
STATUTORY INSTRUMENTS

2006 No. 397

The Railways (Interoperability) Regulations 2006

PROSPECTIVE

PART 4

Notified Bodies

Notified bodies

- 24.** For the purposes of these Regulations, a notified body is a body which has been—
- appointed by the Strategic Rail Authority⁽¹⁾ as a notified body and notified to the Commission and other Member States pursuant to regulation 5 of the Railways (Interoperability) (High-Speed) Regulations 2002⁽²⁾; or
 - appointed by the Secretary of State as a notified body and notified to the Commission and other Member States pursuant to regulation 25 of these Regulations; or
 - appointed by a Member State other than the United Kingdom, and notified by the Member State concerned to the Commission and the other Member States pursuant to article 20(1) of the Conventional Directive or article 20(1) of the High-Speed Directive.

Commencement Information

- II** Reg. 24 in force at 20.3.2006, see [reg. 1\(2\)](#)

Appointment of notified bodies by the Secretary of State

25.—(1) The Secretary of State may from time to time appoint such persons as he thinks fit to be notified bodies for the purposes of these Regulations.

(2) The Secretary of State shall not appoint any person as a notified body in accordance with paragraph (1) unless he is satisfied that the person is capable of meeting the criteria specified in Schedule 10.

(3) An appointment—

- shall relate to such descriptions of structural subsystems and interoperability constituents of the trans-European high-speed rail system or trans-European conventional rail system as the Secretary of State may specify; and
- shall be made subject to such conditions as the Secretary of State may specify, including such conditions as are to apply upon or following termination of the appointment.

(1) Established under s. 201 of the Transport Act 2000 c. 38. Section 1 and Schedule 1 to the Railways Act 2005 c. 14 provides for abolition of the Strategic Rail Authority and the transfer of its functions.

(2) [S.I. 2002/1166](#).

Status: This version of this part contains provisions that are prospective.

Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to The Railways (Interoperability) Regulations 2006. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

(4) Subject to paragraphs (5)(b) and (c) and (6), an appointment under this regulation shall be for such period as may be specified in the appointment.

(5) An appointment shall terminate—

- (a) upon the expiry of any period specified in the appointment pursuant to paragraph (4);
- (b) upon the expiry of 90 days notice in writing given by the notified body to the Secretary of State; or
- (c) on any date specified for the termination of the appointment in accordance with paragraph (6),

whichever is the earliest.

(6) If at any time it appears to the Secretary of State in relation to a notified body appointed by him or the Strategic Rail Authority that—

- (a) any of the conditions of the appointment of that notified body are not being complied with; or
- (b) the notified body is not meeting the criteria specified in Schedule 10,

the Secretary of State may, by notice in writing to that notified body, specify a date on which the appointment of that person as a notified body shall terminate.

(7) Where the Secretary of State is minded to terminate the appointment of a person as a notified body pursuant to the grounds specified in paragraph (6) he shall—

- (a) give notice in writing to the notified body of the reasons why he is minded to do so;
- (b) give the notified body the opportunity to make representations within a period of 14 days beginning with the day on which such notice is given; and
- (c) consider any representations made within that period by the notified body before making his decision.

(8) When the appointment of a notified body is terminated in accordance with paragraph (5) the Secretary of State may—

- (a) give such directions as the Secretary of State considers appropriate, either to that notified body or to another notified body, for the purpose of making such arrangements as may be necessary or expedient for the determination of any matters which would, apart from the termination, have fallen to be determined by the notified body whose appointment has terminated; and
- (b) without prejudice to the generality of sub-paragraph (a), authorise another notified body, to take over the functions of the notified body whose appointment has terminated, in respect of such matters as the Secretary of State may specify.

(9) The Secretary of State shall notify in writing the Commission and other Member States of the appointment or termination of appointment, as the case may be, of a notified body.

(10) Where it appears to the Secretary of State that a notified body appointed by another Member State fails to meet the criteria set out in Schedule 10, he shall notify the Article 21 Committee of that fact forthwith.

Commencement Information

I2 Reg. 25 in force at 20.3.2006, see [reg. 1\(2\)](#)

Status: This version of this part contains provisions that are prospective.

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Requirement on notified bodies to carry out functions

26.—(1) Where a contracting entity, manufacturer or his authorised representative established in the Community, or other interested person so requests in writing, a notified body shall carry out in relation to a structural subsystem or interoperability constituent the procedures and checks (including, where so provided as part of those procedures and checks, surveillance) required to ensure that the contracting entity, manufacturer or his authorised representative established in the Community, or other interested person, as the case may be, duly fulfils the obligations arising from the appropriate verification assessment procedure for a subsystem or the appropriate conformity or suitability for use assessment procedure for an interoperability constituent.

(2) A notified body shall not be required to comply with a request under paragraph (1) if—

- (a) the request relates to a subsystem or interoperability constituent of a description to which the appointment of that body does not relate;
- (b) to do so would place that body in breach of a condition of its appointment;
- (c) the documents submitted to it in relation to carrying out such functions are not in a language acceptable to that body;
- (d) the person making the request has not submitted with its request the amount of the fee which that body requires to be submitted with the request pursuant to regulation 29; or
- (e) at the time of the request the notified body reasonably believes that it will be unable to commence the required work in relation to that request within 3 months of receiving it.

(3) In this regulation “interested person” means a person who is or expects to be subject to the duties imposed by regulation 19(3).

Commencement Information

I3 Reg. 26 in force at 2.4.2006, see [reg. 1\(3\)](#)

Notified bodies: certificates of conformity etc.

27.—(1) Where a notified body is minded to decline to draw up a certificate of conformity in relation to a project subsystem, or is minded to decline to confirm that an EC declaration of conformity or suitability for use can be drawn up in respect of an interoperability constituent, it shall—

- (a) give notice in writing to the applicant of the reasons why it is minded to do so;
- (b) give the applicant the opportunity to make representations within a period of 28 days beginning with the day on which such notice is given; and
- (c) consider any representations made within that period by the applicant before making its decision.

(2) A notified body shall not draw up a certificate of conformity in relation to a project subsystem unless satisfied that the subsystem conforms to such of the TSIs or notified national technical rules as are required by regulation 7.

(3) A notified body shall not confirm that an EC declaration of conformity or suitability for use can be drawn up in respect of an interoperability constituent unless satisfied that that constituent conforms to such of the European specifications or TSIs as are required by regulation 16.

Commencement Information

I4 Reg. 27 in force at 2.4.2006, see [reg. 1\(3\)](#)

Status: This version of this part contains provisions that are prospective.

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Duties on notified bodies to consult

28. Notified bodies appointed by the Strategic Rail Authority or the Secretary of State shall consult other notified bodies appointed pursuant to the High-Speed Directive or the Conventional Directive throughout the European Community in a notified bodies coordination group in relation to the procedures for assessing conformity or suitability for use of interoperability constituents and the verification assessment procedure for subsystems.

Commencement Information

I5 Reg. 28 in force at 2.4.2006, see [reg. 1\(3\)](#)

Fees of notified bodies

29.—(1) Subject to paragraph (2), a notified body may charge such a fee in connection with, or incidental to, carrying out its functions under these Regulations as it may determine.

(2) The fee charged pursuant to paragraph (1) shall not exceed the sum of the following—

- (a) the costs incurred or to be incurred by the notified body in carrying out relevant work; and
- (b) an amount of profit which is reasonable in the circumstances having regard to—
 - (i) the character and extent of the work carried out by the notified body on behalf of the person commissioning the work; and
 - (ii) the commercial rate normally charged on account of profit for that work or similar work.

(3) Subject to paragraph (4) the power in paragraph (1) includes the power to require the payment of a fee, or a reasonable estimate of the fee, in respect of the work commissioned in advance of carrying out that work.

(4) Unless the parties otherwise agree, an amount charged in accordance with paragraph (3) shall not exceed a reasonable estimate of the fee for the work for the three months subsequent to the request for the advance payment.

Commencement Information

I6 Reg. 29 in force at 2.4.2006, see [reg. 1\(3\)](#)

Fees of the Secretary of State

30. The Secretary of State may charge such reasonable fee in connection with, or incidental to, carrying out his functions under regulation 25 as he may determine.

Commencement Information

I7 Reg. 30 in force at 2.4.2006, see [reg. 1\(3\)](#)

Status:

This version of this part contains provisions that are prospective.

Changes to legislation:

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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\(9\)](#)