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EUROPEAN COMMUNITIES (INTEROPERABILITY OF THE RAIL
SYSTEM) REGULATIONS 2011

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SCHEDULE

EUROPEAN COMMUNITIES (INTEROPERABILITY OF THE RAIL SYSTEM) REGULATIONS 2011

I LEO VARADKAR, Minister for Transport, Tourism and Sport, in exercise of the powers conferred on me by section 3 of the European Communities Act 1972 (No. 27 of 1972) and for the purpose of giving effect to Council Directive 2008/57/EC of the European Parliament and of the Council of 17 June 2008¹ as last amended by Commission Directive 2011/18/EU of 1 March 2011², Directive 2008/110/EC of the European Parliament and of the Council of 16 December 2008³, and Council Directive 91/440/EC of 29 July 1991⁴ and Council Directive 2001/14/EC of the European Parliament and of the Council of 26 February 2001⁵ as both last amended by Directive 2007/58/EC of the European Parliament and of the Council of 23 October 2007⁶, hereby make the following regulations:

Citation

1. These Regulations may be cited as the European Communities (Interoperability of the Rail System) Regulations 2011.

Interpretation

2. (1) In these Regulations—

“‘EC’ declaration of conformity or suitability for use” means a declaration of conformity or suitability for use in accordance with Annex IV and the procedure described in Article 13;

“‘EC’ declaration of verification” means a declaration of verification in accordance with Annex V and VI and the procedure described in Article 18;

“EVN”, in relation to a vehicle, means the number, known as a European vehicle number, specified in the TSI on operation and traffic management to be assigned to that vehicle;

“infrastructure manager” means any body or undertaking that is responsible for establishing or maintaining railway infrastructure or for the management of control and safety systems;

“inspector” means a person deemed to be an inspector under Regulation 9;

“Minister” means Minister for Transport, Tourism and Sport;

¹ OJ No. L 191, 18.07.2008, p. 1.

² OJ No. L 57, 02.03.2011, p. 21.

³ OJ No. L 345, 23.12.2008, p. 62.

⁴ OJ No. L 237, 24.08.1991, p. 25.

⁵ OJ No. L 75, 15.03.2001, p. 29.

⁶ OJ No. L 315, 03.12.2007, p. 44.

Notice of the making of this Statutory Instrument was published in “Iris Oifigiúil” of 12th August, 2011.

“notified body” means a body notified to the European Commission under Regulation 8;

“Railway Interoperability Directive” means Directive 2008/57/EC of the European Parliament and of the Council of 17 June 2008¹ on the interoperability of the rail system within the Community as amended by—

- (a) Commission Directive 2009/131/EC of 16 October 2009⁷, and
- (b) Commission Directive 2011/18/EU of 1 March 2011²;

“safety authority” means the Railway Safety Commission designated as the safety authority in Regulation 5;

“safety rules” means national safety rules referred to in Article 8 of Directive 2004/49/EC of the European Parliament and of the Council of 29 April 2004⁸;

“technical rules” means national technical rules referred to in Article 17(3);

“TSI” means technical specification for interoperability.

(2) A word or expression which is used in these Regulations and which is also used in the Railway Interoperability Directive has, unless the context requires otherwise, the same meaning in these Regulations as it has in that Directive.

(3) In these Regulations—

- (a) a reference to an Annex is to an Annex to the Railway Interoperability Directive, and
- (b) save where otherwise provided, a reference to an Article or a Chapter is a reference to an Article or a Chapter of the Railway Interoperability Directive.

Scope

3. (1) These Regulations do not apply to—

- (a) metros, trams and other light rail systems,
- (b) networks that are functionally separate from the rest of the rail system and intended only for the operation of local, urban or suburban passenger services, as well as railway undertakings operating solely on these networks,
- (c) the electric traction energy supply system of the Dublin suburban passenger service,
- (d) privately owned railway infrastructure and vehicles exclusively used on such infrastructure that exist solely for use by the owner for its own freight operations, and

⁷ OJ No. L 273, 17.10.2009, p. 12.

⁸ OJ No. L 164, 30.04.2004, p. 44.

- (e) infrastructure and vehicles reserved for a strictly local, historical or touristic use.

(2) The safety authority may include mobile railway infrastructure construction and maintenance equipment as provided for in Annex I.

Essential requirements and European specifications

4. (1) Further technical specifications referred to in Article 34 of Directive 2004/17/EC of the European Parliament and of the Council of 31 March 2004⁹ which are necessary to complete European specifications or other standards in use within the European Union shall not conflict with the essential requirements.

(2) Where it appears to the safety authority that European specifications used directly or indirectly to achieve the objectives of the Railway Interoperability Directive do not meet the essential requirements the authority shall notify the European Commission.

Safety authority

5. (1) The Railway Safety Commission is the safety authority competent for the railway network in the State for the purposes of the Railway Interoperability Directive and these Regulations.

(2) A person who knowingly or recklessly provides information to the safety authority which he or she knows to be false or misleading, or makes any false or misleading statement reckless as to its truth or otherwise commits an offence.

Inspectors

6. (1) A person appointed as an inspector under section 73 of the Railway Safety Act 2005 (No. 31 of 2005) shall—

- (a) be deemed to be an inspector appointed by the safety authority for the purposes of these Regulations, and
- (b) when exercising any power conferred by this Regulation, if requested by any person affected, show the warrant of his or of her appointment to that person.

(2) An inspector may, for the purposes of ascertaining whether these Regulations are being complied with, do any or all of the following:

- (a) enter, search, inspect and examine at all reasonable times any place or premises which he or she has reasonable cause to believe—
 - (i) is, forms part of, or contains a subsystem,
 - (ii) contains an interoperability constituent, or
 - (iii) contains any record, document or information relating to any subsystem or interoperability constituent;

⁹ OJ No. L 134, 30.04.2004, p. 1.

- (b) bring with him or her any other person authorised by the safety authority or any equipment or materials required for any purpose for which the power of entry is being exercised;
- (c) when exercising a power under this Regulation, be accompanied by a member of the Garda Síochána if the inspector has reasonable cause to apprehend a serious obstruction in the execution of his or her duty;
- (d) require any person to produce to the inspector any report, document record, or rule (including in the case of information in a non-legible form a copy of an extract from such information in permanent legible form) or to provide information which relates to any matter to which these Regulations apply;
- (e) inspect, examine, carry out checks on, or take samples for examination, testing or analysis of, any interoperability constituent or any subsystem;
- (f) inspect, examine and take copies of, or extracts from, or if necessary for the purposes of inspection or examination take away, any report, document or record (including in the case of information in a non-legible form a copy of an extract from such information in permanent legible form) kept or used in connection with the operation of a rail system and require the person by whom it is kept to certify a copy as a true copy;
- (g) require the production of, examine and take copies of any relevant training certificate or training record of staff involved in the operation of a part of the rail system or employed or engaged on contract by a notified body;
- (h) take any measurements or photographs or make any tape, electronic or other recordings which the inspector considers necessary for the purposes of any inspection, examination or inquiry made by him or her under these Regulations;
- (i) require any person to afford the inspector such facilities and assistance within that person's control or responsibilities as are necessary to enable the inspector to exercise any of the powers conferred on him or her by these Regulations.

(3) If a judge of the District Court is satisfied on the sworn information of an inspector that there are reasonable grounds for suspecting that information required by an inspector for the purpose of these regulations is held at any premises, place or vehicle, the judge may issue a warrant authorising the inspector, accompanied if the inspector considers it necessary by other inspectors or members of the Garda Síochána, at any time or times within one month from the date of issue of the warrant, on production of the warrant if so required, to enter, if need be by reasonable force, the premises, place or vehicle and exercise all or any of the powers conferred on an inspector under this Regulation.

(4) An inspector shall not, except under a warrant under paragraph (3) or with the consent of the occupier, enter a domestic dwelling for the purposes of this Regulation.

(5) A person who wilfully—

- (a) prevents, obstructs, impedes or delays an inspector exercising any function conferred on him or her by these Regulations,
- (b) fails to comply with a request or instruction from an inspector made in good faith in the exercise of his or her functions, or
- (c) gives to an inspector information which he or she knows to be false or misleading in a material respect, or makes to an inspector any false or misleading statement reckless as to its truth or otherwise,

commits an offence.

(6) Where the safety authority is satisfied that an inspector has exercised a power conferred by these Regulations in good faith, the authority shall indemnify the inspector against all actions or claims however arising in respect of the exercise by the inspector of that power.

Prohibition notice

7. (1) Where an inspector is of the opinion that—

- (a) an interoperability constituent has been or is likely to be placed on the market, or is being or is likely to be used, in contravention of these Regulations,
- (b) a subsystem has been or is likely to be placed into service, or is being or is likely to be operated, in contravention of these Regulations,
- (c) a vehicle has been or is likely to be placed into service, or is being or is likely to be used, in contravention of these Regulations,
- (d) the safety authority has made a requirement under Regulation 16(2) and the non-conformity identified in making that requirement persists, or
- (e) an interoperability constituent, covered by the ‘EC’ declaration of conformity or suitability for use, has been placed on the market and is unlikely when used as intended to meet the essential requirements,

the inspector may serve on a person a notice (referred to in these Regulations as a “prohibition notice”) signed by the inspector.

(2) A prohibition notice shall—

- (a) be in writing,
- (b) state that the inspector has formed the relevant opinion,

- (c) give particulars of the reasons why he or she is of that opinion and specify the provision or provisions of these Regulations which, in the opinion of the inspector, the matter involves or, as the case may be, will involve a contravention of, and
- (d) direct that the activities to which the notice relates shall be carried on neither by, nor under the control of, the railway undertaking or other person on which the notice is served nor by, nor under the control of, any other person unless the matters specified in the notice in pursuance of subparagraph (c) which are taking place in contravention of these Regulations should cease.

(3) A prohibition notice shall take effect—

- (a) if the notice so specifies, immediately the notice is received by the railway undertaking or person on whom it is served, and
- (b) in any other case—
 - (i) if no appeal is taken against the notice, on the expiration of the period during which such an appeal may be taken or on the day specified in the notice as that on which it comes into effect, whichever is the later, or
 - (ii) where an appeal is taken, on the day following the day on which the notice is confirmed on appeal or the appeal is withdrawn or the day specified in the notice as that on which it is to come into effect, whichever is the later.

(4) The bringing of an appeal against a prohibition notice which is to take effect in accordance with paragraph (3)(a) shall not have the effect of suspending the operation of the notice provided, however, that the appellant may apply to the High Court to have the operation of the notice suspended until the appeal is disposed of and, on such application, the Court may, if it thinks proper to do so, direct that the operation of the notice be suspended until the appeal is disposed of.

(5) A railway undertaking or other person who is aggrieved by a prohibition notice may within the period of 7 days beginning on the day on which the notice is served, appeal to the High Court against the notice and in determining the appeal the judge may—

- (a) if he or she is satisfied that in the circumstances of the case it is reasonable to do so, confirm the notice with or without modification; or
- (b) cancel the notice.

(6) Where on the hearing of an appeal under paragraph (5) a prohibition notice is confirmed, notwithstanding paragraph (3) the judge by whom the appeal is heard may, on the application of the appellant, suspend the operation

of the notice for such period as in the circumstances of the case he or she considers appropriate.

(7) A railway undertaking or person who appeals against a prohibition notice or who applies for a direction suspending the application of the notice shall at the same time notify the safety authority of the appeal or the application and the grounds for the appeal or the application and the safety authority shall be entitled to appear, be heard and adduce evidence on the hearing of the appeal or the application.

(8) An inspector may withdraw a prohibition notice.

(9) Where a prohibition notice has been served and activities are carried on in contravention of the notice, the High Court may, on the application of an inspector, by order prohibit the continuance of the activities.

(10) An application to the High Court for an order under paragraph (9) shall be by motion and the Court, when considering the matter, may make such interim or interlocutory order (if any) as it considers appropriate and the order by which an application under paragraph (9) is determined may contain such terms and conditions (if any) as to the payment of costs as the Court considers appropriate.

(11) On the application of the railway undertaking or other person concerned, an inspector shall confirm in writing if the circumstances giving rise to a prohibition notice no longer prevail or have been remedied to his or her satisfaction and if he or she so confirms, the notice shall no longer have effect.

(12) A person who fails to comply with a prohibition notice commits an offence.

Notified bodies

8. (1) Subject to paragraph (2), the Minister may appoint one or more bodies, and, shall notify any appointment made to the European Commission, in accordance with Article 28.

(2) The Minister shall only appoint a body under paragraph (1) if the body has been granted an approval by the safety authority under Regulation 9.

(3) An appointment under this Regulation shall specify the functions to be performed by the body appointed and any conditions to which the appointment is subject.

(4) The Minister may revoke an appointment under this Regulation where, in the opinion of the Minister, the body is failing in the performance of its functions or is in breach of a condition of its appointment.

(5) Where the Minister is considering revoking an appointment under this Regulation, he or she shall notify the body in writing, giving reasons for the revocation, and allow the body 21 days during which to make written representations.

(6) The Minister shall consider any representations made by the body during the period referred to in paragraph (5) before revoking its appointment.

(7) The Minister shall notify the European Commission of the revocation of an appointment under this Regulation.

Approval by safety authority

9. (1) The safety authority may approve a body for the purposes of Regulation 8.

(2) When deciding whether or not to grant an approval under paragraph (1) the safety authority shall apply the criteria specified in Annex VIII.

(3) The safety authority may attach such conditions as it considers appropriate to an approval under paragraph (1).

(4) Where a body no longer meets the criteria specified in Annex VIII or breaches a condition of the approval the safety authority shall withdraw the approval and shall inform the Minister and the European Commission.

Technical rules

10. (1) For the purposes of Article 17, the safety authority shall draw up and notify to the European Commission a list of technical rules and shall designate the bodies responsible for carrying out the verification procedure.

(2) For the purposes of paragraph (1), the safety authority may request a railway undertaking, infrastructure manager or such other person as the authority considers appropriate to notify to the safety authority the rules in use for implementing the essential requirements.

(3) A person who, without reasonable excuse, fails to comply with a request under paragraph (2) commits an offence.

TSIs

11. (1) TSIs shall be developed in accordance with Articles 5, 6, 7 and 8.

(2) Until such time as the extension of the scope of the TSIs to cover the whole of the rail network takes effect—

(a) authorisation for the placing in service of—

- (i) vehicles and on-board control-command and signalling subsystems to be used at least partially on the part of the network that does not yet fall within the scope of the TSIs, in respect of that part of the network, and
- (ii) infrastructure, energy and trackside control-command and signalling subsystems on the parts of the network that do not yet fall within the scope of the TSIs,

shall be granted in accordance with the safety rules or where applicable the technical rules, and

- (b) authorisations for the placing in service of vehicles to be used occasionally on the part of the network that does not yet fall within the scope of the TSIs, in respect of that part of the network, shall be granted in accordance with Articles 21 to 27 and the safety rules or, where applicable, the technical rules.

(3) The safety authority shall apply the derogations as set out in Articles 8(4) and 9 and Annex IX.

Assessment of interoperability constituents

12. (1) A person shall not place an interoperability constituent on the market in the State unless it—

- (a) has been subjected to the procedure for assessing conformity and suitability for use indicated in the relevant TSI or the corresponding European specifications, and is accompanied by a valid certificate to that effect, and
- (b) is accompanied by an ‘EC’ declaration of conformity or suitability for use which covers the interoperability constituent.

(2) In this Regulation “relevant TSI” means—

- (a) the TSI applicable to the interoperability constituent which is in force at the time it is placed on the market, or
- (b) the TSI identified by the safety authority as resulting from the application of a derogation under Article 9 or 8(4).

(3) A person who fails to comply with this Regulation commits an offence.

(4) In a prosecution under this Regulation it shall be a defence to show that—

- (a) the interoperability constituents placed on the market consist of spare parts for subsystems that were already placed in service when the corresponding TSI entered into force, or
- (b) the relevant TSI provided for a period of transition for the interoperability constituents placed on the market and the conditions of that TSI have been complied with.

Placing on the market of interoperability constituents

13. (1) Without prejudice to Regulation 12, a person shall not place an interoperability constituent on the market unless it—

- (a) meets the essential requirements, and
- (b) enables interoperability to be achieved within the rail system.

(2) An interoperability constituent which is covered by an ‘EC’ declaration of conformity or suitability for use shall be presumed, until the contrary is shown, to meet the essential requirements.

(3) A person who fails to comply with this Regulation commits an offence.

Use of interoperability constituents

14. (1) A person shall not use an interoperability constituent placed on the market unless it has been placed on the market in accordance with the requirements of Regulations 12 and 13 and is—

- (a) suitably installed and maintained, and
- (b) used in its area of use as intended,

(2) A person who fails to comply with this Regulation commits an offence.

Placing on the market for other applications

15. It shall be a defence in a prosecution under Regulation 12 or 13 to show that the interoperability constituent concerned was placed on the market for other applications.

‘EC’ declaration of conformity or suitability for use

16. (1) The ‘EC’ declaration of conformity or suitability for use shall be established according to the procedure in Article 13.

(2) Where the safety authority finds that an ‘EC’ declaration of conformity has been drawn up improperly it may require the manufacturer or his or her authorised representative established in the European Union to restore the interoperability constituent to a state of conformity and to terminate the infringement.

(3) Where the safety authority makes a requirement under paragraph (2) and the non-conformity persists, the safety authority shall take all appropriate steps to—

- (a) restrict or prohibit the placing on the market of the interoperability constituent in question, or
- (b) ensure that the interoperability constituent in question is withdrawn from the market.

(4) Where the safety authority finds that an interoperability constituent covered by the ‘EC’ declaration of conformity or suitability for use and placed on the market is unlikely, when used as intended, to meet the essential requirements it shall take all necessary steps to—

- (a) restrict its field of application,
- (b) prohibit its use, or
- (c) ensure that it is withdrawn from the market.

(5) The safety authority shall inform the European Commission of any measures taken under paragraph (3) or (4) giving reasons for its decision and stating, in particular, whether the failure to conform was due to—

- (a) failure to meet the essential requirements,
- (b) incorrect application of European specifications where application of such specifications is relied upon, or
- (c) inadequacy of European specifications.

(6) The safety authority may inspect and examine an ‘EC’ declaration of conformity or suitability for use, associated certificates and other documentation and the interoperability constituent concerned for the purposes of evaluating whether the declaration has been drawn up improperly or the constituent is unlikely, when used as intended, to meet the essential requirements.

Placing in service of subsystems

17. (1) A person shall not place a structural subsystem, including a subsystem which has been renewed or upgraded, in service in the State unless authorised to do so by the safety authority under this Regulation.

(2) The safety authority may authorise a person to place a structural subsystem in service in the State.

(3) A person who, without reasonable excuse, fails to comply with paragraph (1) commits an offence.

Application for authorisation

18. (1) A person may apply to the safety authority in writing for an authorisation to place a subsystem in service.

(2) An application under this Regulation shall be accompanied by—

- (a) an ‘EC’ declaration of verification relating to the subsystem,
- (b) the technical file referred to in Annex VI, which shall be complete and correctly describe the subsystem,
- (c) any “EC” certificate of conformity or suitability for use, and
- (d) any other documentation, including documentary evidence of any checks carried out, which shows that the subsystem complies with the essential requirements.

Checks before authorisation

19. Before granting an authorisation under Regulation 17, the safety authority shall check—

- (a) the technical compatibility of the subsystem with the system into which it is being integrated,

- (b) the safe integration of the subsystem in accordance with Articles 4(3) and 6(3) of Directive 2004/49/EC of the European Parliament and of the Council of 29 April 2004⁸, and
- (c) the compliance of the subsystem with any applicable TSI provisions on operation and maintenance.

Authorisation to place in service

20. (1) The safety authority shall authorise the placing in service of a subsystem under Regulation 17 only if it—

- (a) is designed, constructed and installed in such a way as to meet the essential requirements when integrated into the rail system,
- (b) enables interoperability to be achieved within the rail system, and
- (c) is in conformity with any TSI requirements or national rules relating to that subsystem.

(2) For the purposes of paragraph (1)(a), a structural subsystem which is covered by an ‘EC’ declaration of verification shall be presumed, until the contrary is shown, to be interoperable and to meet the essential requirements.

(3) Verification of the interoperability, in accordance with the essential requirements, of a structural subsystem constituting the rail system shall be established by reference to TSIs, where they exist.

(4) The safety authority may inspect and examine an ‘EC’ declaration of verification, an ‘EC’ declaration of conformity or suitability for use, associated certificates and other documentation, and the subsystem concerned for the purposes of evaluating whether a declaration has been drawn up improperly or the subsystem is unlikely to meet the requirements of paragraph (1).

(5) If it appears to the safety authority that a subsystem does not meet the requirements of paragraph (1) the safety authority may, subject to Regulation 25, require the applicant to carry out any additional checks in relation to the subsystem that the safety authority considers necessary.

Conditions

21. The safety authority may attach such conditions as it considers appropriate to an authorisation granted under Regulation 17(2).

Renewal or upgrading of subsystem

22. (1) In the event of the renewal or upgrading of a subsystem which is in use the contracting entity shall apply—

- (a) for a new authorisation under Regulation 17, or
- (b) for a determination by the safety authority under Regulation 23.

(2) A person who, without reasonable excuse, fails to comply with this Regulation commits an offence.

Determination by safety authority

23. (1) In the event of the renewal or upgrading of a subsystem which is in use the safety authority may determine that the extent of the works involved means that a new authorisation for placing in service under Regulation 17 is not required.

(2) The safety authority shall make a determination under this Regulation in accordance with Article 20.

(3) An application for a determination under this Regulation shall be in writing and include—

- (a) a description of the intended project including the date on which the subsystem is to enter into service,
- (b) a description of the nature, extent and proposed implementation of the intended works including the dates that it is intended that they will start and finish,
- (c) a submission as to whether or not a new authorisation for placing in service is required together with any evidence on which the submission is based, and
- (d) details of any derogation to be sought under Article 8 or 9 and the grounds for such derogation.

(4) Where an application is made to the safety authority for a determination under this Regulation if, at any time before the works are finished, there is a change in circumstances that materially affects the information included in the application the applicant shall immediately notify the safety authority of that change in writing.

(5) If the safety authority considers that—

- (a) a change referred to in paragraph (4) has not been notified, or
- (b) a change notified under paragraph (4) materially affects a determination made under this Regulation,

it shall confirm, revoke or vary its determination in accordance with Article 20.

(6) A person who, without reasonable excuse, fails to comply with paragraph (4) commits an offence.

Compliance with TSIs while subsystem in use

24. (1) After a subsystem has been placed in service the person responsible shall ensure that it complies with any TSI requirements or national rules relating to that subsystem.

(2) In this Regulation “person responsible” includes the railway undertaking, infrastructure manager, entity in charge of maintenance, railway operator, owner and keeper concerned.

(3) A person who fails to comply with paragraph (1) commits an offence.

Free movement of subsystems

25. Notwithstanding Regulations 19 and 20, the safety authority shall not prohibit, restrict or hinder the construction, placing in service or operation of structural subsystems constituting the rail system which successfully meet the essential requirements, in particular, by requiring checks which have already been carried out identically—

- (a) as part of the procedure establishing the ‘EC’ declaration of verification, or
- (b) in other Member States, before or after the entry into force of the Railway Interoperability Directive, with a view to verifying compliance with identical requirements under identical operational conditions.

‘EC’ declaration of verification

26. (1) The ‘EC’ declaration of verification shall be established in accordance with Article 18.

(2) Where the safety authority finds that a subsystem covered by the ‘EC’ declaration of verification does not fully comply with the Railway Interoperability Directive or these Regulations and, in particular, does not meet the essential requirements, it may request that additional checks be carried out.

(3) The safety authority shall state in the request whether the failure to fully comply is due to—

- (a) non-compliance with the essential requirements or with a TSI,
- (b) incorrect application of a TSI, or
- (c) inadequacy of a TSI.

(4) The safety authority shall inform the European Commission of any additional check requested under this Regulation and the reason for such check.

Authorisation for placing in service of vehicles

27. (1) A person shall not place any vehicle in service on a network in the State unless authorised to do so by the safety authority.

(2) The safety authority may authorise a person to place a vehicle in service on a network in the State.

(3) An application for an authorisation to place a vehicle in service shall be made in writing to the safety authority.

(4) On receipt of a valid and complete application the safety authority shall determine whether or not to grant an authorisation for the vehicle to be placed in service in accordance with Chapter V and Annex VII.

(5) In the case of a vehicle which has been authorised to be placed in service in another Member State the safety authority shall decide what additional authorisation is required.

(6) When an authorisation of type is granted, modified, suspended or withdrawn in the State the national safety authority shall inform the Agency.

(7) A person who, without reasonable excuse, fails to comply with paragraph (1) commits an offence.

Vehicle numbering

28. (1) A person shall not place a vehicle in service in the rail system in the State unless the vehicle carries an EVN.

(2) A person who is placing a vehicle into service for the first time may apply to the safety authority for an EVN.

(3) A person who, without reasonable excuse, fails to comply with paragraph (1) commits an offence.

National vehicle register

29. The safety authority shall create and update a register in accordance with Article 33, known as the national vehicle register (“NVR”), containing information relating to each vehicle authorised in the State.

Obligation to register vehicle

30. (1) A person who places a vehicle in use in the State shall immediately notify to the safety authority the information in relation to that vehicle required by common specifications referred to in Article 33(2) which for ease of reference are set out in the Schedule.

(2) The safety authority may request a registration holder to notify it within 28 days of any additional information required by common specifications referred to in Article 33(2).

(3) After registration, the registration holder shall immediately notify the safety authority of—

- (a) any modification to the information notified in accordance with paragraph (1) or (2),
- (b) the destruction of the vehicle, and
- (c) any decision to no longer register the vehicle.

(4) A person who, without reasonable excuse, fails to comply with paragraph (1) or (3) or a request under paragraph (2) commits an offence.

(5) In this Regulation “registration holder” means the keeper of a vehicle.

Register of infrastructure

31. (1) Each infrastructure manager who is responsible for a part of the rail system in the State shall, in accordance with the applicable TSIs, publish on an Internet website details of the main features of each subsystem or part of subsystem for which they are responsible and their correlation with the features laid down under those TSIs.

(2) Each infrastructure manager shall notify to the safety authority the address of the website where the details referred to in paragraph (1) have been published and shall maintain and update those details in accordance with any guidelines made under Regulation 32.

(3) A person who, without reasonable excuse, fails to comply with this Regulation commits an offence.

Guidelines

32. (1) The safety authority may in consultation with the Minister, railway undertakings, infrastructure managers and such other persons as in the opinion of the safety authority may be relevant, prepare and publish guidelines for the purposes of these Regulations.

(2) Guidelines under this Regulation may in particular describe—

- (a) procedures for the approval of subsystems not entirely covered by TSIs,
- (b) the procedure and criteria to be complied with in order to obtain an approval under Regulation 9,
- (c) the procedure and criteria for designating bodies responsible for carrying out the verification procedure in accordance with Article 17, and
- (d) specifications for the purposes of Regulations 30 and 31.

Defence in certain prosecutions

33. It is a defence in a prosecution under Regulation 7(12), 12(3), 13(3), 14(2), or 24(3) for the defendant to show that he or she took all reasonable steps and exercised all due diligence to avoid committing the offence.

Penalties

34. (1) A person who commits an offence under these Regulations (other than under Regulation 5(2), 7(12) or 10(3)) is liable on summary conviction to a class A fine.

(2) A person who commits an offence under Regulation 5(4) or 8(3) is liable on summary conviction to a class A fine or to imprisonment for a term not exceeding 3 months or to both.

(3) A person who commits an offence under Regulation 7(12) is liable—

- (a) on summary conviction, to a class A fine or to imprisonment for a term not exceeding 3 months or to both, or
- (b) on conviction on indictment, to a fine not exceeding €500,000 or to imprisonment for a term not exceeding 2 years or to both.

Offences by bodies corporate

35. Where an offence under these Regulations is committed by a body corporate and is proved to have been so committed with the consent, connivance or approval of, or to have been attributable to the neglect on the part of, any person being a director, manager, secretary or other officer of the body corporate, or a person who was purporting to act in any such capacity, that person, as well as the body corporate, commits an offence and is liable to be proceeded against and punished as if he or she committed the first-mentioned offence.

Amendment of Railway Safety Act 2005

36. The Railway Safety Act 2005 is amended by inserting after section 43B (inserted by the European Communities (Railway Safety) Regulations 2011 (S.I. No. 70 of 2011)) the following:

“Certain certificates to be valid in State

43C A certificate granted in accordance with the system of certification of the entity in charge of maintenance for freight wagons established pursuant to Article 14a(5) (inserted by Article 1(8) of Directive 2008/110/EC of the European Parliament and of the Council of 16 December 2008) of the Directive shall be valid in the State.”

Amendment of European Communities (Railway Infrastructure) Regulations 2010

37. The European Communities (Railway Infrastructure) Regulations 2010 (S.I. No. 55 of 2010) are amended—

- (a) in Regulation 7(9), by substituting for subparagraph (e) the following:

“(e) a senior counsel agreed upon by the members referred to in subparagraphs (a) to (d) and where the members fail to agree upon a senior counsel within one month of them being appointed, the Chairman of the Bar Council shall be requested to nominate a senior counsel.”,

- (b) in Regulation 19, by substituting for paragraph (2) the following:

“(2) Any railway undertaking to which paragraph (1) applies shall ensure that state aid granted to that railway undertaking for the provision of—

- (a) transport services is not transferred for use in the management of the railway infrastructure, and
- (b) railway infrastructure is not transferred for use in the provision of transport services,

and the accounts of such a railway undertaking shall be maintained so as to reflect these prohibitions.”.

Revocations

38. The following are revoked:

- (a) the European Communities (Interoperability of the Trans-European High-Speed Rail System) Regulations 2002 (S.I. No. 118 of 2002);
- (b) the European Communities (Interoperability of the Trans-European conventional rail system) Regulations 2004 (S.I. No. 61 of 2004);
- (c) the European Communities (Interoperability of the Trans-European conventional and High-Speed Rail Systems) Regulations 2006 (S.I. No. 212 of 2006);
- (d) the European Communities (Interoperability of the Trans-European Conventional and High-Speed Rail Systems) Regulations 2007 (S.I. No. 772 of 2007); and
- (e) Regulation 11 of the European Communities (Railway Safety) Regulations 2008 (S.I. No. 61 of 2008).

SCHEDULE

1. DATA

The data format of the national vehicle register (hereinafter referred to as "NVR") is as follows.

The item numbering follows the logic of the proposed standard registration form in Appendix 4.

In addition, field(s) may be added such as comments, identification of vehicles under investigation (see Section 3.4), etc.

1.	European Vehicle Number	Compulsory
Content	Numeric identification code as defined in Annex P to the Technical Specification for Interoperability (TSI) on "operation and traffic management" (hereinafter referred to as "OPE TSI") ⁽¹⁾	
Format	1.1. Number	12 digits
	1.2. Previous number (if applicable, for renumbered vehicle)	
2.	Member State and NSA	Compulsory
Content	Identification of the Member State where the vehicle has been registered and NSA that authorised its placing in service	
Format	2.1. Member State numeric code as defined in Annex P to OPE TSI	Two-digit code
	2.2. Name of NSA	Text
3.	Manufacturing year	Compulsory
Content	Year in which the vehicle left the factory	
Format	3. Manufacturing year	YYYY
4.	EC reference	Compulsory (when available)
Content	References to the "EC" declaration of verification and the issuing body (the applicant)	
Format	4.1. Date of declaration	Date
	4.2. EC reference	Text
	4.3. Name of issuing body (applicant)	Text
	4.4. Registered business number	Text
	4.5. Address of organisation, street and number	Text
	4.6. Town	Text
	4.7. Country code	ISO (see Appendix 2)
	4.8. Post code	Alphanumeric code

5.	Reference to the European Register of Authorised Types of Vehicles (ERATV)	Compulsory (?)
Content	Reference allowing retrieval of the relevant technical data from ERATV (?); the reference is compulsory if the type is defined in ERATV	
Format	5. Reference allowing retrieval of the relevant technical data from ERATV	Alphanumeric code(s)
5bis	Series	Optional
Content	Identification of a series, if the vehicle is part of a series	
	5bis Series	Text
6.	Restrictions	Compulsory
Content	Any restrictions on how the vehicle may be used	
Format	6.1. Coded restrictions (see Appendix 1)	Code
	6.2 Non-coded restrictions	Text
7.	Owner	Compulsory
Content	Identification of the owner of the vehicle	
Format	7.1. Name of organisation	Text
	7.2. Registered business number	Text
	7.3. Address of organisation, street and number	Text
	7.4. Town	Text
	7.5. Country code	ISO (see Appendix 2)
	7.6. Post code	Alphanumeric code
8.	Keeper	Compulsory
Content	Identification of the keeper of the vehicle	
Format	8.1. Name of organisation	Text
	8.2. Registered business number	Text
	8.3. Address of organisation, street and number	Text
	8.4. Town	Text
	8.5. Country code	ISO (see Appendix 2)
	8.6. Post code	Alphanumeric code
	8.7. VKM (if available)	Alphanumeric code
9.	Entity in charge of maintenance	Compulsory
Content	Reference to the entity in charge of maintenance	
Format	9.1. Entity in charge of maintenance	Text
	9.2. Registered business number	Text
	9.3. Address of entity, street and number	Text

9.	Entity in charge of maintenance	Compulsory
	9.4. Town	Text
	9.5. Country code	ISO
	9.6. Post code	Alphanumeric code
	9.7. E-mail address	E-mail
10.	Withdrawal	Compulsory when applicable
Content	Date of official scrapping and/or other disposal arrangement and the code for withdrawal mode	
Format	10.1. Mode of disposal (see Appendix 3)	Two-digit code
	10.2. Withdrawal date	Date
11.	Member States where the vehicle is authorised	Compulsory
Content	List of Member States where the vehicle is authorised	
Format	11. Member State numeric code as defined in Annex P.4 to OPE TSI	List
12.	Authorisation number	Compulsory
Content	Harmonised authorisation number for placing in service, generated by NSA	
Format	12. Authorisation number	For existing vehicles: text For new vehicles: alphanumeric code based on EIN, see Appendix 2
13.	Authorisation of placing in service	Compulsory
Content	Date of authorisation for placing the vehicle in service ⁽⁴⁾ and its validity	
Format	13.1. Date of authorisation	Date (YYYYMMDD)
	13.2. Authorisation valid until (if specified)	Date (YYYYMMDD)
	13.3. Suspension of authorisation	Yes/No

⁽¹⁾ Under Commission Decisions 2006/920/EC and 2008/231/EC, as amended by Decision 2009/107/EC, the same numbering system is used for both high-speed and conventional vehicles.

⁽²⁾ For vehicle types authorised in accordance with Article 26 of Directive 2008/57/EC.

⁽³⁾ The register provided for in Article 34 of Directive 2008/57/EC.

⁽⁴⁾ Authorisation delivered in accordance with Chapter V of Directive 2008/57/EC or authorisation delivered in accordance with the authorisation regimes existing before transposition of Directive 2008/57/EC.



GIVEN under my Official Seal,
4 August 2011.

LEO VARADKAR,
Minister for Transport, Tourism and Sport.

EXPLANATORY NOTE

(This note is not part of the Instrument and does not purport to be a legal interpretation.)

The purpose of these Regulations is to give effect to:

- a) 2008/57/EC of the European Parliament and of the Council of 17 June 2008 and to the amendments of its annexes under Commission Directives 2009/131/EC of 16 October 2009 and 2011/18/EU of 1 March 2011;
- b) Article 1(8)(6) of Directive 2008/110/EC of the European Parliament and of the Council of 16 December 2008 amending Directive 2004/49/EC of the European Parliament and of the Council of 29 April 2004; and,
- c) Article 6(1) of Directive 91/440/EC of the European Parliament and of the Council of 29 July 1991.

The Regulations also amend,

- a) the European Communities (Railway Infrastructure) Regulations 2010 (S.I. No. 55 of 2010).

The Regulations revoke the following Regulations:

- a) the European Communities (Interoperability of the Trans-European High Speed Rail System) Regulations 2002 (S.I. No. 118 of 2002);
- b) the European Communities (Interoperability of the Trans-European conventional rail system) Regulations 2004 (S.I. No. 61 of 2004);
- c) the European Communities (Interoperability of the Trans-European Conventional and High-Speed Rail Systems) Regulations 2006 (S.I. No. 212 of 2006);
- d) the European Communities (Interoperability of the Trans-European Conventional and High-Speed Rail Systems) Regulations 2007 (S.I. No. 772 of 2007); and,
- e) Regulation 11 of the European Communities (Railway Safety) Regulations 2008 (S.I. No. 61 of 2008).

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Le ceannach díreach ón
OIFIG DHÍOLTA FOILSEACHÁN RIALTAIS,
TEACH SUN ALLIANCE, SRÁID THEACH LAIGHEAN, BAILE ÁTHA CLIATH 2,
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