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Regulations on the Allocation of Railway Infrastructure Capacity and the Levying of Charges for the Use of the National Railway Network (Allocation Regulations)

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(This translation is for information purposes only)

Laid down by the Ministry of Transport and Communications on 5 February 2003 in pursuance of Act No. 100 of 11 June 1993 on the Establishment and Operation of Railways, including Tramways, Underground Railways and Suburban Railways etc., (Railways Act), sections 6, 8, 15 and 16, cf. Royal Decree No. 1076 of 22 November 1996 and Royal Decree No. 275 of 4 April 1997. Cf. EEA Agreement Annex XIII point 37 (Directive 91/440/EEC as amended by Directive 2001/12/EC and Directive 2004/51/EC) and point 41b (Directive 2001/14/EC as amended by Decision 2002/844/EC and Directive 2004/49/EC). Amended by Regulations No. 343 of 17 March 2003, No. 70 of 24 January 2006.

Chapter 1 Introductory provisions

Section 1-1 Scope

These regulations apply to infrastructure managers on the national railway network and any party with access to infrastructure that is part of the national railway network.

Section 1-2 Definitions

For the purpose of these regulations:

- a) "allocation" means the allocation of railway infrastructure capacity by an infrastructure manager,
- b) "infrastructure manager" means any body or undertaking that is responsible in particular for establishing and maintaining railway infrastructure. This may also include the management of infrastructure control and safety systems,
- c) "infrastructure capacity" means the potential to schedule train paths requested for an element of infrastructure for a certain period,
- d) "railway undertaking" means any public or private undertaking holding a licence, the principal business of which is to provide service for the transport of goods and/or passengers by rail with a requirement that undertaking must ensure traction; this also includes undertakings which provide traction only,
- e) "railway infrastructure" means all the items listed in Annex I.A to Commission Regulation (EEC) No. 2598/70 of 18 December 1970 specifying the items to be included under the various headings in the forms of accounts shown in Annex I to Regulation (EEC) No. 1108/70 (as amended), with the exception of the final indent which, for the purpose of these regulations only, shall read as follows: "Buildings used for infrastructure purposes",
- f) "railway network" means the entire railway infrastructure owned and/or managed by an infrastructure manager,
- g) "capacity enhancement plan" means a measure or series of measures with a calendar for their implementation which are proposed to alleviate the capacity constraints leading to the declaration of a section of infrastructure as "congested infrastructure",
- h) "network statement" means the statement which sets out in detail the general rules, deadlines, procedures and criteria concerning the charging and capacity allocation schemes. It shall also contain such other information as is required to enable applications for infrastructure capacity,

i) "congested infrastructure" means a section of infrastructure for which demand for infrastructure capacity cannot be fully satisfied during certain periods even after coordination of the different requests for capacity,

j) "framework agreement" means a legally binding general agreement on the basis of public or private law, setting out the rights and obligations of an applicant and the infrastructure manager or the allocation body in relation to the infrastructure capacity to be allocated and the charges to be levied over a period longer than one working timetable period,

k) "train path" means the infrastructure capacity needed to run a train between two places over a given time-period,

l) "working timetable" means the data defining all scheduled train and rolling-stock movements on the relevant infrastructure during the period for which it is in force,

m) "coordination" means the process through which the infrastructure manager and applicants attempt to resolve situations in which there are conflicting applications for infrastructure capacity,

n) "applicant" means a licensed railway undertaking and/or a licensed international grouping of railway undertakings.

Chapter 2 Network statement

Section 2-1 Requirement as to network statement

The infrastructure manager shall, after consultation with the interested parties, develop a network statement which shall be published no less than four months in advance of the deadline for applications for infrastructure capacity. The network statement shall be kept up to date and modified as necessary and shall be obtainable against payment of a duty which may not exceed the cost of publishing that statement.

Whoever operates side track, port track, terminal track and the like that is connected to the national railway network and that is made available to a party who has access to the national railway network shall be obliged to provide the infrastructure manager on the national railway network with such information as is necessary to enable that infrastructure manager to publish information about access to the infrastructure concerned and information about associated services.

Section 2-2 Content of the network statement

The network statement shall contain:

1. Information on the nature of the infrastructure which is available to parties intending to provide rail transport services on the railway network in question and on the conditions of access to the infrastructure. The network statement shall also contain information on infrastructure which is connected to the railway network in question and which is available to any party who has access to infrastructure that is part of the national railway network.
2. Information on charging principles and tariffs. The network statement shall contain appropriate details of the charging scheme as well as sufficient information on charges that apply to services mentioned in Annex I which are provided by only one supplier. It shall detail the methodology, rules and, where applicable, scales used for fixing charges. The network statement shall contain information on changes in charges already decided upon or foreseen.
3. Information on the principles and criteria for capacity allocation. The network statement shall set out the general capacity characteristics of the infrastructure which is available to parties intending to provide rail transport services on the railway network in question, and any restrictions on its use, including likely capacity requirements for maintenance. The network statement shall also specify the procedures and deadlines which relate to the capacity allocation process. It shall contain specific criteria which are employed during that process, in particular:
 - a) the procedures according to which applicants may apply for capacity from the infrastructure manager, including the content of applications;

- b) the requirements governing applicants;
- c) the schedule for the application and allocation process;
- d) the principles governing the coordination process;
- e) the procedures which shall be followed and criteria used where infrastructure is congested;
- f) details of restrictions on the use of infrastructure, including infrastructure reserved for specific purposes;
- g) any conditions whereby account is taken of previous levels of utilisation of capacity in determining priorities for the allocation process.

It shall detail the measures taken to ensure the adequate treatment of freight services, international services and requests subject to the ad hoc procedure.

Chapter 3 Services to be supplied by the infrastructure manager

Section 3-1 Access services

The infrastructure manager shall on a non-discriminatory basis offer the minimum services package mentioned in Annex I.1 and access via the railway network to service facilities listed in Annex I.2.

Section 3-2 Prioritised services

The infrastructure manager shall supply services in accordance with Annex I.2 to the extent it has the facilities mentioned at its disposal. The services shall be supplied on a non-discriminatory basis and applications may only be refused provided viable alternatives are available on market terms.

Section 3-3 Additional services

Where the infrastructure manager supplies any services described as additional services in Annex I.3, it shall supply them to all who request them.