
STATUTORY INSTRUMENTS

2019 No. 837

The Rail Safety (Amendment etc.) (EU Exit) Regulations 2019

PART 2

Amendments to subordinate legislation

Amendments to the Railways and Other Guided Transport Systems (Safety) Regulations 2006

3.—(1) The Railways and Other Guided Transport Systems (Safety) Regulations 2006⁽¹⁾ are amended as follows.

(2) In regulation 2 (interpretation and application)—

(a) before the definition of “building operation”, insert—

““accident” means an unwanted or unintended sudden event or a specific chain of such events which have harmful consequences; accidents are divided into the following categories: collisions, derailments, level-crossing accidents, accidents to persons caused by rolling stock in motion, fires and others;”;

(b) in the definition of “certification body”, for “has the same meaning as in the ECM Regulation”, substitute “means a body responsible for the certification of entities in charge of maintenance, on the basis of the criteria in Part 3 of Schedule 10”;

(c) for the definition of “common safety methods”, substitute—

““common safety methods” (“CSMs”) means—

(a) [Commission Regulation \(EU\) No 1158/2010](#) on a common safety method for assessing conformity with the requirements for obtaining railway safety certificates;

(b) [Commission Regulation \(EU\) No 1169/2010](#) on a common safety method for assessing conformity with the requirements for obtaining a railway safety authorisation;

(c) [Commission Regulation \(EU\) No 1077/2012](#) on a common safety method for supervision by national safety authorities after issuing a safety certificate or safety authorisation;

(d) [Commission Regulation \(EU\) No 1078/2012](#) on a common safety method for monitoring to be applied by railway undertakings, infrastructure managers after receiving a safety certificate or safety authorisation and by entities in charge of maintenance; and

(e) [Commission Implementing Regulation \(EU\) No 402/2012](#) on a common safety method for risk evaluation and assessment,

as they have effect in Great Britain;”;

(1) [S.I. 2006/599](#); relevant amending instruments are [S.I. 2007/950](#), [2011/1043](#), [2011/1860](#), [2011/3066](#), [2013/950](#), [2015/1682](#) and [2015/1917](#).

- (d) for the definition of “common safety targets”, substitute—
 ““common safety targets” (“CSTs”) means the minimum safety levels that must be reached by the mainline railway system, or parts of the mainline railway system, expressed in risk categories as defined in paragraph 2 of Schedule 11;”;
- (e) for the definition of “ECM certificate”, substitute—
 ““EU ECM certificate” means a certificate issued to an entity in charge of maintenance in accordance with the EU ECM Regulation;”;
- (f) omit the definition of “ECM Regulation”;
- (g) after the definition of “entity in charge of maintenance”, insert—
 ““EU ECM Regulation” means [Commission Regulation \(EU\) No 445/2011](#)(2) on a system of certification of entities in charge of maintenance for freight wagons and amending Regulation (EC) No 653/2007 as it has effect or had effect in EU law, as the context dictates;”;
- (h) for the definition of “safety authority”, substitute—
 ““safety authority”, save for in the expression “safety authority for the tunnel system”, means—
 (a) as regards Great Britain, the Office of Rail and Road(3); or
 (b) as regards Northern Ireland, the Department for Infrastructure established by article 3(1) of the Departments (Northern Ireland) Order 1999(4) and renamed by section 1(6) of the Departments Act (Northern Ireland) 2016(5);”;
- (i) after the definition of “safety authority” insert—
 ““safety authority for the tunnel system” means the Intergovernmental Commission as defined in section 49(1) of the Channel Tunnel Act 1987(6);”;
- (j) in the definition of “subsystem”, for “Directive”, substitute “Regulations”;
- (k) after the definition of “trolley vehicle system” insert—
 ““tunnel system” has the same meaning as in section 1(7) of the Channel Tunnel Act 1987;
 “UK-issued ECM certificate” means a certificate issued in the United Kingdom to an entity in charge of maintenance by an accredited or recognised body or by a safety authority in accordance with Schedule 10;”;
- (l) in paragraph (3), for “within the meaning of section 1(7) of the Channel Tunnel Act 1987”, substitute “, save for regulations 18A(1) and (4), and 18B”.
- (3) After regulation 9 (further safety certificate), insert—

“Format for safety certificates and applications

9A. Schedule 8 has effect.”.

- (4) In regulation 15 (revocation of safety certificate)—

(2) OJ No. L 122 11.05.2011, p. 22-46.
 (3) The Office of Rail and Road was established by section 15 of the Railways and Transport Safety Act 2003 (c. 20) as the Office of Rail Regulation and subsequently renamed by the Office of Rail Regulation (Change of Name) Regulations (S.I. 2015/1682).
 (4) S.I. 1999/283 (N.I. 1).
 (5) 2016 c. 5 (N.I.). The Department for Infrastructure was originally established as the Department for Regional Development by article 3(1) of the Departments (Northern Ireland) Order 1999) S.I. 1999/283) and subsequently renamed by subsection 1(6) of the Departments Act (Northern Ireland) 2016 (c. 5).
 (6) 1987 c. 53.

- (a) in paragraph (5)(b), omit “in another member State or”;
- (b) after paragraph (5), insert—
 - “(6) Where—
 - (a) the Office of Rail and Road revokes Part B of a safety certificate; and
 - (b) Part A of that safety certificate is deemed to be Part A of a safety certificate pursuant to regulation 7(2) and was issued by an authority carrying out railway safety functions in a member State,the Office of Rail and Road must notify that authority or the European Railway Agency.
 - (7) For the purposes of paragraph (6), “authority carrying out railway safety functions” means an authority established in a member State in accordance with article 16.1 of the Directive.”.
- (5) Omit regulation 18 (notification to the European Railway Agency regarding safety certificates and safety authorisations relating to the mainline railway).
- (6) In regulation 18A (maintenance of vehicles on the mainline railway)—
 - (a) for paragraph (1)(b), substitute—
 - “(b) where the vehicle is a freight wagon, holds either an EU ECM certificate valid on the terms of its original issue or a UK-issued ECM certificate.”;
 - (b) after paragraph (3), insert—
 - “(4) Schedule 9 (applications for UK-issued ECM certificates by entities in charge of maintenance) and Schedule 10 (system of certification of entities in charge of maintenance in respect of Great Britain) have effect.”.
- (7) After regulation 18A, insert—

“**Common safety targets**

18B. The Office of Rail and Road must assess the achievement of common safety targets in accordance with Schedule 11 (common safety targets), which has effect.”.
- (8) In regulation 20 (annual safety reports)—
 - (a) in paragraph (1)(c), omit “listed in Annex I (common safety indicators) to the Directive,”;
 - (b) omit paragraphs (3), (4) and (5);
 - (c) at the end, insert—
 - “(6) For the purposes of paragraph (1)(c), the common safety indicators are those laid down in paragraphs 1.1 to 6.2 of, and the Appendix to, Annex I to the Directive, save that the Appendix is to be read with the following modifications—
 - (a) in paragraph 1.2, for “EUR 150 000” substitute “£170,000”;
 - (b) in paragraph 5.1, for “Member State” substitute “United Kingdom”; and
 - (c) in paragraphs 7.3 and 7.4, for “railway network in Member States, whose scope is set out in Article 2” substitute “mainline railway as defined in the Railways and Other Guided Transport Systems (Safety) Regulations 2006”.
- (9) In regulation 21 (sending, issuing, and keeping of documents and making them available for public inspection), in paragraphs (3) and (8), omit “in Great Britain”.
- (10) In regulation 27 (appeals)—
 - (a) in paragraph (1)(a), for “an ECM certificate”, substitute “an EU ECM certificate or a UK-issued ECM certificate”;

- (b) in paragraph (1)(d), for “ECM Regulation”, substitute “EU ECM Regulation” and for “ECM certificate; or”, substitute “EU ECM certificate;”;
- (c) after paragraph (1)(d), insert—
 - “(dd) decision of the Office of Rail and Road taken pursuant to paragraph 7(3), (4) or (7) of Schedule 10 concerning his UK-issued ECM certificate; or”;
- (d) for paragraph (1A), substitute—
 - “(1A) A person who is aggrieved by—
 - (a) a decision of a certification body accredited or recognised in Great Britain for the purposes of the EU ECM Regulation either to refuse an application for an EU ECM certificate or taken by that body pursuant to Article 7(3), (4) or (7) of the EU ECM Regulation; or
 - (b) a decision of a certification body accredited or recognised for the purposes of Schedule 10 either to refuse an application for a UK-issued ECM certificate or taken by that body pursuant to paragraphs 7(3), (4) or (7) of Schedule 10,
 may appeal to the Secretary of State.”;
- (e) after paragraph (1A), insert—
 - “(1B) For the purposes of an appeal under paragraph (1A), references to the Office of Rail and Road in this regulation are to be construed as references to the relevant certification body (except for paragraph (7), which does not apply to such appeal).”.
- (11) In Schedule 2 (application for a safety certificate), for paragraph 1(b)(i), substitute—
 - “(i) a copy of a current certificate issued to the applicant by—
 - (aa) the Office of Rail and Road;
 - (bb) a safety authority in a member State under provisions giving effect to article 10(2) (a) of the Directive;
 - (cc) the safety authority in Northern Ireland; or
 - (dd) the safety authority for the tunnel system,
 which relates to an equivalent railway operation; or”.
- (12) The Schedule has effect.

Amendments to the Railways (Access to Training Services) Regulations 2006

- 4.—(1) The Railways (Access to Training Services) Regulations 2006(7) are amended as follows.
- (2) In regulation 2 (interpretation)—
 - (a) omit the definition of “the Council Directive”;
 - (b) for ““infrastructure manager”, “railway system” and “railway undertaking” have the meanings given by article 3 of the Council Directive;” substitute—
 - ““infrastructure manager” means any body or undertaking that is responsible in particular for establishing and maintaining railway infrastructure, or a part thereof 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;

(7) [S.I. 2006/598](#), to which there are amendments not relevant to these Regulations.

“railway system” means the totality of the subsystems for structural and operational areas, as defined in paragraph 2.1 to 2.7 of Annex II to [Directive 2008/57/EC\(8\)](#), 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;”;

(c) omit paragraph 2.