



STATUTORY INSTRUMENTS.

S.I. No. 271 of 2023



EUROPEAN UNION (RAIL PASSENGERS' RIGHTS AND
OBLIGATIONS) REGULATIONS 2023

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CONTENTS

Regulation

1. Citation
2. Interpretation
3. Revocation
4. National enforcement body
5. Improvement plan
6. Compliance notice
7. Authorised officers
8. Application to High Court for non-compliance with Regulation 7(4)
9. Service of directions, notices, etc.
10. Prosecution of summary offences
11. Offences by bodies corporate
12. Cost of prosecutions

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I, EAMON RYAN, Minister for Transport, 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 full effect to Regulation (EU) 2021/782 of the European Parliament and of the Council of 29 April 2021¹, hereby make the following regulations:

Citation

1. These Regulations may be cited as the European Union (Rail Passengers' Rights and Obligations) Regulations 2023.

Interpretation

2. (1) In these Regulations —

“Authority” means National Transport Authority;

“provider” means railway undertaking, carrier, substitute carrier, infrastructure manager, station manager, tour operator or ticket vendor (within the meaning of the Regulation 2021/782), as the case may be;

“Regulation 2021/782” means Regulation (EU) 2021/782 of the European Parliament and of the Council of 29 April 2021¹.

(2) A word or expression which is used in these Regulations and is also used in the Regulation 2021/782 has, unless the context otherwise requires, the same meaning in these Regulations as it has in that Regulation.

Revocation

3. The European Communities (Rail Passengers' Rights and Obligations) Regulations 2010 (S.I. No. 646 of 2010) are revoked.

National enforcement body

4. The Authority is designated as the body responsible for the enforcement of Regulation 2021/782.

Improvement plan

5. (1) Where the Authority, either on its own initiative pursuant to Article 32 of Regulation 2021/782 or following a complaint to it by a rail passenger in accordance with Article 33 of Regulation 2021/782, being of the opinion that an activity being or likely to be carried on by or under the control or on behalf of a

¹ OJ No. L172, 17.05.2021, p.1

provider and the activity involves, or is likely to involve a contravention of Regulation 2021/782, the Authority may give a direction in writing to a provider requiring the submission to the Authority, within a time specified in the direction of a plan (“improvement plan”) specifying the remedial action proposed to be taken to rectify the matters set down in the direction.

(2) Where an improvement plan is submitted in accordance with paragraph (1) or re-submitted under subparagraph (b), the Authority shall, within 30 days, write to the provider —

- (a) stating that it is satisfied with the remedial action taken or proposed to be taken, or
- (b) if the Authority is not satisfied that the plan is adequate, directing that the plan be revised and re-submitted to the Authority within a time specified in the direction.

(3) The Authority may withdraw a direction under this Regulation at any time before a date specified in it or may extend and further extend such date.

Compliance notice

6. (1) The Authority, either on its own initiative pursuant to Article 32 of Regulation 2021/782 or following a complaint to it by a rail passenger in accordance with Article 33 of Regulation 2021/782, may serve on a provider a notice (“compliance notice”) where it is of the opinion that a provider—

- (a) is contravening or has contravened or is failing to comply or has failed to comply with a provision of Regulation 2021/782 specifying the contravention or failure concerned and requiring the provider to take such measures as are specified in the notice, or
- (b) following a direction under Regulation 5, has failed to submit or implement an appropriate improvement plan, requiring the provider to submit or implement the plan,

within such period as may be specified in the notice, for the purposes of complying with the notice, which shall not be earlier than the expiration of the period within which an appeal can be brought under paragraph (4).

(2) A compliance notice may include directions as to the measures to be taken to remedy the alleged contraventions set out in the notice.

(3) Where the Authority proposes to serve a compliance notice, the Authority shall first notify the provider in writing of the Authority’s intention to serve the compliance notice and the provider in question may, within 21 days, make representations to the Authority who shall consider them.

(4) Where the Authority decides, having considered any representations made to it under paragraph (3), to serve a compliance notice and so serves it, and where the provider in question is aggrieved by the compliance notice, then that provider may, within the period of 14 days beginning on the day on which the notice is served on it, appeal to the High Court against the notice and in determining the appeal the judge may if he or she is satisfied that in the

circumstances of the case it is reasonable to do so, confirm, with or without modification, or cancel, the notice. The decision of the court is final other than on a point of law which lies to the Court of Appeal.

(5) A provider who appeals against a compliance notice shall at the same time notify the Authority of the appeal and the grounds for appeal and the Authority shall be entitled to appear, be heard and adduce evidence on the hearing of the appeal.

(6) Where an appeal against a compliance notice is taken, the notice shall take effect on the day next following the day on which the notice is confirmed on appeal or the appeal is withdrawn or on the day specified in the notice as that on which it is to come into effect, whichever is the later.

(7) Where no appeal is taken against a compliance notice, the notice shall take effect 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 is to come into effect, whichever is the later.

(8) The Authority may withdraw a compliance notice at any time before the date specified in it. The Authority may extend or further extend that date at any time when an appeal against the notice is not pending.

(9) A provider on whom a compliance notice is served under this Regulation who fails to comply with the notice commits an offence and is liable—

- (a) on summary conviction, to a class A fine, or
- (b) on conviction on indictment, to a fine not exceeding €250,000.

Authorised officers

7. (1) The Authority may appoint such and so many persons as it sees fit to be authorised officers for the purpose of obtaining documents, records or other such information or of carrying out such inspections or any other functions as the Authority may deem necessary for the exercise by the Authority of its functions under Regulation 2021/782. An authorised officer appointed under section 78 of the Dublin Transport Authority Act 2008 (No. 15 of 2008) is deemed appointed under this paragraph.

(2) A person appointed to be an authorised officer by the Authority shall be furnished by the Authority with a certificate of his or her appointment.

(3) An authorised officer, when exercising a power conferred under these Regulations shall, if requested by any person thereby affected, produce his or her certificate of appointment or a copy of it to that person for inspection together with an appropriate form of identification.

(4) Subject to this Regulation, an authorised officer may, in respect of the functions of the Authority, serve on a provider a notice in writing, requiring the provider, within such period as may be specified in the notice, not being less than 21 days from the date of the service of the notice, to do either or both of the following, namely—

- (a) to deliver to, or to make available for inspection by, the authorised officer such documents, records or other information as are in the

possession, power or procurement of the provider and as contain, or may (in the authorised officer's opinion formed on reasonable grounds) contain, information relevant to the functions of the Authority under Regulation 2021/782, and

- (b) to give to the authorised officer, in writing, such information, explanations and particulars as the authorised officer may reasonably require, being information, explanations and particulars that are relevant to the functions of the Authority under Regulation 2021/782 and which are specified in the notice.

(5) Where, in compliance with the requirements of a notice served on a provider under paragraph (4), a provider makes available for inspection by an authorised officer, documents, records or other information, the provider shall afford the authorised officer reasonable assistance, including information, explanations and particulars, in relation to the use of all the electronic or other automatic means, if any, by which the documents, records or other information, in so far as they are in a non-legible form, are capable of being reproduced in a legible form, and any data equipment or any associated apparatus or material.

(6) Where, under paragraph (4), a provider makes documents, records or other information available for inspection by the authorised officer, the authorised officer may make extracts from or copies of all or any part of the documents, records or other information.

(7) Nothing in this Regulation shall be taken to compel the production by any person of a document, which he or she would be exempt from production in proceedings in a court on the ground of legal privilege.

(8) A person who—

- (a) obstructs or impedes an authorised officer in carrying out his or her functions under this Regulation, or
- (b) gives false or misleading information, explanations or particulars to an authorised officer when required under paragraph (4),

commits an offence and is liable on summary conviction to a class A fine.

(9) A person who holds an appointment as an authorised officer under the Regulations revoked under Regulation 3 immediately before the commencement of these Regulations is deemed appointed as an authorised officer under this Regulation for the term of his or her appointment.

(10) In this Regulation and Regulation 8 “documents, records or other information” includes—

- (a) books, accounts, rolls, registers, papers and other documents, whether—
 - (i) comprised in bound volume, loose-leaf binders or other loose-leaf filing system, loose-leaf ledger sheets, pages, folios or cards, or
 - (ii) kept on microfilm, magnetic tape or in any non-legible form (by the use of electronics or otherwise) which is capable of being reproduced in a legible form,

- (b) every electronic or other automatic means, if any, by which any such thing in non-legible form is so capable of being reproduced, and
- (c) documents in manuscript, documents which are typed, printed, stencilled or created by any other mechanical or partly mechanical process in use from time to time and documents which are produced by any photographic or photo static process.

Application to High Court for non-compliance with Regulation 7(4)

8. (1) Where a provider fails to comply with the requirements of a notice in accordance with Regulation 7(4), the Authority may make an application to a judge of the High Court for an order requiring a provider to do either or both of the following, namely—

- (a) to deliver to an authorised officer, or to make available for inspection by the authorised officer, such documents, records or other information as are in the power, possession or procurement of a provider and as contain, or may (in the authorised officer's opinion formed on reasonable grounds) contain, information relevant to the functions of the Authority under Regulation 2021/782, and
- (b) to give to the authorised officer such information, explanations and particulars as the authorised officer may reasonably require, being information, explanations and particulars that are relevant to the functions of the Authority under Regulation 2021/782 and which are specified in the application.

(2) Where the judge, to whom an application is made under this Regulation, is satisfied that there are reasonable grounds for the application being made, that judge may, subject to such conditions as he or she may consider proper and specify in the order, make an order requiring the provider to whom the application relates—

- (a) to deliver to an authorised officer, or to make available for inspection by the authorised officer, such documents, records or other information, and
- (b) to give to the authorised officer such information, explanations and particulars,

as may be specified in the order.

Service of directions, notices, etc.

9. (1) Where a direction or notice is required to be given to or served on a provider under these Regulations, it shall be in writing and shall be addressed to the provider and shall be given to the provider in one of the following ways:

- (a) by delivering it to the provider;

- (b) by leaving a copy at the address at which the provider ordinarily resides or, in a case in which an address for service has been furnished, at that address;
- (c) by sending a copy by post in a pre-paid registered letter or by any other form of recorded delivery service to the address at which the provider ordinarily resides or carries on business, in the case of a body corporate or unincorporated body at the registered office of the body or, where an address for service has been furnished, at that address;
- (d) in the case in which an e-mail address has been furnished, to that e-mail address.

(2) For the purposes of this Regulation, a company formed and registered under the Companies Act 2014 (No. 38 of 2014) is considered to be ordinarily resident at its registered office and every other body corporate and every unincorporated body of persons is considered to be ordinarily resident at its named place of business.

(3) A copy of a direction or notice, which has endorsed on it a certificate purporting to be signed by an officer of the Authority (authorised in that behalf by the Authority) stating that the copy is a true copy of the direction or notice may, without proof of the signature, be produced in every court and in all legal proceedings and is evidence, unless the contrary is shown, of the direction or notice.

Prosecution of summary offences

10. Proceedings for an offence under these Regulations may be brought and prosecuted summarily by the Authority.

Offences by bodies corporate

11. (1) Where an offence under these Regulations is committed by a body corporate and is proved to have been committed with the consent or connivance of or to be attributable to any wilful neglect on the part of a 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 had committed the first-mentioned offence.

(2) Where the affairs of a body corporate are managed by its members, paragraph (1) applies in relation to the acts and defaults of a member in connection with his or her functions of management as if he or she were a director or manager of a body corporate.

Cost of prosecutions

12. Where a person is convicted of an offence under these Regulations, the court shall, unless it is satisfied that there are special and substantial reasons for not so doing, order that person to pay to the Authority the costs and expenses,

measured by the court, incurred by the Authority in relation to the investigation, detection and prosecution of the offence, including costs and expenses incurred in the carrying out of tests, examinations and analyses and in respect of the remuneration and other expenses of employees or persons engaged by the Authority.



GIVEN under my Official Seal,
31 May, 2023.

EAMON RYAN,
Minister for Transport.

EXPLANATORY NOTE

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

These Regulations give full effect to the recast Regulation (EU) 2021/782 of the European Parliament and of the Council of 29 April 2021 on rail passengers' rights and obligations (OJ No. L172, 17.05.2021, page 1).

These Regulations designate the National Transport Authority as the national enforcement body and set out provisions for enforcement of compliance and the prosecution of offences.

Regulation (EU) 2021/782 is directly applicable in Member States- it applies from 7 June 2023 except in the case of Article 6(4) which shall apply from 7 June 2025.

The EU Regulation contains the details of the rights and obligations applicable to rail passengers and the providers of rail passenger services, the particulars of the process and timeframes for the making and handling of complaints, the requirements that apply to the operation of rail passenger services and to the roles of railway infrastructure manager, station manager, railway undertaking, carrier, substitute carrier, ticket vendor and tour operator.

Regulation (EU) 2021/782 applies to domestic and international rail passenger services but it does not apply to rail passenger services that are provided by a light railway e.g. a tram railway or a metro.

Regulation (EU) 2021/782 repeals Regulation (EC) No. 1371/2007 from 7 June 2023 and it provides continuity for any exemptions granted under Article 2(4) of that Regulation and, as a result, the European Union (Rail Passengers' Rights and Obligations)(Domestic Services)(Renewal of Exemption) Regulations 2019 continue in force in respect of Articles 12, 21 and 23 of Regulation (EC) No. 1371/2007.

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