

STATUTORY INSTRUMENTS

2006 No. 397

The Railways (Interoperability) Regulations 2006

PROSPECTIVE

PART 1

Interpretation and Application

Citation and commencement

- 1.—(1) These Regulations may be cited as the Railways (Interoperability) Regulations 2006.
(2) Regulations 1, 2, 3, 6, 14, 24 and 25 and Schedules 1 to 6, 10 and 11 shall come into force on 20th March 2006.
(3) The Regulations otherwise shall come into force on 2nd April 2006.

Commencement Information

- II** Reg. 1 in force at 20.3.2006, see [reg. 1\(2\)](#)

Interpretation

- 2.—(1) In these Regulations—
“Conventional Directive” means Directive [2001/16/EC](#) of the European Parliament and of the Council of 19th March 2001 on the interoperability of the trans-European conventional rail system(1); and
“High-Speed Directive” means Council Directive [96/48/EC](#) of 23rd July 1996 on the interoperability of the trans-European high-speed rail system(2);
(2) Annexes I to III to the High-Speed Directive and to the Conventional Directive are reproduced, and Annexes IV and V are substantially reproduced, in Schedules to these Regulations as set out in the table.

Annexes to the High-Speed Directive and the Conventional Directive

<i>Annex</i>	<i>Schedule</i>
The Trans-European High-Speed Rail System (Annex I: High-Speed Directive)	1

(1) O.J. No. L 110, 20.4.2001, p.1 as amended by Directive [2004/50/EC](#) of the European Parliament and the Council of 29th April 2004 (O.J. No. L 164, 30.4.04, p. 114).
(2) O.J. No. L 235 17.9.97, p. 6, corrected by O.J. No. L 262, 16.10.96, p. 8, and as amended by Directive [2004/50/EC](#) of the European Parliament and the Council of 29th April 2004 (O.J. No. L 164, 30.4.04, p. 114).

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<i>Annex</i>	<i>Schedule</i>
The Trans-European Conventional Rail System (Annex I: Conventional Directive)	2
Subsystems of the Trans-European High-Speed Rail System (Annex II: High-Speed Directive)	3
Subsystems of the Trans-European Conventional Rail System (Annex II: Conventional Directive)	4
Essential Requirements for the Trans-European High-Speed Rail System (Annex III: High-Speed Directive)	5
Essential Requirements for the Trans-European Conventional Rail System (Annex III: Conventional Directive)	6
Conformity and Suitability for Use of Interoperability Constituents (Annex IV High-Speed Directive and Annex IV Conventional Directive)	7
Declaration of Verification of Subsystems (Annex V High-Speed Directive and Annex V Conventional Directive)	8
Verification Procedure for Subsystems (Annex VI High-Speed Directive and Annex VI Conventional Directive)	9
Minimum Criteria which must be taken into account by the Member States when Notifying Bodies (Annex VII High-Speed Directive and Annex VII Conventional Directive)	10

(3) In these Regulations, unless the context otherwise requires—

“the 1974 Act” means the Health and Safety at Work etc. Act 1974(3);

“Article 21 Committee” means the Committee set up pursuant to article 21 of the High-Speed Directive;

“basic parameters” means any regulatory, technical or operational condition which is critical to interoperability and requires a decision or recommendation in accordance with the procedure laid down in article 21(2) of the High-Speed Directive and article 21(2) of the Conventional Directive;

“British standard implementing a European standard” means a European standard transposed into a British standard by the British Standards Institution;

“certificate of conformity” means a certificate drawn up by the notified body in relation to a structural subsystem as part of the verification assessment procedures for that structural subsystem; and the reference in Schedule 9 to certificate shall be construed as a reference to the certificate of conformity;

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“the Channel Tunnel system” has the meaning given by section 1(7) of the Channel Tunnel Act 1987⁽⁴⁾ to the words “the tunnel system”;

“the Commission” means the Commission of the European Communities;

“common technical specification” means a technical specification, drawn up in accordance with a procedure recognised by the Member States with a view to uniform application in all Member States which has been published in the Official Journal and is in force, and includes a TSI;

“Competent Authority” means—

- (a) in Great Britain, the Secretary of State, except in relation to the Channel Tunnel system, where it means the Intergovernmental Commission; and
- (b) in Northern Ireland, the DRDNI;

“conformity or suitability for use assessment procedures” means the procedures specified in regulation 18;

“contracting entity” means the person in relation to a project who—

- (a) designs or manufactures or intends to design or manufacture the project on his own account; or
- (b) contracts or intends to contract with another person for that other person to design or manufacture the project;

and includes an authorised representative established in the Community appointed by the contracting entity to act on his behalf;

“conventional rolling stock” means rolling stock which is or forms part of the rolling stock subsystem of the conventional TEN rail system;

“conventional TEN rail system” means that part of the trans-European conventional rail system located within the territory of the United Kingdom;

“DRDNI” means the Department for Regional Development established by article 3(1) of the Departments (Northern Ireland) Order 1999⁽⁵⁾;

“EC declaration of conformity or suitability for use” has the meaning given in regulation 16 for an EC declaration of conformity or an EC declaration of suitability for use, as the case may be;

“essential requirements”, except in the definition of European technical approval, means all the conditions that must be met by the subsystems and interoperability constituents, including interfaces—

- (a) in relation to the high-speed rail system as set out in Schedule 5; and
- (b) in relation to the conventional TEN rail system as set out in Schedule 6;

“European Railway Agency” means the agency for railway safety and interoperability established by Regulation (EC) No. 881/2004 of the European Parliament and the Council of 29th April 2004 establishing a European Railway Agency⁽⁶⁾;

“European specification” means a common technical specification, a European technical approval or a British standard implementing a European standard;

“European standard” means a standard approved by the European Committee for Standardisation or by the European Committee for Electrotechnical Standardisation as a European Standard or a Harmonisation Document, according to the Common Rules of those

(4) 1987 c. 53.

(5) S.I. 1999/283 (N.I. 1).

(6) O.J. No. L 164 of 30.04.04, p. 1.

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organisations or by the European Telecommunications Standards Institute according to its own rules as a European Telecommunications Standard;

“European technical approval” means an approval of the fitness of a product for a particular use given by an approval body designated for the purpose by a Member State following a technical assessment of whether the product fulfils all essential requirements for such a product, having regard to the inherent characteristics of the product and any such defined conditions of application and use as are provided for in any Council Directive applicable to the product;

“functional subsystem” means—

- (a) in relation to the trans-European high-speed rail system, an operational subsystem as specified in paragraph 1(b) of Schedule 3; and
- (b) in relation to the trans-European conventional rail system, an operational subsystem as specified in paragraph 1(b) of Schedule 4;

“functional TSI” means a TSI applying to a functional subsystem;

“high-speed rail system” means that part of the trans-European high-speed rail system located within the territory of the United Kingdom and identified by reference to the lines specified in Schedule 11;

“high-speed rolling stock” means rolling stock which is or forms part of the rolling stock subsystem of the high-speed rail system;

“ID code” means a unique alphanumeric identification code assigned to a rolling stock vehicle by the registration body;

“Intergovernmental Commission” has the same meaning as in the Channel Tunnel Act 1987(7);

“interoperability” has the meaning given in article 2 of the High-Speed Directive and article 2 of the Conventional Directive;

“interoperability constituent” means any elementary component, group of components, sub-assembly or complete assembly of equipment that is incorporated or intended to be incorporated into a subsystem upon which the interoperability of the trans-European high-speed rail system or trans-European conventional rail system of which the subsystem is a part depends and that has been specified by a TSI as being an interoperability constituent;

“notified body” has the meaning given in regulation 24;

“notified national technical rules” means the standards, technical specifications and technical rules in use in the United Kingdom which have been notified to the Commission pursuant to article 16(3) of the High-Speed Directive or article 16(3) of the Conventional Directive;

“operator”, in relation to the use of an interoperability constituent or project subsystem, means the infrastructure manager or railway undertaking having the management of that interoperability constituent or project subsystem for the time being;

“owner”, in relation to a structural subsystem, means any person who has an estate or interest in, or right over that subsystem, and whose permission is needed before another may use it;

“placed in service” has the meaning given in regulation 4(10); and cognate expressions shall be construed accordingly;

“placed on the market” means making an interoperability constituent available for purchase with a view to its use on the trans-European high-speed rail system or the trans-European conventional rail system, as the case may be; and cognate expressions shall be construed accordingly;

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“project” means a discrete scheme for the construction or upgrading or renewal of—

- (a) high-speed rolling stock or conventional rolling stock; or
- (b) the whole or part of any other subsystem of the high-speed rail system or the conventional TEN rail system,

and where it is intended to carry out that construction, upgrading or renewal in parts, each of which are to be placed in service on a permanent basis independently of the other parts, it means any such part;

“project subsystem” means a structural subsystem which is subject to the requirement for authorisation under regulation 4(1)(a);

“registration body” means the person designated under regulation 33(12);

“renewal” means any major substitution work on a structural subsystem or part of a structural subsystem which does not improve the overall performance of the subsystem, and cognate expressions shall be construed accordingly;

“rolling stock” means a vehicle falling within the definition of rolling stock in section 83(1) of the Railways Act 1993⁽⁸⁾, except that where such a vehicle can only be operated as part of a fixed formation multiple unit it means all of that unit;

“Safety Authority” means the Office of Rail Regulation⁽⁹⁾ except—

- (a) in relation to Northern Ireland, where it means the DRDNI; and
- (b) in relation to the Channel Tunnel system, where it means the Intergovernmental Commission;

“structural subsystem” means—

- (a) high-speed rolling stock or conventional rolling stock, as the case may be; and
- (b) the whole or, a part, of—
 - (i) an infrastructure subsystem;
 - (ii) an energy subsystem;
 - (iii) a control and command and signalling subsystem; and
 - (iv) a traffic operation and management subsystem;

“subsystem” means the whole, or, as the context requires, part of—

- (a) a subdivision of the trans-European high-speed rail system as specified in paragraphs 1(a) and 1(b) of Schedule 3, namely structural subsystems and functional subsystems, which forms or is intended to form part of the high-speed rail system; and the reference in Schedule 3 to operational area subsystems shall be construed as a reference to functional subsystems;
- (b) a subdivision of the trans-European conventional rail system as specified in paragraphs 1(a) and 1(b) of Schedule 4, namely structural subsystems and functional subsystems, which forms or is intended to form part of the conventional TEN rail system; and the reference in Schedule 4 to operational area subsystems shall be construed as a reference to functional subsystems;

“technical file” means a file relating to a structural subsystem which contains the matters required by regulation 11(1), and any reference in the Schedules to the “technical record” shall be construed as a reference to the technical file;

“trans-European conventional rail system” means the infrastructure and conventional rolling stock described in Schedule 2;

⁽⁸⁾ 1993 c. 43.

⁽⁹⁾ Established under section 15 of the Railways and Transport Safety Act 2003 (c. 20).

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“trans-European high-speed rail system” means the infrastructure and high-speed rolling stock described in Schedule 1;

“TSIs” means technical specifications for interoperability which are published in the Official Journal pursuant to article 6(1) of the High-Speed Directive or article 6(1) of the Conventional Directive, and in force;

“upgrading” means any major modification work on a structural subsystem or part of a structural subsystem which improves the overall performance of the subsystem, and cognate expressions shall be construed accordingly;

“verification assessment procedure” means the procedures specified in regulation 9(1), and the reference in Schedule 9 to “verification procedure” shall be construed as a reference to the verification assessment procedure;

“verification declaration” means an EC declaration of verification in relation to a structural subsystem drawn up by a contracting entity pursuant to regulation 8(3);

“writing”, apart from its usual meaning, includes any text transmitted using electronic communications that is received, or accessible by the person to whom it is sent, in legible form.

(4) Except for the references to the European Communities in the definition of “the Commission” and in relation to the Official Journal, a reference to the European Community includes a reference to the EEA, and a reference to a Member State includes a reference to an EEA State.

(5) For the purposes of paragraph (4)—

- (a) the “EEA” means the European Economic Area;
- (b) an “EEA State” means a State which is a Contracting Party to the EEA Agreement; and
- (c) the “EEA Agreement” means the Agreement on the European Economic Area signed at Oporto on 2nd May 1992 as adjusted by the Protocol signed at Brussels on 17th March 1993⁽¹⁰⁾.

Commencement Information

I2 Reg. 2 in force at 20.3.2006, see [reg. 1\(2\)](#)

Application

3.—(1) Subject to paragraph (2), these Regulations apply to the high-speed rail system, the conventional TEN rail system, their subsystems and to interoperability constituents.

(2) These Regulations shall not apply to—

- (a) a structural subsystem placed in service on the conventional TEN rail system;
- (b) an interoperability constituent placed on the market with a view to its use on the conventional TEN rail system; or
- (c) a structural subsystem renewed and placed in service on the high-speed rail system,

before 1st August 2006.

⁽¹⁰⁾ Cmnd. 2972 and 2183. The application of the High-Speed Directive was extended to the EEA from 1st May 1997 by virtue of Decision No. 25/97 of the EEA Joint Committee (O.J. No. L242, 4.9.97, p. 74) which inserted a reference to the High-Speed Directive after point 37 in Annex XIII to the EEA Agreement. The application of the Conventional Directive was similarly extended to the EEA from 2nd March 2002 by virtue of Decision No. 16/2002 of the EEA Joint Committee (O.J. No. L110, 25.4.2002, p.11) which inserted a reference to the Conventional Directive after point 37c in Annex XIII to the EEA Agreement.

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(3) Notwithstanding paragraph (2), the placing in service of a structural subsystem before 1st August 2006 shall not affect the application of these Regulations to that subsystem for any upgrading or renewal where that subsystem is placed in service on or after 1st August 2006.

Commencement Information

I3 Reg. 3 in force at 20.3.2006, see [reg. 1\(2\)](#)

Status:

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Changes and effects yet to be applied to :

- Regulations revoked by [S.I. 2011/3066 reg. 47\(1\)](#)

Changes and effects yet to be applied to the whole Instrument associated Parts and Chapters:

Whole provisions yet to be inserted into this Instrument (including any effects on those provisions):

- reg. 4(9A) inserted by [S.I. 2008/1746 reg. 4\(4\)\(c\)](#)
- reg. 4A4B inserted by [S.I. 2008/1746 reg. 4\(5\)](#)
- reg. 11(7) inserted by [S.I. 2008/1746 reg. 4\(7\)](#)
- reg. 12(3)-(6) inserted by [S.I. 2008/1746 reg. 4\(8\)\(b\)](#)
- reg. 33(1A) inserted by [S.I. 2008/1746 reg. 4\(9\)](#)