
STATUTORY INSTRUMENTS

2019 No. 518

The Railways (Access, Management and Licensing of Railway Undertakings) (Amendments etc.) (EU Exit) Regulations 2019

PART 2

Amendment of subordinate legislation

Amendment of the Railways (Access, Management and Licensing of Railway Undertakings) Regulations 2016

2. The Railways (Access, Management and Licensing of Railway Undertakings) Regulations 2016 ^{M1} are amended as set out in regulations 3 to 24.

Commencement Information

- I1** Reg. 2 in force at 31.12.2020 on IP completion day (in accordance with [2020 c. 1, Sch. 5 para. 1\(1\)](#)), see [reg. 1\(3\)\(b\)](#)
-

Marginal Citations

- M1** [S.I. 2016/645](#), amended by [S.I. 2019/82](#)

3. In regulation 3 (interpretation)—

- (a) for the definition of “cross-border agreement” substitute “ “cross-border agreement” means any agreement between the United Kingdom and any other country intended to facilitate the provision of cross-border rail services ”;
- (b) in the definition of “international passenger service” for “at least one border of a Member State” substitute “ the border between the United Kingdom and a member State ” and for “in different Member States substitute “ in the United Kingdom and a member State ”;
- (c) after the definition of “mine” insert—
““national authority” means the Secretary of State, the Scottish Ministers or the Welsh Ministers;”
- (d) in the definition of “railway undertaking” for “Directive” substitute “ Railway (Licensing of Railway Undertakings) Regulations 2005 ^{M2} ”;
- (e) omit the definition of “the Treaty”.

Commencement Information

- I2** Reg. 3 in force at 31.12.2020 on IP completion day (in accordance with [2020 c. 1, Sch. 5 para. 1\(1\)](#)), see [reg. 1\(3\)\(b\)](#)

Status: Point in time view as at 31/12/2020.

Changes to legislation: There are currently no known outstanding effects for the The Railways (Access, Management and Licensing of Railway Undertakings) (Amendments etc.) (EU Exit) Regulations 2019, PART 2. (See end of Document for details)

Marginal Citations

M2 S.I 2005/3050, amended by [S.I. 2009/2054](#), 2010/439, 2012/2404, 2011/1043, 2015/1682, 2016/481, 2016/645.

4. In regulation 4 (scope), in paragraph (2)(b), for “the railway undertakings established or to be established in an EEA State” substitute “ railway undertakings ”.

Commencement Information

I3 Reg. 4 in force at 31.12.2020 on IP completion day (in accordance with [2020 c. 1, Sch. 5 para. 1\(1\)](#)), see [reg. 1\(3\)\(b\)](#)

5. In regulation 5 (access rights)—

- (a) in paragraph (4) for “stations located in the same Member State” substitute “ where both stations are located in the United Kingdom ”;
- (b) in paragraph (6) omit “which are in accordance with the law of the European Union”.

Commencement Information

I4 Reg. 5 in force at 31.12.2020 on IP completion day (in accordance with [2020 c. 1, Sch. 5 para. 1\(1\)](#)), see [reg. 1\(3\)\(b\)](#)

6. In regulation 7 (cross-border agreements), omit paragraphs 2 to 4.

Commencement Information

I5 Reg. 6 in force at 31.12.2020 on IP completion day (in accordance with [2020 c. 1, Sch. 5 para. 1\(1\)](#)), see [reg. 1\(3\)\(b\)](#)

7. In regulation 8 (management independence), in paragraph (1), for “Member State” substitute “ national authority ”.

Commencement Information

I6 Reg. 7 in force at 31.12.2020 on IP completion day (in accordance with [2020 c. 1, Sch. 5 para. 1\(1\)](#)), see [reg. 1\(3\)\(b\)](#)

8. In regulation 11 (indicative railway infrastructure strategy) omit sub-paragraphs 1(b) and 2(b).

Commencement Information

I7 Reg. 8 in force at 31.12.2020 on IP completion day (in accordance with [2020 c. 1, Sch. 5 para. 1\(1\)](#)), see [reg. 1\(3\)\(b\)](#)

9. In regulation 13 (network statement)—

(a) in paragraph (4), after subparagraph (i), insert—

“(ia) where an infrastructure manager does not propose framework agreements and does not have such agreements in operation, a statement to that effect;”;

(b) in paragraph (5), for the words from “Article 35” to the end of the paragraph, substitute “regulation 35 of the Railways (Interoperability) Regulations 2011^{M3}”;

(c) in paragraph (12), after “cooperation with”, insert “other” and omit “from other Member States”.

Commencement Information

I8 Reg. 9(a) in force at 29.3.2019, see reg. 1(3)(a)

I9 Reg. 9(b)(c) in force at 31.12.2020 on IP completion day (in accordance with [2020 c. 1, Sch. 5 para. 1\(1\)](#)), see [reg. 1\(3\)\(b\)](#)

Marginal Citations

M3 [S.I. 2011/3066](#), to which relevant amendments are made by [S.I. 2015/2022](#).

10. In regulation 15 (infrastructure costs and accounts), in paragraph (6), for “Annex V of the Directive”, substitute “Schedule 4A”.

Commencement Information

I10 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\(3\)\(b\)](#)

11. In regulation 18 (co-operation in relation to charging systems on more than one network)—

(a) in paragraph (1), for “of the rail system within the European Union” substitute “, including train services which cross between a network in the United Kingdom and a network in the European Union”;

(b) in paragraph (3) for “of the rail system within the European Union” substitute “, including traffic crossing between a network in the United Kingdom and a network in the European Union”.

Commencement Information

I11 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\(3\)\(b\)](#)

12. In regulation 20 (co-operation in the allocation of infrastructure capacity crossing more than one network)—

(a) in paragraph (1) for “of the rail system within the European Union” substitute “, including a train path which crosses between a network in the United Kingdom and a network in the European Union”;

Status: Point in time view as at 31/12/2020.

Changes to legislation: There are currently no known outstanding effects for the The Railways (Access, Management and Licensing of Railway Undertakings) (Amendments etc.) (EU Exit) Regulations 2019, PART 2. (See end of Document for details)

(b) after paragraph (2) insert—

“(2A) Infrastructure managers required to cooperate in the allocation of infrastructure capacity crossing more than one network by paragraph (2)(a), must provide, without delay, all the information requested by the Office of Rail and Road which is necessary for the purpose of handing an appeal or an own initiative investigation on issues of access or charging relating to an international train path.”;

(c) in paragraph (5), for “European Union law on rail freight oriented networks” substitute “Regulation (EU) No 913/2010 of the European Parliament and of the Council of 22 September 2010 concerning a European rail network for competitive freight”;

(d) in paragraph (6) for “European Union” substitute “United Kingdom”;

(e) omit paragraph (7);

(f) in paragraph (8) for “under Part 6” substitute “under paragraph 12 and Part 6”;

(g) after paragraph (11) insert—

“(12) The Office of Rail and Road must review decisions and practices of infrastructure managers required to co-operate over train services which cross more than one network under this regulation, that implement provisions in these Regulations or which otherwise facilitate international rail transport.”.

Commencement Information

I12 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\(3\)\(b\)](#)

13. In regulation 21 (framework agreements)—

(a) in paragraph (1) omit “and without prejudice to articles 101, 102 and 106 of the Treaty”;

(b) in paragraph (17), at the beginning, insert “Subject to paragraphs 18 to 21, ”;

(c) after paragraph (17) insert—

“(18) Where prior approval of framework agreements by the Office of Rail and Road in accordance with section 18 of the Railways Act 1993 ^{M4} is required, Articles 8(2), 9(3) to (6) and 10 of the Commission Implementing Regulation referred to paragraph (17) do not apply.

(19) If an infrastructure manager does not propose framework agreements and does not have such agreements in operation, Articles 1 to 11 and Article 13 of the Commission Implementing Regulation referred to paragraph (17) do not apply to its network.

(20) Subject to paragraph (21), for framework agreements concluded before 28th April 2016, Articles 6(2), 7 to 11 and 13 of the Commission Implementing Regulation referred to paragraph (17) do not apply until 28th April 2021.

(21) Paragraph (20) does not apply to amendments to framework agreements agreed after 28th April 2016 which would involve an increase of the allocated framework capacity or an extension of the duration of the framework agreement.”.

Commencement Information

I13 Reg. 13(b)(c) in force at 29.3.2019, see [reg. 1\(3\)\(a\)](#)

I14 Reg. 13(a) in force at 31.12.2020 on IP completion day (in accordance with [2020 c. 1, Sch. 5 para. 1\(1\)](#)), see [reg. 1\(3\)\(b\)](#)

Marginal Citations

M4 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 1\(z\)](#).

14. In regulation 25, (declaration of specialised infrastructure), in paragraph (2), omit “without prejudice to articles 101, 102 and 106 of the Treaty,”.

Commencement Information

I15 Reg. 14 in force at 31.12.2020 on IP completion day (in accordance with [2020 c. 1, Sch. 5 para. 1\(1\)](#)), see [reg. 1\(3\)\(b\)](#)

15. In regulation 26 (congested infrastructure), in paragraph (7), for “at least one border of a Member State” substitute “ the border between the United Kingdom and the European Union ”.

Commencement Information

I16 Reg. 15 in force at 31.12.2020 on IP completion day (in accordance with [2020 c. 1, Sch. 5 para. 1\(1\)](#)), see [reg. 1\(3\)\(b\)](#)

16. In regulation 31 (regulatory body), in paragraph (1) for the words “and consistent with the Directive” substitute “ and so far as is consistent with these Regulations ”.

Commencement Information

I17 Reg. 16 in force at 31.12.2020 on IP completion day (in accordance with [2020 c. 1, Sch. 5 para. 1\(1\)](#)), see [reg. 1\(3\)\(b\)](#)

17. In regulation 33 (regulatory decisions concerning international passenger services), in paragraph (1), for “in different Member States” substitute “ in the United Kingdom and a member State ”.

Commencement Information

I18 Reg. 17 in force at 31.12.2020 on IP completion day (in accordance with [2020 c. 1, Sch. 5 para. 1\(1\)](#)), see [reg. 1\(3\)\(b\)](#)

18. In regulation 34 (monitoring the rail services markets) omit paragraphs (9) and (10).

Status: Point in time view as at 31/12/2020.

Changes to legislation: There are currently no known outstanding effects for the The Railways (Access, Management and Licensing of Railway Undertakings) (Amendments etc.) (EU Exit) Regulations 2019, PART 2. (See end of Document for details)

Commencement Information

I19 Reg. 18 in force at 31.12.2020 on IP completion day (in accordance with 2020 c. 1, Sch. 5 para. 1(1)), see reg. 1(3)(b)

19. In regulation 36 (provision of information to the regulatory body), in paragraph (1)(a)(iii) for “subordinate legislation made for the purposes of implementing Directive 2012/34/(EU) of the European Parliament and of the Council of 21st November 2012 establishing a single European railway area (recast)” substitute “ the Railways (Access, Management and Licensing Railway Undertakings) Regulations 2016 ”.

Commencement Information

I20 Reg. 19 in force at 31.12.2020 on IP completion day (in accordance with 2020 c. 1, Sch. 5 para. 1(1)), see reg. 1(3)(b)

20. Omit regulation 37 (cooperation between regulatory bodies).

Commencement Information

I21 Reg. 20 in force at 31.12.2020 on IP completion day (in accordance with 2020 c. 1, Sch. 5 para. 1(1)), see reg. 1(3)(b)

21. In Schedule 3 (access charging)—

(a) in paragraph 1, in sub-paragraph (5), after “the infrastructure manager must” insert “ , subject to sub-paragraphs (5A) and 5(B), ”;

(b) after sub-paragraph (5) insert—

“(5A) For the purposes of the calculation of direct costs on a network-wide basis, referred to in paragraph 1 of Article 3 of the Commission Implementing Regulation referred to in sub-paragraph (5), the infrastructure manager may apply the costs of efficient service provision.

(5B) For the purposes of calculating the direct unit costs referred to in paragraph 1 of Article 5 of the Commission Implementing Regulation referred to in sub-paragraph (5), the infrastructure manager may modulate the average direct unit costs to take into account the different levels of wear and tear caused to the infrastructure according to one or more of the parameters listed in paragraph 2 of Article 5 of that Commission Implementing Regulation.”;

(c) in paragraph 6, in sub-paragraph (1), omit “Subject to the provisions of articles 101, 102, 106 and 107 of the Treaty, and”.

Commencement Information

I22 Reg. 21(b) in force at 29.3.2019, see reg. 1(3)(a)

I23 Reg. 21(a)(c) in force at 31.12.2020 on IP completion day (in accordance with 2020 c. 1, Sch. 5 para. 1(1)), see reg. 1(3)(b)

22. In Schedule 4 (timetable for the allocation process), in paragraph 2, in the last sentence, for “must” substitute “ may ”.

Commencement Information

I24 Reg. 22 in force at 31.12.2020 on IP completion day (in accordance with 2020 c. 1, Sch. 5 para. 1(1)), see reg. 1(3)(b)

23. After Schedule 4, insert new Schedule 4A, as set out in the Schedule to these Regulations.

Commencement Information

I25 Reg. 23 in force at 31.12.2020 on IP completion day (in accordance with 2020 c. 1, Sch. 5 para. 1(1)), see reg. 1(3)(b)

24. Schedule 6 is amended as follows—

- (a) in paragraph 2 (interpretation) in sub-paragraph (m), in the definition of “vertically integrated undertaking”, for “Member State” substitute “ national authority ”;
- (b) in paragraph 7, omit inserted regulation 13B (European Network of Infrastructure Managers) and the heading to that inserted regulation;
- (c) omit paragraph 15 (cooperation between regulatory bodies).

Commencement Information

I26 Reg. 24 in force at 31.12.2020 on IP completion day (in accordance with 2020 c. 1, Sch. 5 para. 1(1)), see reg. 1(3)(b)

Status:

Point in time view as at 31/12/2020.

Changes to legislation:

There are currently no known outstanding effects for the The Railways (Access, Management and Licensing of Railway Undertakings) (Amendments etc.) (EU Exit) Regulations 2019, PART 2.