the 2016 NI Regulations ”;
 - (ii) for “regulatory body” substitute “ Office of Rail and Road ”.
- (10) In Article 12 (viable alternatives)—
- (a) in paragraph 1—
 - (i) for “point 2 of Annex II to Directive 2012/34/EU” substitute “ paragraph 2 of Schedule 2 to the 2016 GB Regulations or, as the case may be, paragraph 2 of Schedule 1 to the 2016 NI Regulations ”;
 - (ii) for “regulatory body”, in the first place it occurs, substitute “ Office of Rail and Road ”;
 - (iii) omit the second sentence;
 - (b) in paragraph 2, for “point 2 of Annex II to Directive 2012/34/EU” substitute “ paragraph 2 of Schedule 2 to the 2016 GB Regulations or, as the case may be, paragraph 2 of Schedule 1 to the 2016 NI Regulations ”;
 - (c) in paragraph 3 for “in other Member States” substitute “ in locations outside the United Kingdom ”.
- (11) In Article 13 (refusal of access)—
- (a) in paragraph 1—
 - (i) for “point 2 of Annex II to Directive 2012/34/EU” substitute “ paragraph 2 of Schedule 2 to the 2016 GB Regulations or, as the case may be, paragraph 2 of Schedule 1 to the 2016 NI Regulations ”;
 - (ii) for “regulatory body” substitute “ Office of Rail and Road ”;
 - (iii) for “Article 13(5) of Directive 2012/34/EU” substitute “ regulation 32 of the 2016 GB Regulations or, as the case may be, regulation 32 of the 2016 NI Regulations ”;
 - (b) in paragraph 3, for “Article 13(3) of Directive 2012/34/EU” substitute “ regulation 10(2) the 2016 GB Regulations or, as the case may be, regulation 10(2) of the 2016 NI Regulations ”;
 - (c) in paragraph 4, for “regulatory body” substitute “ Office of Rail and Road ”.
- (12) In Article 14 (complaints)—
- (a) for “the regulatory body” substitute “ the Office of Rail and Road ”;
 - (b) for “Article 13(5) of Directive 2012/34/EU” substitute “ regulation 32 of the 2016 GB Regulations or, as the case may be, regulation 32 of the 2016 NI Regulations ”;

- (c) for “that regulatory body” substitute “ the Office of Rail and Road ”;
 - (d) for “in other Member States” substitute “ in locations outside the United Kingdom ”.
- (13) In Article 15 (unused facilities)—
- (a) in paragraph 3—
 - (i) for “point 2 of Annex II to Directive 2012/34/EU” substitute “ paragraph 2 of Schedule 2 to the 2016 GB Regulations or, as the case may be, paragraph 2 of Schedule 1 to the 2016 NI Regulations ”;
 - (ii) for “regulatory body” substitute “ Office of Rail and Road ”;
 - (b) in paragraph 6, for “regulatory body”, in both places it occurs, substitute “ Office of Rail and Road ”;
 - (c) in paragraph 7—
 - (i) for “point 2 of Annex II to Directive 2012/34/EU” substitute “ paragraph 2 of Schedule 2 to the 2016 GB Regulations or, as the case may be, paragraph 2 of Schedule 1 to the 2016 NI Regulations ”;
 - (ii) for “regulatory body” substitute “ Office of Rail and Road ”;
 - (d) in paragraph 9, for “point 2 of Annex II to Directive 2012/34/EU” substitute “ paragraph 2 of Schedule 2 to the 2016 GB Regulations or, as the case may be, paragraph 2 of Schedule 1 to the 2016 NI Regulations ”;
 - (e) in paragraph 10—
 - (i) for the first sentence substitute “ Procedures for the regulatory control of decommissioning of service facilities which existed prior to the coming into force of this Regulation may continue to be used ”;
 - (ii) for “regulatory body” substitute “ Office of Rail and Road ”.
- (14) Omit Article 16 (review).
- (15) After Article 17 (entry into force), omit “This Regulation shall be binding in its entirety and directly applicable in all Member States.”.

Commencement Information

I2 Reg. 10 in force at 31.12.2020 on IP completion day (in accordance with 2020 c. 1, **Sch. 5 para. 1(1)**), see **reg. 1(2)(d)**

Marginal Citations

M2 [S.I. 2016/645](#), amended by [S.I. 2019/82](#) and prospectively amended by [S.I. 2019/518](#).

M3 [S.R. 2016 No. 429](#), amended by [SR 2016 No. 15](#) and prospectively amended by [S.I. 2019/826](#).

Amendments to Commission Delegated Regulation (EU) 2018/761 establishing common safety methods for supervision by national safety authorities after the issue of a single safety certificate or a safety authorisation pursuant to Directive (EU) 2016/798 of the European Parliament and of the Council and repealing Commission Regulation (EU) No 1077/2012 in respect of Great Britain

11.—(1) Commission Delegated Regulation (EU) 2018/761 of 16 February 2018 establishing common safety methods for supervision by national safety authorities after the issue of a single safety certificate or a safety authorisation pursuant to Directive (EU) 2016/798 of the European Parliament and of the Council and repealing Commission Regulation (EU) No 1077/2012 is amended as follows in respect of Great Britain.

(2) In Article 1 (subject matter), omit “referred to in point (c) of Article 6(1) of Directive (EU) 2016/798”.

(3) In Article 2 (definition)—

(a) omit point (a);

(b) after point (b) insert—

“(c) ‘national safety authority’ means one or both of—

(i) a safety authority; or

(ii) the safety authority for the tunnel system

as defined in regulation 2 of the Railways and Other Guided Transport Systems (Safety) Regulations 2006.”.

(4) In Article 3 (supervision process), for paragraph 3, substitute—

“3. For the purposes of supervision, the national safety authorities shall accept the authorisations, recognitions or certificates of products or services provided by railway undertakings and infrastructure managers, or their contractors, partners or suppliers, if granted or recognised in accordance with relevant legislation applying in any part of the United Kingdom on or after [F1IP completion day], as proof of the ability of railway undertakings and infrastructure managers to fulfil any corresponding safety management system requirements set out in regulations 3(1)(a) and 5(1) to (3) of the Railways and Other Guided Transport Systems (Safety) Regulations 2006.”.

(5) After Article 10 (entry into force and application) omit “This Regulation shall be binding in its entirety and directly applicable in all Member States”.

(6) In Annex I—

(a) in paragraph 5—

(i) before “The national safety authority shall” insert subparagraph number 1;

(ii) in new subparagraph 1, at points (b) and (c), for “Member State” substitute “geographical area of responsibility ” and, at point (e), omit “Agency acting as”;

(iii) after the new subparagraph 1, insert—

“2. For the purposes of subparagraph (1)(e), “safety certification body” means the European Union Agency for Railways ^{M4} acting as a body responsible for issuing a single safety certificate under Article 10 of Directive (EU) 2016/798 of the European Parliament and of the Council of 11 May 2016 on railway safety (recast) ^{M5} and “national safety authority” includes a safety authority established in a member State of the European Union under Article 16 of that Directive.”;

(b) in paragraph 6—

(i) in the introductory words, for “Member State” substitute “ a national ”;

(ii) in subparagraph (c), for “its Member State” substitute “ the Secretary of State ”.

(7) Schedule 3 has effect.

Textual Amendments

- F1** Words in reg. 11(4) substituted (31.12.2020 immediately before IP completion day) by [The Railways \(Miscellaneous Amendments, Revocations and Transitional Provisions\) \(EU Exit\) Regulations 2020 \(S.I. 2020/786\)](#), regs. 1(2)(b)(i), **8(4)**

Commencement Information

- I3** Reg. 11 in force at 31.12.2020 on IP completion day (in accordance with [2020 c. 1, Sch. 5 para. 1\(1\)](#)), see [reg. 1\(2\)\(d\)](#)

Marginal Citations

- M4** The European Union Agency for Railways is established under Article 1 of Regulation (EU) 2016/796 of the European Union and of the Parliament of 11 May 2016 on the European Union Agency for Railways and repealing Regulation (EC) No 881/2004 (O.J. No. L138, 26.5.2016, p1).
- M5** O.J. No. L138, 26.5.2016, p.102.

Amendments to Commission Delegated Regulation (EU) 2018/761 establishing common safety methods for supervision by national safety authorities after the issue of a single safety certificate or a safety authorisation pursuant to Directive (EU) 2016/798 of the European Parliament and of the Council and repealing Commission Regulation (EU) No 1077/2012 in respect of Northern Ireland

12.—(1) Commission Delegated Regulation (EU) 2018/761 of 16 February 2018 establishing common safety methods for supervision by national safety authorities after the issue of a single safety certificate or a safety authorisation pursuant to Directive (EU) 2016/798 of the European Parliament and of the Council and repealing Commission Regulation (EU) No 1077/2012 is amended as follows in respect of Northern Ireland.

(2) In Article 1 (subject matter) omit “referred to in point (c) of Article 6(1) of Directive (EU) 2016/798”.

(3) In Article 2 (definition)—

(a) omit point (a);

(b) after point (b), insert—

“(c) ‘national safety authority’ has the meaning provided for “safety authority” in regulation 2 of the Railways (Safety Management) Regulations (Northern Ireland) 2006.”.

(4) In Article 3 (supervision process), for paragraph 3, substitute—

“**3.** For the purposes of supervision, the national safety authorities shall accept the authorisations, recognitions or certificates of products or services provided by railway undertakings and infrastructure managers, or their contractors, partners or suppliers, if granted or recognised in accordance with relevant legislation applying in any part of the United Kingdom on or after exit day, as proof of the ability of railway undertakings and infrastructure managers to fulfil any corresponding safety management system requirements set out in regulations 3(1)(a) and 4(1) to (3) of the Railways (Safety Management) Regulations (Northern Ireland) 2006.”.

(5) After Article 10, omit “This Regulation shall be binding in its entirety and directly applicable in all Member States.”.

(6) In Annex I—

- (a) in paragraph 5—
- (i) before “The national safety authority shall” insert subparagraph number 1;
 - (ii) in the new subparagraph 1, at points (b) and (c), for “Member State” substitute “geographical area of responsibility” and, at point (e), omit “Agency acting as”;
 - (iii) after the new subparagraph 1, insert—

“2. For the purposes of subparagraph 1(e), “safety certification body” means the European Union Agency for Railways acting as a body responsible for issuing a single safety certificate under Article 10 of Directive (EU) 2016/798 of the European Parliament and of the Council of 11 May 2016 on railway safety (recast) and “national safety authority” includes a safety authority established in a member State of the European Union under Article 16 of that Directive.”;

- (b) in paragraph 6—
- (i) in the introductory words, for “Member State” substitute “a national”;
 - (ii) in subparagraph (c), for “its Member State” substitute “the Department for Infrastructure in Northern Ireland”.
- (7) Schedule 3 has effect.

Commencement Information

- I4** Reg. 12 in force at 31.12.2020 on IP completion day (in accordance with [2020 c. 1, Sch. 5 para. 1\(1\)](#)), see [reg. 1\(2\)\(d\)](#)

Amendment to Commission Implementing Regulation 2018/1795 laying down procedure and criteria for the application of the economic equilibrium test pursuant to Article 11 of Directive 2012/34/EU of the European Parliament and of the Council

13. In Commission Implementing Regulation (EU) 2018/1795 of 20 November 2018 laying down procedure and criteria for the application of the economic equilibrium test pursuant to Article 11 of Directive 2012/34/EU of the European Parliament and of the Council, in Article 13 (fees), omit the words “A Member State or”.

Commencement Information

- I5** Reg. 13 in force at 31.12.2020 on IP completion day (in accordance with [2020 c. 1, Sch. 5 para. 1\(1\)](#)), see [reg. 1\(2\)\(d\)](#)

Changes to legislation:

There are currently no known outstanding effects for the The Railways (Safety, Access, Management and Interoperability) (Miscellaneous Amendments and Transitional Provision) (EU Exit) Regulations 2019, PART 3.