
STATUTORY INSTRUMENTS

2019 No. 837

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

PART 4

Amendments to retained direct EU legislation in respect of Great Britain

CHAPTER 1

Safety certificates and authorisations

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

12.—(1) [Commission Regulation \(EU\) No 1158/2010](#) on a common safety method for assessing conformity with the requirements for obtaining railway safety certificates is amended as follows.

(2) Omit Article 1 (subject matter).

(3) In Article 2 (definitions)—

(a) for “definition” substitute “definitions”;

(b) at the end of the definition of “supervision”, insert—

“;

“Intergovernmental Commission” has the meaning provided in section 49(1) of the Channel Tunnel Act 1987;

“national safety authority” means one or both of—

(a) a safety authority; and

(b) the safety authority for the tunnel system

as defined in the Railways and Other Guided Transport Systems (Safety) Regulations 2006;

“Part A safety certificate” and “Part B safety certificate” have the meanings provided by the Railways and Other Guided Transport Systems (Safety) Regulations 2006 for “Part A of a safety certificate” and “Part B of a safety certificate” respectively.”.

(4) In Article 3 (procedures for assessing applications)—

(a) for paragraph 1, substitute—

“1. When examining applications for both Part A safety certificates and Part B safety certificates, national safety authorities shall apply the procedure set out in Annex I to this Regulation for assessing their conformity with requirements for safety certificates issued in accordance with regulations 7, 8 and 9 of the Railways and Other Guided Transport Systems (Safety) Regulations 2006. National safety authorities shall use the assessment criteria set out in Annex II to this Regulation for Part A safety certificates and those contained in Annex III to this Regulation for Part B safety certificates. These criteria shall also be used in case of renewal of safety certificates in accordance with regulation 9 of the

Railways and Other Guided Transport Systems (Safety) Regulations 2006 or where the national safety authority is the Intergovernmental Commission.”;

- (b) in paragraph 3—
 - (i) for “Union legislation”, substitute “legislation in Great Britain”;
 - (ii) after the final sentence, insert “Products or services provided by contractors or suppliers to railway undertakings shall be presumed to conform to safety requirements if the contractors, suppliers or products are certified in accordance with relevant certification schemes established under European Union legislation for the provision of such products and services, unless there are reasonable grounds for believing that they do not so conform.”.
- (5) In Article 4 (supervision), after “Part A”, insert “safety certificates”.
- (6) Omit the words following Article 5 (entry into force), up to but not including “Annex I”.
- (7) In Annex I (procedure for assessing conformity with requirements for obtaining safety certificates to be issued in accordance with Article 10(2)(a) and (b) of [Directive 2004/49/EC](#))—
 - (a) in the heading, for “Article 10(2)(a) and (b) of [Directive 2004/49/EC](#)”, substitute “regulations 7, 8 and 9 of the Railways and Other Guided Transport Systems (Safety) Regulations 2006 or by the Intergovernmental Commission”;
 - (b) in paragraph 2, for “complies with [Commission Regulation \(EC\) No 653/2007](#)”, substitute “is in the format specified in Part 4 of Schedule 8 to the Railways and Other Guided Transport Systems (Safety) Regulations 2006”;
 - (c) in paragraph 6—
 - (i) after “Part A” in the first place it occurs, insert “safety certificates”;
 - (ii) after “Part A”, in the second place it occurs, insert “safety”;
 - (iii) omit “as provided for in Regulation ([EC](#)) No 653/2007”;
 - (d) in paragraph 7, for “Article 10(2)(b) of [Directive 2004/49/EC](#)”, substitute “regulation 7(4)(b)(ii) of the Railways and Other Guided Transport Systems (Safety) Regulations 2006 and to applications to the Intergovernmental Commission for Part B safety certificates”;
 - (e) in paragraph 8—
 - (i) omit “as referred to in Article 10(2)(b) of [Directive 2004/49/EC](#)”;
 - (ii) after “Part A”, insert “safety”;
 - (f) for paragraph 10, substitute—

“**10.** National safety authorities shall cooperate to address issues of non-compliance with the Part B safety certificate assessment criteria or to deal with queries on the application for a Part B safety certificate. A national safety authority assessing an application for a Part B safety certificate shall liaise with the national safety authority that issued the Part A safety certificate to discuss and agree what action, if any, each one will take to ensure compliance with the Part B safety certificate assessment criteria.”.
- (8) In Annex II (criteria for assessing conformity with the requirements for obtaining safety certificates to be issued in accordance with Article 10(2)(b) of [Directive 2004/49/EC](#))—
 - (a) for the heading, substitute “Criteria for assessing conformity with the requirements for obtaining Part A safety certificates”;
 - (b) in point A.4, for “in accordance with Article 4(3) of [Directive 2004/49/EC](#)”, substitute “for the safe operation of the railway”;
 - (c) in point E.3, for “Article 9 and Annex III of [Directive 2004/49/EC](#)”, substitute “regulations 5 and 6 of the Railways and Other Guided Transport Systems (Safety)

- Regulations 2006 or paragraph 22 of the Schedule to the Channel Tunnel (Safety) (Amendment) Order 2013⁽¹⁾;
- (d) in point K.3, for “member state level”, substitute “a national level”;
 - (e) in point M.2, for “[Commission Regulation \(EC\) No 352/2009](#)”, substitute “Commission Implementing Regulation (EU) No 402/2013 as it has effect in Great Britain”;
 - (f) in point Q.2, for “national investigating body” substitute “Rail Accident Investigation Branch⁽²⁾”.
- (9) In Annex III (criteria for assessing conformity with the requirements for obtaining safety certificates to be issued in accordance with Article 10(2)(b) of [Directive 2004/49/EC](#))—
- (a) for the heading, substitute “Criteria for assessing conformity with the requirements for obtaining Part B safety certificates”;
 - (b) in the paragraph headed “GENERAL”—
 - (i) after “Part B”, insert “safety”;
 - (ii) for “Article 10(2)(a) of [Directive 2004/49/EC](#)”, substitute “Regulation 7(4)(b)(ii) of the Railways and Other Guided Transport Systems (Safety) Regulations 2006 or paragraphs 39 to 55 of the Schedule to the Channel Tunnel (Safety) (Amendment) Order 2013”.
- (10) In Annex IV (principles for supervision after the award of a Part A or Part B certificate)—
- (a) in the heading, for “Part A or Part B”, substitute “Part A safety certificate or Part B safety certificate”;
 - (b) in paragraph 1, omit “as referred to in Article 4(1) and 16(2)(e) of [Directive 2004/49/EC](#)”;
 - (c) in paragraph 7, for “National safety authorities shall be accountable for their decisions in accordance with Article 17(3) of [Directive 2004/49/EC](#)”, substitute “The decisions of national safety authorities shall be subject to judicial review.”.

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

13.—(1) [Commission Regulation \(EU\) No 1169/2010](#) on a common safety method for assessing conformity with the requirements for obtaining a railway safety authorisation is amended as follows.

- (2) Omit Article 1 (subject matter).
- (3) In Article 2 (definition)—
 - (a) in the heading and in the first paragraph, for “definition” substitute “definitions”;
 - (b) after the definition of “supervision”, insert—
 - “national safety authority” means one or both of—
 - (a) a safety authority; and
 - (b) the safety authority for the tunnel system,
as defined in the Railways and Other Guided Transport Systems (Safety) Regulations 2006.”.
- (4) In Article 3 (procedures for assessing applications)—
 - (a) in paragraph 1, omit “for assessing their conformity with requirements in [Directive 2004/49/EC](#)”;
 - (b) in paragraph 3—

(1) [S.I. 2013/407](#).

(2) The Rail Accident Investigation Branch was established by section 3 of the Railways and Transport Safety Act [2003 \(c. 20\)](#).

- (i) for “Union” substitute “domestic”;
 - (ii) after the final sentence, insert “Products or services provided by contractors or suppliers to railway undertakings shall be presumed to conform to safety requirements if the contractors, suppliers or products are certified in accordance with relevant certification schemes established under European Union legislation for the provision of such products and services, unless there are reasonable grounds for believing that they do not so conform.”.
- (5) Omit the words following Article 5 (entry into force), up to but not including “Annex I”.
- (6) In Annex I (procedure for assessing conformity with requirements for obtaining safety authorisations), in the heading, for “Article 11(1)(a) and (b) of [Directive 2004/49/EC](#)”, substitute “regulations 10, 11 and 12 of the Railways and Other Guided Transport Systems (Safety) Regulations 2006 or paragraphs 27 to 38 of the Schedule to the Channel Tunnel (Safety) (Amendment) Order 2013”.
- (7) In Annex II (criteria for assessing conformity with the requirements for obtaining safety authorisations)—
- (a) in the heading, for “Article 11(1)(a) and (b) of [Directive 2004/49/EC](#)”, substitute “regulations 10, 11 and 12 of the Railways and Other Guided Transport Systems (Safety) Regulations 2006 or paragraphs 27 to 38 of the Schedule to the Channel Tunnel (Safety) (Amendment) Order 2013”;
 - (b) in point A.4, for “in accordance with Article 4(3) of [Directive 2004/49/EC](#)”, substitute “for the safe operation of the railway”;
 - (c) in point E.3, for “Article 9 and Annex III of [Directive 2004/49/EC](#)”, substitute “regulations 5 and 6 of the Railways and Other Guided Transport Systems (Safety) Regulations 2006 or paragraph 22 of the Schedule to the Channel Tunnel (Safety) (Amendment) Order 2013”;
 - (d) in point K.3 for “member state level”, substitute “a national level”;
 - (e) in point M.2, for “[Commission Regulation \(EC\) No 352/2009](#)”, substitute “Commission Implementing Regulation (EU) No 402/2013 as it has effect in Great Britain”;
 - (f) in point Q.1, for “national bodies”, substitute “the Rail Accident Investigation Branch”.
- (8) In Annex III (principles for supervision after the award of an authorisation)—
- (a) in paragraph 1, omit “as referred to in Article 4(1) and 16(2)(e) of [Directive 2004/49/EC](#)”;
 - (b) in paragraph 7, for “National safety authorities shall be accountable for their decisions in accordance with Article 17(3) of [Directive 2004/49/EC](#)”, substitute “The decisions of national safety authorities shall be subject to judicial review.”.