

[^{F1}SCHEDULE 10

System of certification of entities in charge of maintenance in respect of Great Britain

Textual Amendments

- F1** Schs. 8-11 inserted (31.12.2020) by [The Rail Safety \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/837\)](#), reg. 1, **Sch. para. 1** (as amended in Sch. 11 paras. 14, 16, 17 by S.I. 2019/1310, reg. 1(2)(c), **Sch. 1 paras. 2, 3, 4**); 2020 c. 1, Sch. 5 para. 1(1)

PART 1

Principles

Purpose

1. This Schedule sets out a system of certification of entities in charge of maintenance for freight wagons for the purpose of providing evidence that such an entity has established its maintenance system and can meet the requirements for ensuring the safe state of running of any freight wagon for which it is in charge of maintenance.

Scope

2.—(1) The system of certification applies to any entity in charge of maintenance for freight wagons to be used on the railway network within Great Britain.

(2) Maintenance workshops or any organisation taking on a subset of the functions specified in paragraph 4 may apply the system of certification on a voluntary basis, based on the principles specified in paragraph 8 and Part 2.

(3) References to an infrastructure manager in paragraphs 5 and 7 are to be understood as relating to its operations with freight wagons for transporting materials for construction or for infrastructure maintenance activities. When it operates freight wagons for this purpose, an infrastructure manager is to be deemed to do so in the capacity of a railway undertaking.

Interpretation

3. In this Schedule—

“accreditation” has the meaning in Regulation [\(EC\) No 765/2008](#) of the European Parliament and of the Council of 9th July 2008 setting out the requirements for accreditation and market surveillance relating to the marketing of products and repealing Regulation [\(EEC\) No 339/93](#);

“causes” means actions, omissions, events or conditions, or a combination thereof, which led to the accident or incident;

“common safety methods” (“CSMs”) means the methods developed to describe how safety levels and achievement of safety targets and compliance with other safety requirements are assessed;

“designated standard” has the meaning provided in Article 3A of Commission Implementing Regulation (EU) No 402/2013 on the common safety method for risk evaluation and assessment and repealing Regulation [\(EC\) No 352/2009](#), as it has effect in Great Britain;

“incident” means any occurrence, other than an accident, associated with the operation of trains and affecting the safety of operation;

“infrastructure manager” means any body or undertaking that is responsible in particular for establishing and maintaining railway infrastructure, or a part thereof, as defined in Article 3 of Directive 91/440/EEC, which may also include the management of infrastructure control and safety systems. The functions of the infrastructure manager on a network or part of a network may be allocated to different bodies or undertakings;

“investigation” means a process conducted for the purpose of accident and incident prevention which includes the gathering and analysis of information, the drawing of conclusions, including the determination of causes and, when appropriate, the making of safety recommendations;

“maintenance workshop” means a mobile or fixed entity composed of staff, including those with management responsibility, tools and facilities organised to deliver maintenance of vehicles, parts, components or sub-assemblies of vehicles;

“national safety authority” means one or both of the safety authority in Great Britain and the safety authority for the tunnel system;

“railway system” means the totality of the subsystems in Great Britain for structural and operational areas, as defined in paragraph 2(1) to 2(7) of Annex II to Directive 2008/57/EC, as well as the management and operation of the system as a whole;

“railway undertaking” means a public or private undertaking, licensed according to applicable legislation, the activity of which is to provide transport of goods and/or passengers by rail on the basis that the undertaking must ensure traction; this also includes undertakings which provide traction only;

“release to service” means the assurance given to the fleet maintenance manager by the entity delivering the maintenance that maintenance has been delivered according to the maintenance orders;

“return to operation” means the assurance, based on a release to service, given to the user, such as a railway undertaking or a keeper, by the entity in charge of maintenance that all appropriate maintenance works have been completed and the wagon, previously removed from operation, is in a condition to be used safely, possibly subject to temporary restrictions of use.

Maintenance system

4.—(1) The maintenance system is to be composed of the following functions—

- (a) the management function, which supervises and coordinates the maintenance functions referred to in paragraphs (b) to (d) and ensures the safe state of the freight wagon in the railway system;
- (b) the maintenance development function, which is responsible for the management of the maintenance documentation, including the configuration management, based on design and operational data as well as on performance and return on experience;
- (c) the fleet maintenance management function, which manages the freight wagon's removal for maintenance and its return to operation after maintenance;
- (d) the maintenance delivery function, which delivers the required technical maintenance of a freight wagon or parts of it, including the release to service documentation.

(2) The entity in charge of maintenance must ensure that the functions referred to in sub paragraph (1) comply with the requirements and assessment criteria set out in Part 4.

(3) The entity in charge of maintenance must carry out the management function itself, but may outsource the maintenance functions referred to in paragraphs (b) to (d) of sub paragraph (1), or parts of them, to other contracting parties subject to the provisions of paragraph 8. Where it resorts to outsourcing, the entity in charge of maintenance must ensure that the principles set out in Part 2 are applied.

(4) Regardless of the outsourcing arrangements in place, the entity in charge of maintenance is responsible for the outcome of the maintenance activities it manages and must establish a system to monitor performance of those activities.

Relationships between parties in the maintenance process

5.—(1) Each railway undertaking or infrastructure manager must ensure that the freight wagons it operates, before their departure, have a certified entity in charge of maintenance and that the use of the wagon corresponds to the scope of the certificate.

(2) All parties involved in the maintenance process must exchange relevant information about maintenance in accordance with the criteria listed in paragraphs 27 and 28.

(3) Following contractual arrangements, a railway undertaking may request information for operational purposes on the maintenance of a freight wagon. The entity in charge of the maintenance of the freight wagon must respond to such requests either directly or through other contracting parties.

(4) Following contractual arrangements, an entity in charge of maintenance may request information on the operation of a freight wagon. The railway undertaking or the infrastructure manager must respond to such requests either directly or through other contracting parties.

(5) All contracting parties must exchange information on safety-related malfunctions, accidents, incidents, near-misses and other dangerous occurrences as well as on any possible restriction on the use of freight wagons.

(6) The certificates of entities in charge of maintenance are to be accepted as proof of the ability of a railway undertaking or infrastructure manager to meet the requirements governing maintenance and the control of contractors and suppliers specified in Part 3, points in B.1, B.2, B.3 and C.1 of Commission Regulation (EU) No 1158/2010 of 9th December 2010 on a common safety method for assessing conformity with the requirements for obtaining railway safety certificates as it has effect in Great Britain, and in Commission Regulation (EU) No 1169/2010 of 10th December 2010 on a common safety method for assessing conformity with the requirements for obtaining a railway safety authorisation as it has effect in Great Britain, unless the national safety authority can demonstrate the existence of a substantial safety risk.

(7) If a contracting party, in particular a railway undertaking, has a justifiable reason to believe that a particular entity in charge of maintenance does not comply with the requirements of regulation 18A, or with paragraph 55B of the Schedule to the Channel Tunnel (Safety) (Amendment) Order 2013, or with the certification requirements of this Schedule, it must promptly inform the certification body thereof. The certification body must take appropriate action to check if the claim of non-compliance is justified and must inform the parties involved, including the competent national safety authority if relevant, of the results of its investigation.

(8) When there is a change of entity in charge of maintenance, the registration holder must inform in due time the registration entity, as defined in the Interoperability Regulations, so that the latter may update the National Vehicle Register.

(9) The former entity in charge of maintenance must deliver the maintenance documentation to either the registration holder or the new entity in charge of maintenance.

(10) The former entity in charge of maintenance is relieved of its responsibilities when it is removed from the National Vehicle Register. If on the date of de-registration of the former entity in charge of maintenance any new entity has not acknowledged its acceptance of entity in charge of maintenance status, the registration of the vehicle is suspended.

Certification bodies

6.—(1) UK-issued ECM certificates may be awarded by any competent certification body, chosen by the applicant entity in charge of maintenance.

(2) Certification bodies must comply with the general criteria and principles set out in Part 3 and with any [^{F2}relevant] sectoral accreditation schemes.

(3) Decisions taken by the certification bodies are subject to judicial review.

(4) In order to harmonise approaches to the assessment of applications, certification bodies within the United Kingdom must cooperate with each other.

Textual Amendments

F2 Word in Sch. 10 para. 6(2) substituted (30.6.2023) by [The Railways and Other Guided Transport Systems \(Safety\) \(Amendment\) Regulations 2023 \(S.I. 2023/540\)](#), regs. 1, **3(4)**

System of certification for entities in charge of maintenance

7.—(1) Certification must be based on an assessment of the ability of the entity in charge of maintenance to meet the relevant requirements in Part 4 and to apply them consistently. It must include a system of surveillance to ensure continuing compliance with the applicable requirements after award of the UK-issued ECM certificate.

(2) The entities in charge of maintenance must apply for certification using the form in Part 2 of Schedule 9 and providing documentary evidence of the procedures specified in Part 4. They must promptly submit all supplementary information requested by the certification body. In assessing applications, certification bodies must apply the requirements and assessment criteria set out in Part 4.

(3) The certification body must take a decision no later than 4 months after all the information required and any supplementary information requested has been submitted to it by the entity in charge of maintenance applying for the certificate. The certification body must undertake the necessary assessment at the site or sites of the entity in charge of maintenance prior to the award of the certificate. The decision on the award of the certificate must be communicated to the entity in charge of maintenance using the relevant form in Part 4 of Schedule 9.

(4) A UK-issued ECM certificate is valid for a period up to 5 years. The holder of the certificate must without delay inform the certification body of all significant changes in the circumstances applying at the time the original certificate was awarded to allow the certification body to decide whether to amend, renew or revoke it.

(5) The certification body must set out in detail the reasons on which each of its decisions is based. The certification body must notify its decision and the reasons to the entity in charge of maintenance, together with an indication of the process, time limit for appeal and the contact details of the appeal body.

(6) The certification body must conduct surveillance at least once a year at selected sites, geographically and functionally representative of all the activities of those entities in charge of maintenance it has certified, to verify that the entities still satisfy the criteria set out in Part 4.

(7) If the certification body finds that an entity in charge of maintenance no longer satisfies the requirements on the basis of which it issued the UK-issued ECM certificate, it must agree an improvement plan with the entity in charge of maintenance, or limit the scope of application of the certificate, or suspend the certificate, depending on the degree of non-compliance. In the event of continuous non-compliance with the certification requirements or any improvement plan, the certification body must limit the scope of or revoke the UK-issued ECM certificate, giving reasons

for its decision, together with an indication of the process and time limit for appeal and the contact details of the appeal body.

(8) When a railway undertaking or an infrastructure manager applies for a safety certificate or safety authorisation, the following provisions apply concerning the freight wagons it uses—

- (a) where the freight wagons are maintained by the applicant, either the applicant must include as part of its application a valid UK-issued ECM certificate, if available, or its capacity as entity in charge of maintenance must be assessed as part of its application for a safety certificate or safety authorisation;
- (b) where the freight wagons are maintained by parties other than the applicant, the applicant must ensure, through its safety management system, the control of all risks related to its activity, including the use of such wagons, whereby, in particular, the provisions of paragraph 5 apply.

(9) Certification bodies and national safety authorities must conduct an active exchange of views in all circumstances in order to avoid any duplication of assessment.

System of certification for outsourced maintenance functions

8.—(1) Where the entity in charge of maintenance decides to outsource one or more of the functions referred to in paragraph 4(1)(b), (c) and (d), or parts of them, voluntary certification of the contractor under the certification system of this Schedule creates a presumption of conformity of the entity in charge of maintenance with the relevant requirements set out in Part 4, as far as these requirements are covered by the voluntary certification of the contractor. In the absence of such certification, the entity in charge of maintenance must demonstrate to the certification body how it complies with all the requirements set out in Part 4 with regard to the functions it decides to outsource.

(2) The contractors referred to in sub-paragraph (1) must apply for certification using the relevant form in Part 3 of Schedule 9. Certification in respect of outsourced maintenance functions, or parts of them, must be issued by the certification bodies, following the same procedures in paragraphs 6 and 7, adapted to the specific case of the applicant. In assessing applications for certificates in respect of outsourced maintenance functions, or parts of them, certification bodies must follow the principles set out in Part 2.

Role of the supervision regime

9. If a national safety authority has a justified reason to believe that a particular entity in charge of maintenance does not comply with the requirements of regulation 18A or with paragraph 55B of the Schedule to the Channel Tunnel (Safety) (Amendment) Order 2013 or with the certification requirements of this Schedule, it must immediately take the necessary decision and inform the Secretary of State, the certification body and other interested parties of its decision.]

Changes to legislation:

There are currently no known outstanding effects for the The Railways and Other Guided Transport Systems (Safety) Regulations 2006, PART 1.