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EXITING THE EUROPEAN UNION

TRANSPORT

**The Railways (Miscellaneous Amendments, Revocations and
Transitional Provisions) (EU Exit) Regulations 2020**

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The Secretary of State makes the following Regulations in exercise of the powers conferred by section 8(1) of, and paragraph 21 of Schedule 7 to, the European Union (Withdrawal) Act 2018(a).

The requirements of paragraph 3(2) of Schedule 7 to that Act (relating to the appropriate Parliamentary procedure for these Regulations) have been satisfied.

PART 1
Introduction

Citation, commencement and extent

1.—(1) These Regulations may be cited as the Railways (Miscellaneous Amendments, Revocations and Transitional Provisions) (EU Exit) Regulations 2020.

(2) These Regulations come into force as follows—

(a) Part 1 comes into force on the 22nd day after the day on which these Regulations are laid;

(b) in Part 2—

(i) regulations 2 to 7, 8(4) and 9 come into force immediately before IP completion day(b);

(ii) regulation 8(1) to (3) comes into force immediately before regulations 6 and 7 of the Railways (Safety, Access, Management and Interoperability) (Miscellaneous Amendments and Transitional Provision) (EU Exit) Regulations 2019(c) come into force(d);

(c) Part 3 comes into force on IP completion day.

(3) Part 1 and regulations 4 and 9 extend to England and Wales and Scotland and Northern Ireland.

(4) Regulations 2, 3, and 5 to 8 and Part 3 extend to England and Wales and Scotland.

PART 2
Amendments to secondary legislation

Amendment of the Railways and Other Guided Transport Systems (Safety) Regulations 2006

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

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- (a) 2018 c. 16. Section 8 was amended by section 27 of the European Union (Withdrawal Agreement) Act 2020 (c. 1) (“the 2020 Act”) and paragraph 21 of Schedule 7 was amended by Schedule 5, Part 2, paragraph 53 of the 2020 Act.
- (b) “IP completion day” is defined in section 1A of the European Union (Withdrawal) Act 2018 (c. 16). Section 1A was inserted by the 2020 Act.
- (c) S.I. 2019/1310.
- (d) Regulations 6 and 7 of S.I. 2019/1310 come into force immediately before IP completion day.
- (e) S.I. 2006/599, amended by S.I. 2019/837 and S.I. 2019/1310. There are other amending instruments but none are relevant.

- (2) In regulation 2—
- (a) omit the definition of “conventional Directive”;
 - (b) for the definition of “European Railway Agency” substitute—
 - ““European Union Agency for Railways” means the Agency established by Regulation (EU) 2016/796(a) of the European Parliament and of the Council on the European Union Agency for Railways and repealing Regulation (EC) No 881/2004;”;
 - (c) omit the definition of “high-speed Directive”;
 - (d) after the definition of “railway” insert—
 - ““Recast Safety Directive” means Directive (EU) 2016/798 of the European Parliament and the Council on railway safety (recast)(b);”.
- (3) In regulation 18A(3)(c) for “TSIs” substitute “NTSNs”.

Amendment of the Cross-border Railway Services (Working Time) (Amendment) (EU Exit) Order 2018

3. In the Cross-border Railway Services (Working Time) (Amendment) (EU Exit) Order 2018(c) omit article 1(3).

Amendment of the Railways (Interoperability) (Amendment) (EU Exit) Regulations 2019

4.—(1) The Railways (Interoperability) (Amendment) (EU Exit) Regulations 2019(d) are amended as follows.

- (2) In regulation 2(2)—
- (a) in sub-paragraph (a), in the definition of “authorised representative”, in each place it occurs, for “exit day” substitute “IP completion day”;
 - (b) in sub-paragraph (s), for “exit day” substitute “IP completion day”.
- (3) In regulation 2(6)—
- (a) in paragraph 6, in the new regulation 3B for “exit day” substitute “IP completion day”;
 - (b) in paragraph 3, in the new regulation 3C for “exit day” substitute “IP completion day”.
- (4) In regulation 2(13)—
- (a) in sub-paragraph (b), in the new paragraph (6) for “exit day” substitute “IP completion day”;
 - (b) in sub-paragraph (c)—
 - (i) in the new paragraph (9)(a) and (b) for “exit day” substitute “IP completion day”;
 - (ii) in the new paragraph (10) for “exit day” substitute “IP completion day”.
- (5) In regulation 2(27), in the new regulation 23—
- (a) in paragraph (2)—
 - (i) in sub-paragraph (a), for “drawn up before or after exit day” substitute “drawn up before, on or before or after IP completion day”;
 - (ii) in sub-paragraph (b)(i), for “exit day” substitute “IP completion day”;
 - (b) in paragraph (3), for “exit day” substitute “IP completion day”;
 - (c) in paragraph (4), for “after exit day” substitute “on or after IP completion day”.
- (6) In regulation 2(29)(f), in the new paragraph (5) for “exit day” substitute “IP completion day”.

(a) O.J. No. L138, 26.5.2016, p. 1.
 (b) O.J. No. L138, 26.5.2016, p. 102.
 (c) S.I. 2018/874.
 (d) S.I. 2019/345, amended by S.I. 2020/318.

(7) In regulation 2(36), in the new regulation 30, in each place it occurs, for “exit day” substitute “IP completion day”.

(8) In regulation 2(48)(b)(ii), for “exit day” substitute “IP completion day”.

(9) In regulation 2(50), in the new regulation 47A, in each place it occurs, for “exit day” substitute “IP completion day”.

(10) In Schedule 4, in paragraph 2 of the new Schedule 5, in each place it occurs, for “exit day” substitute “IP completion day”.

(11) In Schedule 6, in paragraph 2(c) of the new Schedule 7—

(a) for “after exit day” substitute “on or after IP completion day”;

(b) for “before exit day” substitute “before IP completion day”.

(12) In Schedule 8, in paragraph 1(b), in the definition of “relevant specifications”, in each place it occurs, for “exit day” substitute “IP completion day”.

Amendment of the Connecting Europe Facility (Revocation) (EU Exit) Regulations 2019

5. In regulation 3(3) of the Connecting Europe Facility (Revocation) (EU Exit) Regulations 2019(a) for “the end of 2020 (whether before or after exit day)” substitute “IP completion day”.

Amendment of the Train Driving Licences and Certificates (Amendment) (EU Exit) Regulations 2019

6.—(1) The Train Driving Licences and Certificates (Amendment) (EU Exit) Regulations 2019(b) are amended as follows.

(2) In regulation 2(2)—

(a) in sub-paragraph (c), in the new definition of “the Directive” for “exit day” substitute “IP completion day”;

(b) in sub-paragraph (d), in the new definition of “European train driving licence” for “exit day” substitute “the end of the transitional period”.

Amendment of the Rail Safety (Amendment etc.) (EU Exit) Regulations 2019

7.—(1) The Rail Safety (Amendment etc.) (EU Exit) Regulations 2019(c) are amended as follows.

(2) In regulation 3(2)—

(a) in sub-paragraph (a), before the new definition of “accident” insert—

““2011 EU ECM Regulation” means Commission Regulation (EU) No 445/2011(d) on a system of certification of entities in charge of maintenance for freight wagons and amending Regulation (EC) No 653/2007 as it had effect or as it has effect in EU law, as the context dictates;

“2019 EU ECM Regulation”, save in the expression “retained 2019 EU ECM Regulation”, means Commission Implementing Regulation (EU) 2019/779(e) laying down detailed provisions on a system of certification of entities in charge of maintenance of vehicles pursuant to Directive (EU) 2016/798 of the European Parliament and of the Council and repealing Commission Regulation (EU) No 445/2011 as it had effect or as it has effect in EU law, as the context dictates;”;

(b) after sub-paragraph (d), insert—

(a) S.I. 2019/477.

(b) S.I. 2019/677, amended by S.I. 2020/318.

(c) S.I. 2019/837, amended by S.I. 2019/1310.

(d) O.J. No. L 122, 11.5.2011, p. 22.

(e) O.J. No. L 139I, 27.5.2019, p. 360.

- “(dd) after the definition of “competent person”, insert—
- ““cross-border service” means a service for the carriage of passengers or goods by way of the tunnel system;
- “cross-border 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 the retained 2019 EU ECM Regulation;”;
- (c) in sub-paragraph (e), in the new definition of “EU ECM Certificate” for “EU ECM Regulation” substitute “2011 EU ECM Regulation or the 2019 EU ECM Regulation as may be applicable”;
- (d) for sub-paragraph (g), substitute—
- “(g) after the definition of “responsible person”, insert—
- ““retained 2019 EU ECM Regulation” means Commission Implementing Regulation (EU) 2019/779 laying down detailed provisions on a system of certification of entities in charge of maintenance of vehicles pursuant to Directive (EU) 2016/798 of the European Parliament and of the Council and repealing Commission Regulation (EU) No 445/2011, as it has effect in the UK after IP completion day;”;
- (e) in sub-paragraph (k), for the new definition of “UK-issued ECM certificate”, substitute—
- ““UK-issued ECM certificate”, save in the expression “cross-border 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;”;
- (f) for sub-paragraph (l), substitute—
- “(l) for paragraph 3 substitute—
- “(3) Parts 2 and 3 of these Regulations shall not apply to or in relation to the operation of a train or the management or use of infrastructure in the tunnel system, save for—
- (a) regulation 18(A1) for vehicles used to operate a cross-border service;
- (b) regulation 18B for the tunnel system.”;
- (3) In regulation 3(4)(b)—
- (a) in the new paragraph (6)—
- (i) in sub-paragraph (b) after “railway safety functions in a member State” insert “or the European Union Agency for Railways”;
- (ii) for “European Railway Agency” substitute “European Union Agency for Railways”;
- (b) in the new paragraph (7) after “in accordance with Article 16.1 of the Directive” insert “or Article 16.1 of the Recast Safety Directive”.
- (4) In regulation 3(6) after paragraph (a), insert—
- “(aa) after paragraph (1), insert—
- “(1A) No person may use a vehicle to operate a cross-border service unless that vehicle has an entity in charge of maintenance assigned to it, and that entity in charge of maintenance—
- (a) is registered in relation to that vehicle in the National Vehicle Register; and
- (b) holds either an EU ECM certificate valid on the terms of its original issue or a cross-border UK-issued ECM certificate, where it is required to do so in accordance with the retained 2019 EU ECM Regulation.”;
- (5) In regulation 3(10)—
- (a) for sub-paragraph (a) substitute—

- “(a) in paragraph (1)(a), for “an ECM certificate”, substitute “an EU ECM certificate, a cross-border UK-issued ECM certificate or a UK-issued ECM certificate”;;
- (b) for sub-paragraph (b) substitute—
- “(b) for paragraph (1)(d) substitute—
- “(d) decision of the Office of Rail and Road, concerning his EU ECM Certificate taken pursuant to either—
- (i) Article 7(3), (4) or (7) of the 2011 EU ECM Regulation; or
- (ii) Article 7(5) or (8) or 8(2) of the 2019 EU ECM Regulation;”;;
- (c) in sub-paragraph (c)—
- (i) at the end of the new sub-paragraph (dd) omit “or”;
- (ii) after the new sub-paragraph (dd) insert—
- “(de) decision of the Office of Rail and Road, concerning his cross-border UK-issued ECM certificate, taken pursuant to Article 7(5) or (8) or 8(2) of the retained 2019 EU ECM Regulation; or”;
- (d) in sub-paragraph (d), for the new paragraph (1A), substitute—
- “(1A) A person who is aggrieved by—
- (a) a decision taken either—
- (i) to refuse an application for an EU ECM certificate or taken pursuant to Article 7(4) or (7) of the 2011 ECM Regulation by a certification body accredited or recognised in Great Britain for the purposes of the 2011 EU ECM Regulation; or
- (ii) to refuse an application for an EU ECM certificate or taken pursuant to Article 7(8) or 8(2) of the 2019 EU ECM Regulation by a certification body accredited or recognised in Great Britain for the purposes of the 2019 EU ECM Regulation;
- (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 paragraph 7(3), (4) or (7) of Schedule 10; or
- (c) a decision of a certification body accredited or recognised for the retained 2019 EU ECM Regulation, either to refuse an application for a cross-border UK-issued ECM certificate or taken by that body pursuant to Article 7(3), (4) or (7) of the retained 2019 EU ECM Regulation,
- may appeal to the Secretary of State.”.
- (6) In regulation 3(11), in the new paragraph 1(b)(i), for sub-paragraph (bb) substitute—
- “(bb) the European Union Agency for Railways or a safety authority in a member State before the end of the second anniversary of exit day^(a), under provisions giving effect to Article 10(2)(a) of the Directive or Article 10 of the Recast Safety Directive;”.
- (7) Omit regulation 10.
- (8) In the Schedule, in Part 4 of the new Schedule 8—
- (a) in the Application form for a safety certificate in 8.5, 8.7 and 8.9, in each place that it occurs, for “TSIs” substitute “NTSNs”;
- (b) in the Guidelines for Compilation in 8.5, 8.7 and 8.9, in each place that it occurs, for “TSIs” substitute “NTSNs”.

(a) Exit day is defined in section 20 of the European Union (Withdrawal) Act 2018 (c.16).

Amendment of the Railways (Safety, Access, Management and Interoperability) (Miscellaneous Amendments and Transitional Provision) (EU Exit) Regulations 2019

8.—(1) The Railways (Safety, Access, Management and Interoperability) (Miscellaneous Amendments and Transitional Provision) (EU Exit) Regulations 2019 are amended as follows.

(2) Omit regulation 6(2)(b).

(3) Omit regulation 7(2)(b).

(4) In regulation 11(4), in the new paragraph 3 of Article 3 for “exit day” substitute “IP completion day”.

Amendment of the Cableway Installations (Amendment) (EU Exit) Regulations 2019

9. In regulation 3 of the Cableway Installations (Amendment) (EU Exit) Regulations 2019(a) in the new definition of “approved body”, in sub-paragraph (b) for “exit day” substitute “IP completion day”.

PART 3

Revocation of retained direct EU legislation

Revocation of retained direct EU legislation

10. Regulation (EU) No 913/2010 concerning a European Rail Network for competitive freight is revoked.

11.—(1) Commission Implementing Regulation (EU) 2019/779 laying down detailed provisions on a system of certification of entities in charge of maintenance of vehicles pursuant to Directive (EU) 2016/798 of the European Parliament and of the Council and repealing Commission Regulation (EU) No 445/2011 is revoked save in respect of vehicles used to operate a cross-border service.

(2) In this regulation—

(a) “cross-border service” means a service for the carriage of passengers or goods by way of the tunnel system;

(b) “tunnel system” has the same meaning as in section 1(7) of the Channel Tunnel Act 1987(b);

(c) “vehicle” has the same meaning as in the Railways and Other Guided Transport Systems (Safety) Regulations 2006.

Signed by authority of the Secretary of State for Transport

Rachel Maclean
Parliamentary Under Secretary of State
Department for Transport

21st July 2020

(a) S.I. 2019/1347.

(b) 1987 c. 53.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations are made in exercise of powers conferred by section 8(1) of the European Union (Withdrawal) Act 2018 (c. 16) in order to address failures of retained EU law to operate effectively and other deficiencies (in particular under section 8(2)(a), (b), (c), (d) and (g) of that Act) arising from the withdrawal of the United Kingdom from the European Union.

These Regulations make various amendments to secondary legislation in relation to the regulation of railways in the United Kingdom to take account of EU legislation which has become applicable in the United Kingdom during the transition period and to omit references to EU legislation that will no longer be applicable in the United Kingdom. Certain references to “exit day” have been substituted by references to “IP completion day” to take account of the transition period.

The amendments made to the Train Driving Licences and Certificates (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/677) and to the Rail Safety (Amendment etc.) (EU Exit) Regulations 2019 (2019/837) to ensure that EU issued train driving licences and Part A safety certificates (issued pursuant to Directive 2004/49/EC and Directive (EU) 2016/798) issued until the second anniversary of exit day (31st January 2022) are recognised in Great Britain until that date.

Amendments have also been made to substitute references to “TSI” with “NTSN”. TSIs are Technical Specifications for Interoperability that set out the technical and operational standards which must be met by vehicles or components to satisfy the essential requirements, such as safety, reliability and availability, health, environmental protection, technical compatibility and accessibility. After IP completion day these standards and performance levels will be set out in the new United Kingdom regime of National Technical Specification Notices (“NTSNs”).

Part 3 revokes retained direct EU legislation which will no longer be applicable after IP completion day.

A full impact assessment has not been produced for this instrument as no, or no significant, impact on the private, voluntary or public sector is foreseen.

An Explanatory Memorandum is published alongside this instrument on www.legislation.gov.uk

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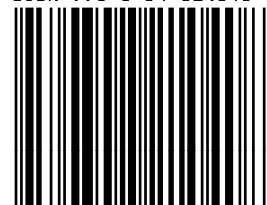
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