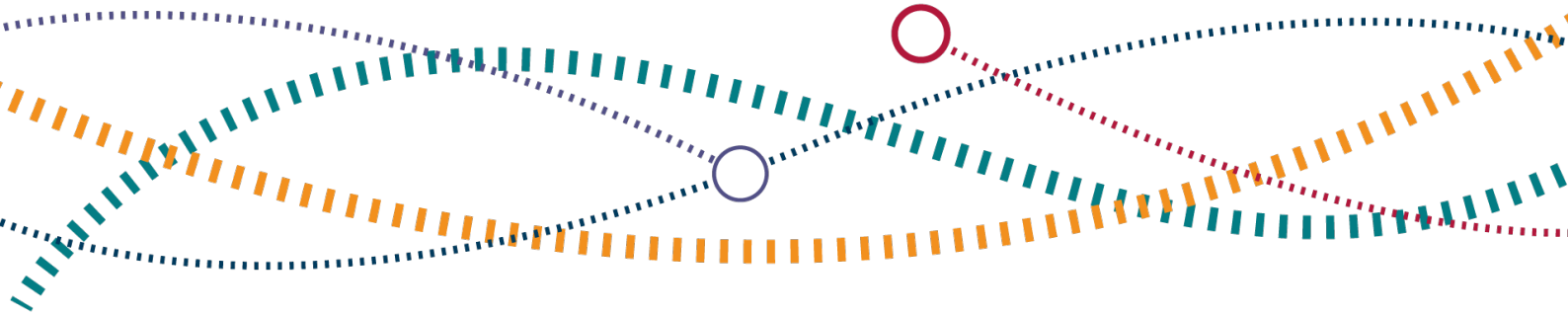
OFFICE OF RAIL AND ROAD

A Guide to ROGS

The Railways and Other Guided Transport Systems (Safety) Regulations 2006 (as amended) (ROGS)

21 July 2026



Contents

Foreword 3

Introduction 5

1. Safety management systems 16

2. Safety Verification (for non- mainline transport operators) 28

3. Safety certificates and safety authorisations 36

4. Risk assessments 56

5. Annual reports 61

6. Cooperation 67

7. Managing safety-critical work 71

8. Entities in Charge of Maintenance (ECM) 82

Glossary of terms 91

Annex 1: Table of updates to guidance 94

Foreword

Using this guide

Each chapter has the same format. They each:

- say what specific regulations apply;
- explain who the duties apply to;
- describe what the person responsible for carrying out that duty (we call them 'duty holders') must do; and
- provide some practical advice or examples for meeting the duties.

The information in plain text explains what the regulations say and what duty holders must do.

The blue shaded boxes offer guidance, examples, or practical help.

The orange shaded boxes explain where to get more information (including the regulations themselves).

The red shaded boxes show which specific part of ROGS the text alongside it is explaining.

What is the purpose of this guide?

This guide provides a summary of the Railways and Other Guided Transport Systems (Safety) Regulations 2006 (ROGS) (S.I. 2006/599).

This guidance covers significant elements of the legislation that those who have duties under ROGS need to understand. It does not seek to cover all aspects of the legislation. Individuals should ensure they consult the legislation for this. The guide will assist you to:

- understand where ROGS have come from and what their purpose is;

- understand the changes made to ROGS as a result of the UK's exit from the EU;
- take practical steps to meet your responsibilities or help make sure your employer meets their duties; and
- find more detailed practical information if you need to.

You may find it helpful to read the guide alongside a copy of the regulations, which are available on legislation.gov.uk.

Who is this guide for?

This guide is aimed at anyone who needs to understand and respond to this important safety law. We have prepared this guide with the following groups of people in mind;

- Health and safety managers in the rail industry;
- Other managers in roles which affect safety;
- Staff working on the railway; and
- Trade union representatives.

On our website we have published detailed manuals that explain the processes you need to follow to meet the requirements of ROGS. We refer to these manuals throughout the text. If, for example, you are responsible for preparing an application for a safety certificate, you should use these detailed guides to prepare your application. Other users should find that the summary set out in this document provides enough information.

You can ask us any questions about the guidance by sending an email to: rogs@orr.gov.uk.

Introduction

The Railways and Other Guided Transport Systems (Safety) Regulations 2006 (ROGS) were introduced to transpose the requirements of Directive 2004/49/EC ("the Railway Safety Directive") into effect in Great Britain. Directive 2008/57/EC ("the Interoperability Directive") which aimed to remove the technical problems involved in running trains between EU Member States was also transposed by the Railways (Interoperability) Regulations 2011 (RIR 2011) (S.I. 2011/3066) and applies UK wide.

ROGS established a common framework for safety across other methods of guided transport (such as tramways and heritage railways) and updated the law on safety critical work.

ROGS has been amended on several occasions, including 2011, 2013, 2019, 2020 and 2023. The 2011 amendments established new mechanisms for maintaining rail vehicles, including a requirement for all vehicles to be registered on a national vehicle register (implementing Directive 2008/110/EC) and made minor changes to the Common Safety Indicators used by national safety authorities in collecting data on safety incidents, and the methods used to calculate costs during accidents (implementing Commission Directive 2009/149/EC). The 2013 amendments gave effect to Commission Regulation (EU) 445/2011 covering entities in charge of the maintenance (ECMs) of freight vehicles to be certified and in relation to the process for accrediting and recognising certification bodies.

In preparation for the UK's exit from the EU, several statutory instruments were laid to correct inoperabilities in ROGS and associated EU tertiary legislation that were retained by the European Union (Withdrawal) Act 2018 to ensure they remained operable once the UK left the EU. These statutory instruments came into effect on 31 December 2020 and include:

- The Rail Safety (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/837);
- The Railways (Interoperability) (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/345);
- The Railways (Safety, Access, Management and Interoperability) (Miscellaneous Amendments and Transitional Provision) (EU Exit) Regulations 2019 (S.I. 2019/1310);
- The Railways (Miscellaneous Amendments, Revocations and Transitional Provisions) (EU Exit) Regulations 2020 (S.I. 2020/786); and

- The Railways (Interoperability) (Miscellaneous Amendments and Revocations) (EU Exit) Regulations 2020 (S.I. 2020/318).

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

The primary purpose of this legislation was to correct inoperabilities contained in ROGS and associated retained EU railway safety legislation that arose from the UK leaving the EU. This preserved the status-quo, as far as reasonably practicable.

The primary corrections made were as follows:

- Removing obligations to share information with the European Union Agency for Railways (ERA) and the European Commission, for example, on the status of safety certificates and safety authorisations;
- Removing obligations to share annual safety reports with ERA;
- Removing references to the EU and Technical Specifications for Interoperability (TSIs), which were replaced in the UK by National Technical Specification Notices (NTSNs) – published by the Secretary of State under Regulation 3B of the Railways (Interoperability) Regulations 2011, as amended by the Railways (Interoperability) (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/345). An overview of the changes to RIR 2011 are available at Railways interoperability: EU Exit regulations; and
- Removing EU symbols, databases and certificates that have become redundant.

With respect to application forms and certificates, it was necessary to substantially replicate these with inoperabilities corrected and these are now contained in new Schedules in ROGS. The table below sets out the new Schedules and the relevant EU legislation they replicate, in a corrected form:

Table 1. The new Schedules within ROGS and relevant EU legislation

Relevant EU legislation	Topic covered	New ROGS Schedule
Annex I, II, III and IV of Commission Regulation (EC) No 653/2007	Safety Certificates	8 - Format for Safety Certificates and Applications

Relevant EU legislation	Topic covered	New ROGS Schedule
Annex IV and V of Commission Regulation (EU) 445/2011	Entities in Charge of Maintenance (ECM)	9 - Applications for UK-issued ECM Certificates by entities in charge of maintenance (only valid on the mainline in Great Britain)
Commission Regulation (EU) 445/2011	Entities in Charge of Maintenance (ECM)	10 - System of Certification of Entities in Charge of Maintenance in respect of Great Britain
Commission Decision 2009/460/EC, Commission Decision 2012/226/EU and Commission Implementing Decision 2013/753/EU	Common Safety Targets (CSTs)	11 – Common Safety Targets (CSTs)

What remains the same?

The scope of the safety regime under ROGS in Great Britain remains unchanged as the EU Exit Regulations preserved the status-quo, except for removing inoperabilities. Those transport systems previously excluded from mainline requirements will continue to be excluded. In summary, there are minimal changes to the requirements that organisations must meet as part of their operations on the railway. There are no changes that impact on the day-to-day requirements of meeting the regulations.

The Common Safety Method (CSM) for monitoring (Commission Regulation (EU) No 1078/2012) and the CSM for risk evaluation and assessment (Commission Implementing Regulation (EU) No 402/2013) have been retained for use in Great Britain but need to be read in conjunction with the EU Exit Regulations listed above to correct any inoperabilities within the CSM text that arise due to the UK leaving the EU.

What did ROGS replace?

ROGS replaced several sets of railway safety regulations:

- The Railways (Safety Case) Regulations 2000
- The Railways (Safety Critical Work) Regulations 1994
- The Railways and Other Transport Systems (Approval of Works, Plant and Equipment) Regulations 1994

Who do ROGS give duties to?

A 'transport undertaking' is any person or organisation that operates a vehicle in relation to any infrastructure. People or organisations that only carry out work in 'engineering possessions' (this means sections of track that are closed to normal traffic for maintenance work) are not included in the term 'transport undertaking'. So only some of the duties in ROGS apply to them (see the table on page 15).

An 'infrastructure manager' is any person or organisation that:

- is responsible for developing and maintaining infrastructure (not including a station) or for managing and operating a station; and
- manages and uses that infrastructure or station, or allows it to be used for operating a vehicle.

A 'transport operator' is any transport undertaking or infrastructure manager. In this guide, the term is sometimes shortened to 'operator'.

An 'entity in charge of maintenance' (ECM) is any person or organisation that is responsible for the safe maintenance of a vehicle and is registered as an ECM in the national vehicle register. This can include people or organisations such as transport undertakings, infrastructure managers, a keeper or a maintenance organisation.

Responsibilities at interfaces

At interfaces on the railway network duties can apply to several different organisations with overlapping areas of responsibility. For example, there may be several different infrastructure managers and transport undertakings at a station who have similar or identical responsibilities for managing safety. Where duty holders are cooperating effectively, responsibility should be clear. More information about this duty to cooperate can be found in section 6.

What must I do to meet the requirement of ROGS?

The most important parts of ROGS are as follows:

- Safety management systems (see chapter 1)
  - ROGS give transport undertakings and infrastructure managers a duty to develop safety management systems that must meet certain requirements.

However, the safety management system should be adapted to fit the size and nature of the business - for a smaller organisation a simpler safety management system should be more appropriate.

- Safety verification (see chapter 2)
  - Non-mainline operators must show that they have procedures in place to introduce new or altered vehicles or infrastructure safely. If there is new or significantly increased risk to safety a project must go through a safety assurance process (we call this 'safety verification') involving an independent competent person. Operators are responsible for making sure that a project is safe.
- Safety certificates and authorisations (see chapter 3)
  - A safety certificate (for transport undertakings) and / or safety authorisation (for infrastructure managers) is required to operate on the mainline railway. Depending on the nature of their operations, some non-mainline transport undertakings and infrastructure managers (operating at speeds above 25mph/40km/h) may also need to apply for a safety certificate or safety authorisation. Applicants need to describe how their safety management system allows them to run their transport system safely. We will check that the safety management systems are effective and fit for the purpose they are being used for. Lower-risk sectors (tramways and transport systems that do not run at speeds above 25mph (40km/h)) do not need safety certificates, but must still have a written safety management system in place. If these operators are going to operate on the mainline railway, they will require a safety certificate to do so.
- Risk assessments (see chapter 4)
  - ROGS give transport operators a specific duty to carry out risk assessments and put in place the measures they have identified as necessary to make sure the transport system is operated / managed safely.
- Annual safety reports (see chapter 5)
  - Any transport operator who holds a safety certificate or authorisation for the mainline railway must send us an annual report on their safety performance.

- Cooperation (see chapter 6)
  - ROGS also give operators a duty to work together to make sure the transport system is run safely.
- Safety critical work (see chapter 7)
  - Operators and their contractors have clear duties under ROGS to make sure their employees who carry out safety critical tasks are suitably competent and fit to do so. This also includes making sure these employees are not affected by fatigue.
- Entities in charge of maintenance (see chapter 8)
  - Under ROGS, anyone who places in service, or uses, a vehicle on the mainline railway must make sure that the vehicle has an ECM assigned to it. The ECM must be registered in the national vehicle register before the vehicle is placed in service or used. If the vehicle is a freight wagon, the ECM must have a certificate. An ECM for vehicles other than freight wagons may obtain voluntary certification under Schedules 9 and 10 of ROGS or Commission Implementing Regulation (EU) 2019/779. More information on the requirements for ECMs in relation to train testing and on track machines are also in chapter 8.

This guide will explain these duties in more detail, set out who is responsible for carrying out specific duties, and tell you where to get further advice.

Placing in service

The term ‘placed in service’ is regularly used throughout ROGS and it refers to when a vehicle or infrastructure, having been constructed, upgraded or renewed, is first operated in the provision of a transport service. It does not include trials or testing that takes place before the service starts. Interoperability legislation uses the terms ‘placing into service’ and ‘put into use’, which have broadly the same meaning.

What transport systems are not included in ROGS?

The Health & Safety at Work etc Act 1974 and the Management of Health & Safety at Work Regulations 1999 include general duties to manage safety, assess risks, co-operate with other duty holders, make sure staff are trained and have the necessary skills,

knowledge, experience and so on. Transport systems or parts of transport systems that are not included in ROGS still have to meet these general duties.

Regulation 2

"Transport system" means a railway, a tramway, or any other system using guided transport where that other system is used wholly or mainly for the carriage of passengers. A transport system does not include:

- Anything below a gauge of 350 millimetres (unless it crosses a carriageway)
- Guided buses;
- Trolley vehicles;
- Fairground equipment;
- Cableways;
- Any part of a transport system that is:
  - within a harbour (with some exceptions - see the blue box below);
  - part of a factory, mine or quarry (with some exceptions - see below);
  - used for construction or building work only;
  - in a military establishment;
  - in a maintenance or goods depot (with some exceptions - see below); or
  - in a siding (with some exceptions - see below).

However, if any of the transport systems listed above are part of the mainline railway, they must meet the requirements of ROGS.

What is a mainline railway?

Regulation 2 and Regulation 2A

All railways are mainline railways unless:

- We determine that it falls within one or more of these categories:
  - metros and other light rail systems;
  - networks that are functionally separate from the rest of the mainline railway system and intended only for the operation of local, urban or suburban passenger services, as well as transport undertakings operating solely on these networks;
  - heritage, museum or tourist railways that operate on their own networks; or
- we determine that heritage vehicles that operate on the mainline railway and comply with national safety rules are deemed not to operate on the mainline railway; or
- it is privately owned infrastructure that exists solely for use by the infrastructure owner for its own freight operations.

Railways that have already been determined to fall within one of the categories above are contained in an Approved list which you can also find here. These railways are described as 'non-mainline railways'.

Exclusions from the mainline railway

If you intend to operate a non-mainline railway that is not already on the approved list, you need to apply to us to make a determination. The main purpose of the exercise is for us to decide whether the railway is within scope of railway safety legislation. However, we will also check that you are applying the requirements of ROGS that apply to non-mainline railways.

As part of the process, we will ask you to send us information about the railway and the vehicles running on it as well as copies of key documents such as your safety management system. We may also consult other relevant stakeholders such as train operators and infrastructure managers if we think they could be impacted by your operation.

More information about how to apply is on our website.

We may revoke or vary a determination for any reason. Before doing so we will give notice to the affected party of our intention to revoke or vary the determination and the reasons why.

Within a period specified in the notice, the affected party may make representations to us, and we will consider these before making a decision.

If you disagree with a decision we have made to add, remove, vary or revoke an entry to the approved list you can appeal in writing (ideally within 42 days of receipt of the decision) to the Secretary of State at:

Department for Transport
Great Minster House
33 Horseferry Road
London
SW1P 4DR

Before the determination of an appeal, the Secretary of State will ask the appellant whether he or she wants to appear and be heard on the appeal. The appeal may be determined without a hearing if both parties (ORR and the appellant) do not wish to appear and be heard. However, if either party wishes to appear and be heard, they will have the opportunity to do so.

Sidings and depots

ROGS do not generally cover sidings. The term ‘siding’ has a very wide meaning in the railway industry. We have been asked to give our view on which types of sidings are part of the transport system (and so covered by ROGS).

We consider that the following are part of the transport system:

- Loop, lay-by, or lay-over sidings - located next to the running line, and used to hold trains for a range of reasons (for example, to allow another train to pass).
- Turn-back or reversing sidings - used for stopping trains at the end of a journey, and located between, to the side of, or at right angles to the running line.

The safety-critical work duties in ROGS include all sidings as part of the transport system. Also, even if a depot is not itself part of a transport system, controllers of safety-critical work still have duties under ROGS to manage safety-critical tasks that are carried out there on vehicles that are being used on the transport system. This is explained in more detail, with examples, in chapter 7 of this guide.

Entities in charge of maintenance

ORR has powers to take enforcement action in relation to maintenance work by an ECM on a vehicle to be put in service on the mainline railway. This applies wherever that maintenance work is carried out, including:

- harbours;
- factories;
- mines;
- nuclear licenced sites;
- quarries;
- warehouse premises; and
- establishments to which The Control of Major Accident Hazards Regulations 2015 (S.I. 2015/483) apply.

Please also see the Health and Safety (Enforcing Authority for Railways and Other Guided Transport Systems) Regulations 2006 as these have been amended by the Miscellaneous Amendments Regulations.

In addition to the safety requirements detailed in this document, there are a number of other requirements that new operators need to take into consideration before they are able to start operating. Principal among these is the ability to obtain track access and secure train paths for the intended route(s). We strongly recommend that new operators apply for a track access agreement and operating licence in parallel with preparing for a safety certificate.

Our guidance document 'Starting Mainline Rail Operations' provides a summary of all the requirements to be met by new operators and includes a suggested timeline for applying to us.

Which part of ROGS are relevant to me?

The table below shows which parts of ROGS apply to which transport systems. The column headings refer to specific duties under ROGS and do not take into account similar duties that may exist under other safety law.

- A green box means that the duty applies to that transport system.
- A red box means the duty does not apply to that transport system.
- A yellow box means the duty can apply to that type of transport system in some circumstances. You should check the relevant chapter of this guide for more information.

Table 2. Table 2 ROGS duties by transport system type

Duty Operation	Duty of co-operation	Managing safety critical work	Risk assessment	Safety management systems	Safety certificate or authorisation	Annual safety report	Entity in charge of maintenance
Mainline railway	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Non-mainline railway and other transport systems operating above 25/mph (40km/h) (for example, light rail, metro systems)	Yes	Yes	Yes	Yes	Yes	No	No
Non-mainline railway and other transport systems operating below 25mph (40km/h) (for example, heritage railway)	Yes	Yes	Yes	Yes	For parts of operation on the mainline only	No	No
Tram-train transport systems	Yes	Yes	Yes	Yes	For parts of operation on the mainline only	No	No
Tramways	Yes	Yes	Yes	Yes	No	No	No
Work in sidings	Yes	Yes	Only if the siding is part of the transport system	No	No	No	Only if work in the depot is part of the transport system
Work in engineering possessions	Yes	Yes	No	No	No	No	No
Work in depots	Yes	Some work on vehicles	No	No	No	No	Only if work in the depot is part of the transport system

1. Safety management systems

Regulation 4(3) and Regulation 4(1)(a)

1.1 The safety management system is the basis for making sure a transport system runs safely and in line with ROGS. You must keep written records of your arrangements for managing safety risks. This includes the 'lower-risk' operations (tramways and transport systems that do not operate at speeds above 25mph (40km/h)) that do not need safety certificates or authorisations from us. These operations still need a safety management system.

In the regulations

Regulation 5: Safety management system for the mainline railway

Regulation 6: Safety management system for other transport systems (including non-mainline railway)

Schedule 1: General requirements and basic elements of safety management systems

Differences between mainline and non-mainline railways

Regulation 5(1)(c) and Regulation 5(1)(a)

1.2 You must have a safety management system that is capable of controlling all the risks arising from the transport system you are operating or managing. The main factor in deciding how detailed and complicated the safety management system needs to be is the size and nature of the transport system you are operating or managing, rather than whether or not it is part of a 'mainline' railway.

1.3 However, ROGS are different for mainline and non-mainline railways. The main differences are as follows:

(a) The safety management system of both a mainline and a non-mainline railway should include targets. For a mainline railway, these are Common Safety Targets (CSTs). These are 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. Common Safety Methods (CSMs) for risk evaluation and assessment and monitoring also apply to the mainline railway.

(b) The safety management system of a mainline railway must allow it to meet national technical specification notices, national safety rules, common safety methods and other conditions where these apply. The safety management system of a non-mainline railway must allow it to meet whatever technical specifications and procedures are relevant to the type of transport system being operated / managed.

1.4 The type of safety certificate or authorisation you need to get from us will vary (see chapter 3).

Regulation 30(2)

1.5 We are not allowed to 'exempt' transport operators on the mainline railway from any of their duties under ROGS (that is, we cannot allow any transport operator on the mainline railway to not meet their duties under ROGS). The only exception to this is an Operator of Last Resort applying for a safety certificate or safety authorisation and the requirement to consult 'affected parties' on their application, as laid out in regulation 17(3)(a)(i) and (ii). More details are available in paragraph 3.28.

What duty holders must do

Requirements of a Safety Management System

Schedule 1, Paragraph 1

1.6 The safety management system has four main purposes:

(a) Defining roles and responsibilities for making sure the transport system can be run safely (for example, that workers are provided with suitable training and suitable information);

(b) Setting arrangements for how managers control the safety management system (at all levels);

(c) Showing how workers and their representatives are involved; and

(d) Making sure the transport operator continuously improves (through setting targets, and carrying out audits and reviews).

1.7 The need to meet these aims should be the 'driving force' behind making sure that every part of the safety management system works and is put into practice.

The basic parts of a Safety Management System

Regulation 5(1)(c) and Regulation 6(1)(b)

1.8 Under ROGS, the safety management system must be appropriate for the size and nature of the transport system you are running.

Safety policy statement

Schedule 1, Paragraph 2(a)

1.9 This should be signed by the Chief Executive and shared with all employees.

A good safety policy statement can be as brief as one page. It should:

- give the Chief Executive's (or equivalent role in the organisation) commitment to health and safety;
- emphasise the importance of staff working safely;
- set out the roles each line manager and member of staff must carry out; and
- encourage employees to raise safety concerns.

Safety targets

Schedule 1, Paragraph 2(b), Regulation 5 (1)(a) and Schedule 11

1.10 You must set targets for maintaining and improving safety, and explain how you plan to achieve them. This should include your own targets or targets set by the organisations that represent you. Mainline operators must also take account of the CSTs established for the parts of the mainline railway they operate on.

Targets should help improve safety performance. Ways of making this happen include:

- setting out the targets in a safety plan which is then shared with all staff;
- working with staff, their safety representatives and managers to make sure targets are realistic and can be measured;
- giving the company's board responsibility for meeting safety targets;
- setting personal safety targets for managers; and
- regularly reporting progress.

CSTs are the minimum safety levels that must be reached by the mainline railway system, expressed in risk categories as defined in paragraph 2 of Schedule 11.

A safety management system which meets the relevant requirements of the part of the railway CSTs were set for will be taken as a guarantee that the operator contributes to achieving CSTs.

Procedures for meeting standards derived from national technical rules, national safety rules and national technical specification notices

Schedule 1, Paragraph 2(c)

1.11 These should be designed to make sure:

(a) you meet your duties under safety law;

(b) you take any action we have identified as being necessary; and

(c) the transport system meets national technical and operational safety standards and specifications (particularly National Technical Specification Notices (NTSNs), National Technical Rules (NTRs), Railway Industry Standards (RISs), and Railway Group Standards (RGSs)) for the mainline railway.

1.12 Mainline infrastructure managers must design their safety management system in a way that allows transport undertakings who use the infrastructure to meet the relevant standards and targets.

Useful ways of setting and responding to standards include:

- identifying which standards are most relevant, and helping to develop these;
- clearly defining who is responsible for monitoring and meeting specific standards;
- creating a system of checks to make sure standards are being met by employees as well as by the organisation as a whole; and
- reviewing company standards regularly to make sure they are still relevant.

Risk assessment and controlling new risk

Regulation 5(1)(d)

1.13 You should design your systems and procedures to make it easy for you to assess and control all risks. This includes planning how you will work with other relevant operators to identify and control shared risks.

Schedule 1, Paragraph 2(d)

1.14 You should also assess risks arising from activities not connected with the operation itself (for example, from vandalism).

You can find more details on risk assessments in chapter 4.

1.15 You must put in place a change-management process to identify and control new risks.

The aim of a change management process is to properly control new risks. The process should:

- identify any new or increased risk resulting from a project;
- identify appropriate measures to control these risks and make sure they do not affect your safety performance;
- make sure the level of assessment is suitable for the type of risk you have identified;
- make sure staff and managers have the skills and resources they need to meet their safety responsibilities (a training plan is useful for this);
- make sure changes are only made once you have assessed any safety risks;
- make sure staff and their representatives have been properly involved, briefed and consulted on the changes;
- make sure you have met any relevant standards;
- make sure you have kept a written record of any concerns or issues raised and any decisions you have made to deal with them;
- make sure you can monitor the effects of the change once you have put it in place; and
- clearly define who is responsible for carrying out all of the above before, during and after the change.

1.16 Some projects to introduce new or altered vehicles or infrastructure on non-mainline railways will need to go through a safety verification process if they could create significant new or different safety risks (see chapter 2). If this is the case, your safety management system must include a description of the safety verification process you are using.

1.17 Most significant projects on the mainline will need to meet the requirements of the CSM for risk evaluation and assessment (Commission Implementing Regulation (EU) 402/2013) as retained and corrected within the UK.

Training and skills

Schedule 1, Paragraph 2(e)

1.18 You must have systems in place for making sure that persons are trained and have the skills they need to carry out the tasks they are asked to do.

A system for managing staff competence is set out in chapter 7.

Managing safety-related information

Schedule 1, Paragraphs 2(f), 2(g) and 2(h)

1.19 You should have standard procedures and formats in place for recording safety-related information across your organisation. Operators must also make information available in a way that is useful to other operators.

Managing safety information is important in allowing you to manage safety risks effectively. Useful ways of checking this is happening include:

- involving staff and their representatives in developing your safety management system;
- having discussions with health-and-safety representatives;
- holding workshops with staff and managers on the main safety issues;
- making sure all staff and managers receive appropriate safety inductions and training; and
- holding regular safety meetings and briefings between infrastructure managers and transport operators.

Responding to accidents and near misses

Schedule 1, Paragraph 2(i)

1.20 You should have systems in place to make sure that:

(a) you meet your duties to report accidents to the right authority (this could be one or more of us (ORR), the Health & Safety Executive or the Rail Accident Investigation Branch);

(b) you carry out thorough investigations;

(c) you identify the causes of accidents and near misses; and

(d) you take the right action to make sure these accidents and near misses won't happen again in the future.

1.21 Incidents that could put people in danger should be investigated as thoroughly as accidents that actually do cause harm. This is a vital part of the process of controlling risk.

Lessons learnt from accidents or incidents can lead to safety improvements. Helpful steps to make this happen include:

- briefing staff on the reporting procedure and the importance of reporting;
- appointing trained managers to investigate incidents;
- giving a specific manager responsibility for taking action to deal with the accident or incident;
- setting a timescale for taking this action; and
- making senior staff responsible for monitoring how often accidents and incidents take place and the action that has been taken to deal with them.

Emergency planning

Schedule 1, Paragraph 2(j)

1.22 This must cover the information given to the emergency services to allow them to plan their responses to incidents on the railway. Also important are the parts of the safety management system that are relevant to the arrangements for responding to emergencies, such as training for emergencies and testing plans. Mainline infrastructure managers must co-ordinate their emergency procedures with relevant transport operators.

Factors you could consider when developing your arrangements for responding to emergencies may include:

- fires on trains or stations;
- accidents that damage the network;
- access for emergency services;
- how to deal with suspicious packages;
- carrying dangerous goods (for example, harmful substances or substances that damage the environment); and
- the effects of bad weather.

Internal auditing

Schedule 1, Paragraph 2(k)

1.23 You must describe the process you use to assess whether the safety management system is effective and develop evidence to use to review the system.

Effective auditing arrangements might include:

- developing the sampling and interview strategies needed to get a full picture of how well the safety management system is working at all levels across your organisation;

- assessing whether all staff are meeting the agreed standards and keeping to the safety management arrangements;
- making risk-based recommendations based on the findings of the audit;
- identifying strengths in the management system and recording good practice;
- identifying areas that can be improved; and
- reporting any faults in the system to a senior manager for them to review and take action.

Common safety methods

Regulation 5, Paragraph 1(b)

1.24 Following EU Exit, duty holders still need to apply the relevant Common Safety Methods (CSMs) that have been retained in UK law as part of maintaining their safety management system. The CSMs that duty holders need to apply are set out below. There are some minor amendments to these CSMs following the UK's exit from the EU and they should therefore be read alongside the EU exit legislation referred to in the introduction section.

CSM for risk evaluation and assessment

1.25 The CSM for risk evaluation and assessment (CSM REA) (Commission Implementing Regulation (EU) 402/2013) applies when any technical, operational or organisational change is being proposed on the railway system. A person making the change needs to firstly consider if the change has an impact on safety. If there is no impact on safety, the risk management process in the CSM REA does not need to be applied. The person making the change needs to keep a record of how they arrived at their decision.

1.26 If the change has an impact on safety, the person making the change must decide whether it is significant or not by using criteria in the CSM REA. If the change is significant, the risk management process must be used. If the change is not significant, the person making the change must keep a record of how they arrived at their decision.

1.27 The EU Exit regulations made some changes to Regulation 402/2013, including changes to the use of mutual recognition and relaxed criteria when a significant change is made. See guidance document on Common safety method for risk evaluation and assessment for more details.

More information

ORR guidance

- Developing and maintaining staff competence
- Exclusions from mainline railway requirements

Other guidance for the industry

- https://books.hse.gov.uk/
- 'Safety Management System' guidance note HGR-A0017-IS03 issued by the Heritage Railway Association (only available to members)
- A guide for the application of the CSM for monitoring (ERA guidance)
- CSM for monitoring Regulation
- CSM for risk evaluation and assessment

CSM for monitoring

1.28 The CSM for monitoring is set out in Commission Regulation (EU) 1078/2012 . It was amended by the Rail Safety (Amendment etc) (EU Exit) Regulations 2019 (S.I. 2019/837). It applies if you are a transport undertaking, an infrastructure manager, or an ECM. You will need to ensure that:

(a) the risk control measures implemented by your contractors are monitored using the process in the CSM; and

(b) your contractors apply the same process through contractual arrangements.

CSM for supervision

1.29 The CSM for supervision is set out in Commission Delegated Regulation (EU) 2018/761 and places responsibilities on the ORR. The CSM for supervision provides a common approach for supervision by safety authorities after the issue

of a single safety certificate or a safety authorisation. It has been partly retained in the UK but was amended by the Railways (Safety, Access, Management and Interoperability) (Miscellaneous Amendments and Transitional Provision) (EU Exit) Regulations 2019 (S.I. 2019/1310).

2. Safety Verification (for non-mainline transport operators)

2.1 A significant change that ROGS brought about was taking away the responsibility that the safety regulator had for approving new or altered infrastructure or vehicles under The Railways and Other Transport Systems (Approval of Works, Plant and Equipment) Regulations 1994 (S.I. 1994/157). The purpose of safety verification is to provide a flexible process to make sure projects that could significantly increase risk are safe. This is achieved by appointing an 'independent competent person' - this person can come from inside or outside the organisation.

Regulation 2

Competent person

An independent competent person:

- has the skills, knowledge, experience and resources to carry out the safety verification they are appointed for; and
- is able to look at the project objectively (that is, in an unbiased way).

In the regulations

- Regulation 6(4): Safety verification of new/altered vehicles on non-mainline
- Schedule 4: Requirements for safety verification schemes

Who is the Duty Holder?

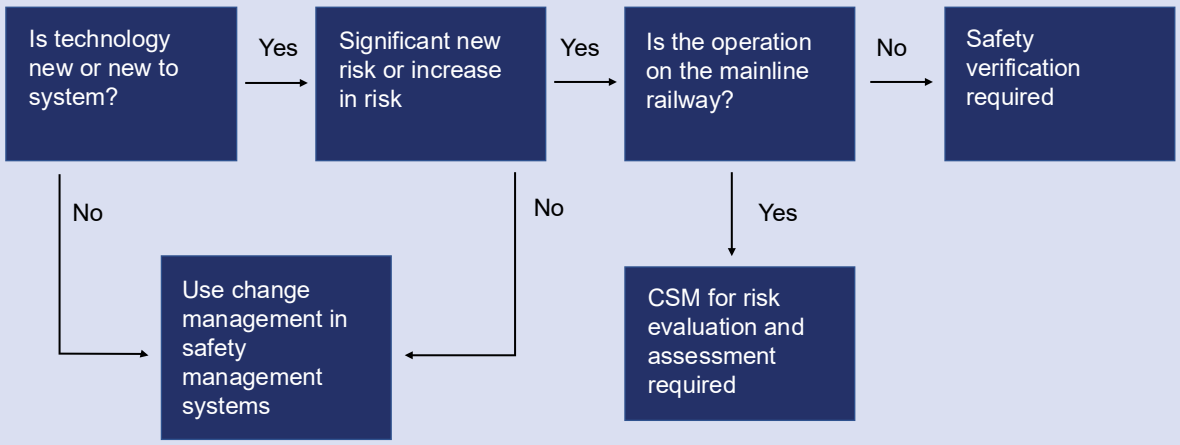
2.2 Safety verification applies to non-mainline transport operators (that is, transport undertakings and infrastructure managers). They are responsible for deciding if safety verification is needed and making sure it is carried out properly. Mainline transport operators are responsible for applying the CSM for risk evaluation and assessment when they make significant changes. If a non-mainline transport

operator also operates on the mainline, they can choose to voluntarily apply the CSM for risk evaluation and assessment as opposed to safety verification. Many projects that introduce new vehicles or infrastructure to the mainline railway must also take account of the UK verification process under the Railways (Interoperability) Regulations 2011.

What Duty Holders must do

Deciding if safety verification is needed

Does safety verification apply?



2.3 Safety verification is needed if:

(a) the operation is non-mainline;

(b) the risk arising from the project is new, or is new to the transport system (the 'difference test'); and

(c) there will be a new significant safety risk or a significant increase in risk (the 'risk test').

Regulation 6(4)

2.4 If a project passes all three of these tests, safety verification is needed, and you must:

(a) prepare a written safety verification scheme that meets the requirements set out in ROGS (see below)

(b) appoint an independent competent person to do the verification assessment; and

(c) make sure the independent competent person carries out the assessment.

2.5 The principles behind safely introducing new or altered vehicles or infrastructure are the same, whether you use safety verification or a change management process from a safety management system. Safety verification is designed to provide an independent assessment that a project has gone through all the steps needed to reduce risks. The main difference is that the safety verification process needs an independent competent person to carry out the assessment and the change management process may not.

What non-mainline duty holders must do

Appointing an independent competent person

Schedule 4, Paragraph 1(1)(a)

2.6 Under ROGS, the independent competent person must be appointed early enough in the project for them to be involved in:

(a) considering the design of the project;

(b) identifying or setting standards and conditions for the verification process; and

(c) setting out the inspection and assessment plan.

Regulation 2

2.7 There are three important things to consider when appointing an independent competent person:

(a) They must have the skills and knowledge needed to carry out the safety verification.

You should gather and keep evidence to prove this. This evidence usually includes:

- written qualifications that can be checked;
- experience in the industry or the type of work and workplace;
- direct knowledge of the specific process they are overseeing, such as making sure vehicles are acceptable or replacing signal systems;
- experience of the regulatory process, in terms of setting standards and gathering evidence appropriately;
- being aware of current best practice; and
- being aware of the limits of their skills and experience.

(b) They must not have been responsible, in a way that might cause them to be biased in their assessment, for any of the things they will have to assess.

For example:

- they should not benefit personally from the project being completed successfully and quickly; and
- they should not profit from the project being introduced, such as if they owned shares in a company which makes parts being used in the project.

(c) They must not be part of the management chain that is responsible for introducing the project.

For example:

- an ‘in house’ independent competent person should report direct to senior management and not be responsible for designing the project; and
- they must have the authority to ask for information, carry out examinations and make recommendations.

Who can be an 'independent competent person'?

2.8 Under ROGS, an independent competent person can be a person or an organisation.

A competent person does not have to be employed by another organisation (a 'third party') to be independent. It is perfectly acceptable for safety verification to be done 'in house'.

The most important thing is to show that the independent competent person is independent enough from the project to give an objective (unbiased) assessment.

Many large organisations already have panels of senior engineers, for example, to approve new projects. Smaller operators may want to consider bringing in an expert from another operator.

Features of the safety verification process

Management arrangements

Schedule 1

2.9 Part of your safety management system is a description of how you will manage the introduction of new or altered vehicles and infrastructure (see chapter 1). A summary of the safety verification arrangements would also be included in any application for a new or amended safety certificate or authorisation.

Making decisions

2.10 You should have a process in place for deciding whether or not a project should go through a safety verification process. In particular, you should take a consistent approach to 'risk' and 'difference' tests.

Appointing the independent competent person

Schedule 4, Paragraph 1(1)(a)

2.11 You must have a process in place for appointing an independent competent person (see above) at an early stage of the project.

Preparing a written safety verification scheme

2.12 The independent competent person should be involved in preparing the written scheme. This involves developing an agreed plan that will allow the independent competent person to assess and monitor:

(a) the methods the project uses;

(b) whether the project is being designed and put in place safely; and

(c) whether tests are being carried out safely, and in line with agreed standards and conditions.

Providing information for the independent competent person

Schedule 4, Paragraph 1(1)(c)

2.13 The independent competent person needs to have access to all relevant information and documents to be able to carry out a satisfactory assessment.

This would usually include:

- documents used in designing and setting out a specification for the project;
- certificates of conformity for materials used;
- any other risk assessment and safety analysis reports;
- evidence that the project meets the relevant standards, and an explanation of how risk will be managed where the project does not meet the standards; and
- evidence that you have worked with other relevant duty holders to make sure your projects work together.

The independent competent person's assessment

Schedule 4, Paragraph (4)(a)

The independent competent person should make sure that:

- the design of the project meets relevant standards;
- any safety-critical parts are suitably designed and built;
- the project has been built, installed and tested properly; and
- arrangements are in place for the project to be run and maintained.

The verification assessment would usually involve physically inspecting or reviewing documents relating to things such as designs, specifications, certificates, compliance of products with relevant safety law (CE marking), and how contractors were used in the project.

The independent competent person's recommendations

Schedule 4, Paragraph 1(4)(b)

2.14 You must have arrangements in place for making sure that the findings of the assessment – including any action the independent competent person has recommended you take – are communicated to the appropriate managers. You must also keep a record of any action you carry out as a result.

Monitoring, reviewing and revising the scheme

Schedule 4, Paragraph 1(3)

2.15 You can apply the general management arrangements and decision-making processes across a range of projects, and you should set these out in the safety management system. You should also review them regularly to make sure they are still effective. You should record the specific information, assessments, recommendations and action taken for each project that goes through the safety verification process.

More information

ORR guidance

- Safety verification

- A guide to safety verification for heritage railways
- A guide to safety verification for tramways
- The CSM for risk evaluation and assessment

Other guidance for the industry

- Guidance on Railways (Interoperability) Regulations, Department for Transport
- National Technical Specification Notices (NTSNs)
- Guidance on Railway safety legislation, Department for Transport

3. Safety certificates and safety authorisations

3.1 Under ROGS, nobody is allowed to operate vehicles or manage infrastructure unless we have awarded them the necessary safety certification (for transport undertakings) or authorisation (infrastructure managers).

In the regulations

Regulation 3: Requirements of mainline operators and infrastructure managers

Regulation 4: Requirements of non-mainline operators and infrastructure managers

Regulation 7: Application for safety certificate

Regulation 8: Amending a safety certificate (substantial change)

Regulation 9: Further safety certificate

Regulation 10: Application for safety authorisation

Regulation 11: Amending a safety authorisation (substantial change)

Regulation 12: Further safety authorisation

Regulation 13: Requirement to notify ORR of some types of changes

Regulation 14: Direction to apply for an amended certificate/authorisation by ORR

Regulation 15: Revocation of safety certificate by ORR

Regulation 16: Revocation of safety authorisation by ORR

Regulation 17: Other provisions, including involving affected parties and safety representatives

Regulation 30: Exemptions

Schedule 2: Application for a Safety Certificate

Schedule 8: Format for Safety Certificates and Applications

Does everyone need a certificate or authorisation?

Regulation 4, Paragraph (1)(a)

3.2 All mainline operators need a certificate or authorisation. Some 'lower-risk' non-mainline operators do not need one. However, these operators must still have a safety management system (see chapter 1) in place.

Regulation 4, Paragraph (3)

The specific types of transport systems that do not need a certificate or authorisation are as follows:

(a) A transport system that does not run at speeds above 25mph (40km/h).

(b) Tramways, no matter what speed they run at.

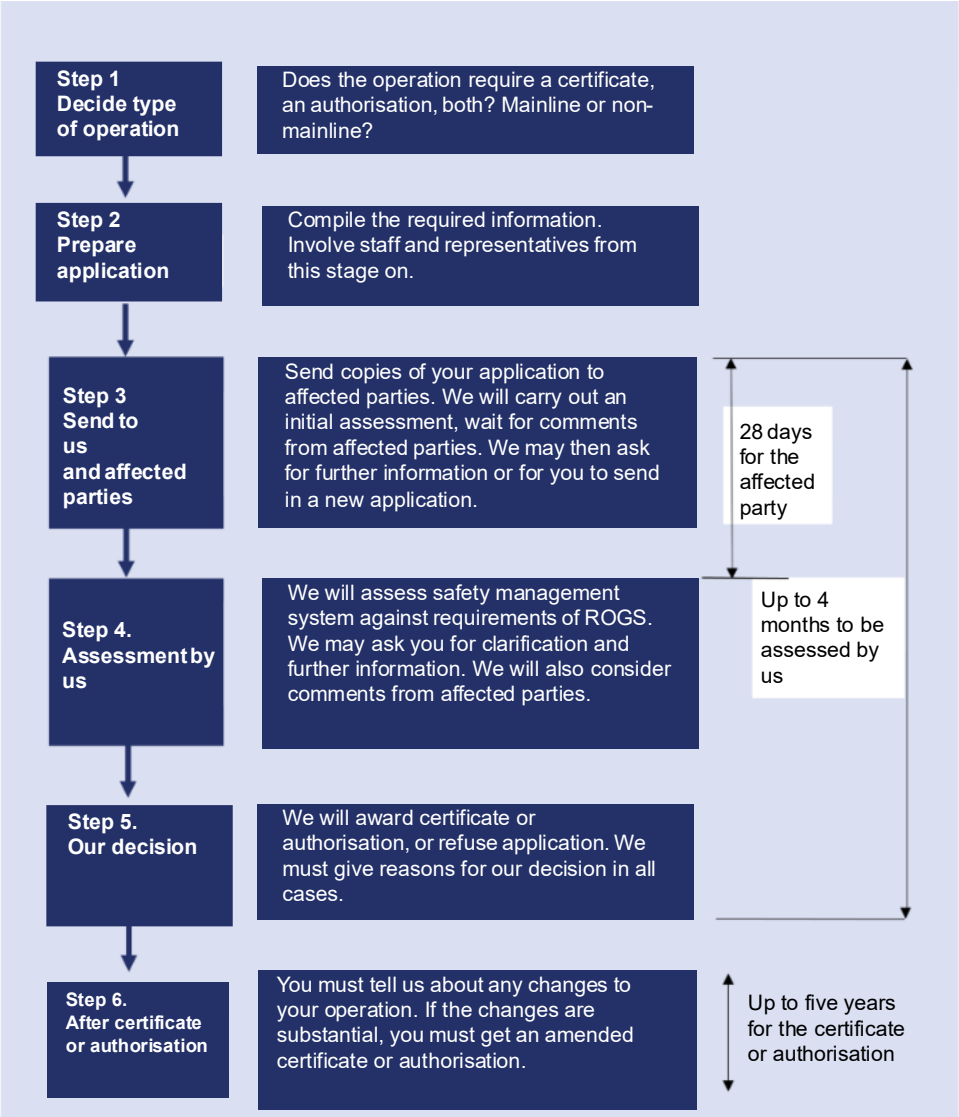
Heritage railways

The first exclusion above aims to remove the requirement for most heritage railways to hold a certificate or authorisation. However, if these run on or cross a transport system (whether it is on a mainline or non-mainline railway) that runs at speeds above 25mph (40km/h)), they will need a safety certificate.

However, the heritage railway would only need a certificate for the part of the railway that runs on or crosses the system with the running speed above 40km/h (we refer to this as the '+40km/h system').

It could make arrangements with an approved third party to run the part of the railway that crosses or runs on the +40km/h system.

The safety certification and authorisation process



Step 1: Decide type of operation

Do I need a certificate or authorisation?

Certificate

3.3 All transport undertakings (except on some 'lower-risk' systems - see paragraph 3.2) need relevant safety certification to operate on a transport system. This includes both the mainline and non-mainline railway. It does not include operating only on systems within depots, sidings or engineering possessions.

Authorisation

3.4 All organisations which develop and maintain infrastructure (the track, signalling systems, bridges, crossings and so on) or operate and manage stations need a safety authorisation. This applies to both the mainline and non-mainline railway.

Both

3.5 A train operating company that also manages its own infrastructure will need both a certificate and an authorisation from us. As 'the infrastructure' includes stations, transport undertakings that manage stations (nearly all the major train operating companies) will also need both.

Do I need a mainline or non-mainline certificate or authorisation?

3.6 Chapter 1 includes an explanation of what a mainline railway is and what it is not. There is little practical difference between the two in the certification and authorisation process. The size and nature of the transport system you are operating or managing is much more important.

Mainline certificates

Regulation 2

3.7 If you are a mainline transport undertaking, you must apply for certificates in two parts.

(a) **Part A** sets out your general safety management arrangements.

(b) **Part B** relates to one transport system. It includes details of how you make sure the specific transport system you want a certificate for is operated safely.

Recognition of safety certificates

3.8 Following EU Exit, in order to operate on the GB mainline railway infrastructure, all duty holders must hold Part A and Part B safety certificates that have been issued by the ORR. This applies to both GB and EU based duty holders.

3.9 Part A and Part B safety certificates issued by the ORR are no longer valid in the EU. Transport operators operating services in the EU must hold the necessary EU safety documentation issued by the relevant safety authority in order to operate services in the EU.

3.10 More information is available here: Rail transport: domestic and cross-border operations

Non-mainline certificate

3.11 Non-mainline certificates come in one part. The requirements are broadly similar to a mainline application. The safety management system, the size and nature of the transport system being operated or managed is the main factor in deciding how detailed and complicated the application needs to be.

Operating on both mainline and non-mainline railways

3.12 Some trains are operated on both mainline and non-mainline infrastructure. As a lot of the information needed is the same, you can apply for one certificate in one application to run on both (the application needs to be clear about which parts of it apply to the mainline railway and which parts apply to the non-mainline railway).

3.13 Mainline transport undertakings that also run on non-mainline infrastructure should apply for a mainline certificate. The mainline certificate will cover operation on both types of infrastructure.

3.14 Non-mainline transport undertakings that also operate on the mainline infrastructure should apply for a non-mainline certificate. Such non-mainline operators must also show that their safety management systems are adequate for operation on the mainline railway.

3.15 Where a holder of an existing mainline or non-mainline certificate proposes to operate a tram-train service on the mainline railway and they have not previously done so, this is likely to constitute a material change to their safety certificate, and they must show that their safety management systems are adequate for tram-train operation on the mainline railway. Tram-trains will need a non-mainline certificate when they operate on the mainline railway.

3.16 Mainline and non-mainline authorisations are specific to the relevant infrastructure. The main difference in applying for a mainline or non-mainline authorisation is the size and nature of the transport system being managed. Also, infrastructure managers who in practice only manage stations (in other words, most train operating companies) would be expected to produce less information as part of their authorisation than those who also maintain track, signals, and so on.

Step 2: Prepare application

The information we need from you

Schedule 2 and Schedule 8 Part 4

Part 4 of Schedule 8 contains an application form template that you must follow if you are applying for a mainline safety certificate. However, this only asks for very basic information about your company and should only be seen as a covering document for the application as a whole. The Chief Executive or equivalent role in the organisation must sign the application form. See 'More information'.

Your details

3.17 Basic information, for example:

(a) your contact details:

(i) the type of application you are making;

(ii) the number of staff your company employs; and

(iii) any existing certificates or authorisations you hold.

(b) The type and nature of the transport being operated. If you are a transport undertaking, this refers to:

(i) your activities;

(ii) the franchises you hold;

(iii) the infrastructure and routes you operate over;

(iv) the purpose of the transport you operate (commuter travel, freight, and so on); and

(v) the number of trains and passengers.

Or

3.18 The particular details of the infrastructure. For infrastructure managers, this should refer to:

(i) the length of track;

(ii) the type of signalling and control systems; and

(iii) safety-related features or structures such as stations, crossings, tunnels and major junctions.

3.19 For 'station-only' infrastructure managers, the 'particular details' could be as simple as quoting the number of stations and the number of people employed at them.

(a) 'Interfaces' with other operators. For example, where a train operating company uses stations that are owned and managed by another operator.

Summary of the safety management system

3.20 You need to provide evidence that your safety management system is designed to meet the requirements of ROGS as described in chapter 1. The summary should:

(a) include a copy of the safety policy statement and a description of how it is shared with staff at all levels;

(b) refer to any recognised safety management models you use;

(c) refer to other documents which describe the safety management system and its supporting procedures;

(d) show the structure of the safety management system, in particular highlighting how roles and responsibilities are given to staff;

(e) describe how the safety management system fits in with other activities and priorities;

(f) explain how individuals who manage safety are held responsible;

(g) set out the conditions for involving staff and their representatives at all levels in the safety management system;

(h) describe how you monitor safety performance and how you put right any faults; and

(i) explain how you put in place new safety developments and lessons you have learned from accidents or incidents.

You should also refer to the relevant assessment criteria that apply (mainline or non-mainline) when you make your application. These criteria provide more specific detail of the evidence needed to show that your safety management system is designed to meet the requirements of ROGS.

These assessment criteria are based on the Common Safety Method for conformity assessment of safety certificates and safety authorisations, which provide a common approach for the assessment of applications for safety certificates and safety authorisations by national safety authorities. You can find further information here.

You can find a list of ROGS safety certificates and authorisations issued by us on our website:

- Mainline certificates
- Non-mainline certificates

Details of safety measures

3.21 The basic parts of a safety management system are also described in chapter 1. You should include in the application a brief description of how your organisation does each of these things, and an explanation of where detailed policies or process documents can be found.

Involving staff and their representatives

Regulation 17(9)

3.22 ROGS places a duty on operators to consult employees' health and safety representatives when preparing their application for a safety certificate and / or safety authorisation. This means that you must carry out your consultation before you send us your application and do so as early as possible, to enable comments received to be taken into account.

Good-quality consultation should involve:

- regularly and openly sharing information;
- encouraging representatives to express their views;
- making time to amend your plans in response to staff's views (if necessary); and
- making sure representatives have the time to gain the knowledge and skills they need to provide an informed contribution.

Proper consultation can have wider benefits in terms of:

- safer workplaces;
- improved decision-making through gathering a wider range of ideas;
- helping staff to understand and accept decisions; and
- making sure staff know they have a key role to play in running the transport system safely.

Consultation when there is a change of operator

When new operators are taking over a franchise, they will need to apply for a safety certificate and in most instances, a safety authorisation if they are going to be a station operator. At the time operators prepare their application, they may not yet be the employer of the staff who will be affected. Under ROGS, the new operator does not have a duty to consult employees of the existing franchise holder.

However, an important principle of ROGS is that employees and their representatives are involved in managing safety. As a result, it would be sensible for new operators to make arrangements to consult the existing operator's staff when preparing their application. It would help the transfer if outgoing operators agree to reasonable requests from new operators to allow staff representatives to take part in the process.

For new entrants who are not taking over an existing franchise and possibly do not have any staff recruited at the time of making a submission for a safety certificate or safety

authorisation, they should share their applications with any trade unions that they intend to recognise in their organisation.

Step 3: Send to us and affected parties

3.23 We will appoint an assessment manager and a lead assessor for each application. After we receive your application, the lead assessor will confirm they have received it and give you their contact details and those of the assessment manager. See the 'More information' box at the end of this chapter for details of where to send your application.

Initial screen

3.24 The lead assessor will check your application to make sure that you have included the basic information we need (see paragraph 3.17 above) to carry out an assessment. If you have not, you may need to provide any missing information before we can begin the main assessment. If there are any serious gaps in the information you have provided, we may return your application for you to correct.

Affected parties

Regulation 17(3) and Regulation 17(10)

3.25 You must send a copy of your application to all the people who will be affected by it (the 'affected parties') or tell them where it can be accessed on a website. The 'affected parties' must include the following:

(a) For all applications, any recognised trade unions (for example RMT, ASLEF, TSSA, Unite) plus any staff safety representatives in your organisation. However, this should not be the first time they see the application as they should already have been involved in preparing it;

(b) For all applications, the appropriate rail user groups (normally, this would be Transport Focus or London TravelWatch, or both). Generally, if your services do not operate within the London area there is no requirement to consult London TravelWatch.

(c) For a certificate application, anyone who manages the infrastructure that you will be operating over.

(d) For an authorisation application, anyone who manages infrastructure that 'interfaces' with yours and those operators who operate over your infrastructure.

Examples of affected parties in a safety certificate application

Scenario 1

A train operating company who is operating passenger train services should include Network Rail.

Scenario 2

A freight operating company operating services over routes nationally should include Network Rail and contractors.

Scenario 3

A maintenance contractor whose vehicles will operate outside of possessions should include Network Rail and other infrastructure managers, train operators or contractors who will be coming into contact with such vehicles.

Examples of affected parties in a safety authorisation application

Scenario 1

A train operating company who is managing a particular station should include Network Rail, plus the other train operating companies and freight operating companies who operate at that station.

Scenario 2

The infrastructure manager should include those who operate over its infrastructure whether they are a train operating company, freight operating company, or contractor.

3.26 The applicant should send their application to affected parties either on the same day that their application is submitted to ORR or the following day to avoid delays in the assessment. It is good practice to copy in ORR to the email sent to affected parties as a way of notification.

3.27 Affected parties have 28 days to make any comments or provide us with further information about the application. The affected party should provide a response to ORR within 28 days even if there is a 'nil return'.

3.28 If you send us any further information during the application, you must send copies of this to the affected parties.

3.29 In the event of an application from the Operator of Last Resort, DfT can apply for an exemption under Regulation 30(2) requesting that the Operator of Last Resort be exempt from consulting affected parties. That application should be made either in advance of, or at the same time as, an application for a safety certificate and/or safety authorisation is submitted for assessment. The exemption only applies to applications for new or amended certificates and/or authorisations. For any renewal application, the Operator of Last Resort must consult any affected parties as per the process described above in 3.25.

We also consider it good practice for you to share your final application documents with the affected parties.

Affected parties checklist

You should ensure that you:

- obtain up-to-date contact details for each affected party. ORR can provide these upon request prior to any application being made;
- provide details of the affected parties consulted when making your application to ORR;
- have sent a copy of the application to all affected parties (or explained how to download an electronic version);
- have explained to each affected party that they should respond directly to ORR either with comments or indicating that they have no issues with the application, a 'nil return';
- seek confirmation from each affected party that they have received the application; and
- chase those affected parties who are still to acknowledge the application around the 18-day mark to ensure they have received it;
- at the end of the 28-day consultation period, chase up any affected party still to provide a response, including 'nil returns'.

Step 4: Assessment by us

Our assessment and decision

3.30 The main assessment is where we examine the quality of the detailed content set out in your application. We have four months to carry out the assessment and advise you of the outcome. The 28-day period for affected parties to make their comments will run concurrently with the four-month period.

3.31 For those applicants who are yet to operate a train and are not taking over a franchised operation, the assessment will include a review of the selection of Safety Management System (SMS) procedures that are referred to in the application and, in some instances, an on-site inspection to verify that the content of the submission is able to be delivered practically. These activities help identify vulnerable areas where further inspection activity may be required post issue of the safety certificate and / or safety authorisation, once the operations commence.

The main assessment takes place in the following stages:

1) Our assessors will assess the application alongside the relevant assessment criteria that apply and report on appropriate parts of the application that require further evidence or clarity to address the criteria.

2) The lead assessor will write a report of their findings and send it to you in the form of an issues log.

3) We may meet with you to discuss our findings, explain what action we believe you need to take and ask for any further information we need.

4) You send us your written response, explaining what action you have taken (and providing reasons where you have not taken action) and any supporting documentation that you have been asked to provide.

5) We consider your response and either agree that you have dealt with all the matters we identified or ask you to repeat stages 3 and 4 until you have taken all the action needed for us to award a certificate or authorisation.

Step 5: Our decision

Regulation 10(2)

3.32 Following the assessment, we will either:

(a) prepare and issue you with a certificate or authorisation; or

(b) write to you explaining why we have refused your application.

3.33 We must give reasons for our decision, no matter whether we accept or refuse your application.

3.34 For those applicants not taking over a franchised operation, we ask that upon receipt of your certificate or authorisation you confirm to us the date you intend to start operations. If this is unknown at the time of receiving your certificate or authorisation, you should notify the lead assessor of your application once the date is confirmed.

Amending a certificate

3.35 If you hold a certificate or authorisation, it will be valid for up to five years. During this time, you must tell us if there are any changes to the transport system you run (and keep a record of any resulting changes to your safety management system). You must tell us if the name of the transport operator changes.

3.36 If you make a 'substantial change' (see below), you will need to apply for an amended safety certificate or authorisation. In addition to a 'substantial change', other changes (organisational, operational or technical), may require you to amend your SMS and obtain an amended safety certificate or authorisation before they can take effect. You should discuss any proposed changes with ORR at the earliest opportunity.

3.37 To apply to make an amendment, you will need to:

(a) describe the proposed change; and

(b) provide details of any changes to the evidence you sent us when you originally made your application. These should be highlighted in different colour text within the submission document.

3.38 You will also need to consult safety representatives and send a copy of the amended information to the affected parties. How long the amendment process takes and how detailed it needs to be will depend on how complicated the change is.

Regulation 8(2) and Regulation 11(2)

What is a 'substantial change'?

Chapter 28 of our Safety Certificate and Authorisation Assessment Manual describes 'substantial change' in more detail. Substantial changes include the following:

For transport operators

- Using the transport for a different purpose, such as changing from freight to passenger services, or from conventional to high-speed running.
- Changing the size of the transport system – for example, a major increase in how many services run on a line.

For infrastructure managers

- Changing the network – for example, using new forms of signalling, or increased traffic caused by new links to other networks.
- Changing the energy supply – for example, changing from third rail to overhead electrification.
- Changing how the transport is run, such as introducing fully automated systems to manage safety-critical work.
- Changing how the transport and network is maintained – for example, transferring the management of maintenance to a contractor.

It should be noted that the changes listed above are examples. A substantial change could have impacts at the interface and affect both infrastructure managers and transport operators. For example, a substantial change for infrastructure managers, such as new forms of signalling, could lead to risks and substantial changes for transport operators.

Regulation 14

3.39 If changes to the law mean you will have to make a substantial change to the transport system you operate or manage, we may ask you to apply to amend your certificates or authorisations (this is known as a 'direction to apply for an amendment').

Further certificates and authorisations

Regulation 9(2) and Regulation 12(2)

3.40 You can contact us to discuss the renewal of your certificate or authorisation up to eight months before expiry of your existing certificate or authorisation. Your application document needs to highlight any changes or proposed changes since the previous submission. Aside from this, the application process is the same and we will issue you with a new certificate or authorisation if your application is successful. You cannot by law continue to operate if your certificate or authorisation expires.

Revoking a safety certificate or authorisation

Regulation 16(1)

3.41 We will only revoke (cancel) your certificate or authorisation if:

(a) you are not meeting the conditions of the certificate or authorisation; and

(b) there is a significant safety risk as a result.

3.42 If you are a transport undertaking, we will also revoke your certificate if you do not operate a vehicle under the certificate within a year of it being issued.

Regulation 16(3)(a)

3.43 We must give you notice that we are considering revoking your certificate or authorisation. We must also give you at least 28 days to make any comments. If

we revoke your certificate or authorisation, you must stop running the transport it was issued for.

Our policy on revoking certificates and authorisations

We recognise that revoking a certificate or authorisation is a very serious step for us to take, because changing train operators or suspending services can itself create safety risks.

In carrying out our duty to enforce ROGS, we will consider using the powers available to us under the Health & Safety at Work etc. Act 1974 (improvement notices, prohibition notices, and so on). The use of these powers may put duty holders in a position where risks are properly controlled and the conditions for revoking their certificate or authorisation are no longer met.

Conditions for revoking a certificate or authorisation

We will only begin the process of revoking a certificate if:

- the safety management system itself is not able to make sure that the transport has been run, designed or maintained safely; or
- one or more of the basic parts of the safety management system is not able to make sure the transport system is safe;

and there is a significant safety risk as a result.

If only one of these conditions is met, we will use powers under the Health & Safety at Work etc. Act 1974 to help and encourage the duty holder to make the necessary improvements rather than looking to revoke their certificate or authorisation.

This approach is in line with our published enforcement policy statement.

Appeals

Regulation 27(1)

3.44 You can appeal to the Secretary of State if you are not happy because we:

(a) refused your application (including an application to amend or extend your certificate or authorisation);

(b) failed to make a decision on your application within four months;

(c) revoked your certificate or authorisation; or

(d) asked you to apply to amend your certificate or authorisation.

3.45 Affected parties, passenger groups and trade unions have no right to appeal against a decision we have made under ROGS.

3.46 You can ask us for details of the appeals process at rogs@orr.gov.uk.

Step 6: After the award of a safety certificate or safety authorisation

3.47 After issuing a safety certificate or a safety authorisation, we will have arrangements in place to check:

(a) whether the results outlined in the application for a safety certificate or a safety authorisation are being achieved during operation; and

(b) that all the necessary requirements are complied with on a continuous basis.

3.48 Following the issue of a safety certificate / safety authorisation, ORR's arrangements for overseeing safety performance are as follows:

(a) We set out a strategy and plan(s) for supervising mainline transport operators;

(b) We have clear techniques for how to conduct our supervisory activities;

(c) We have clear links between the assessment for mainline safety certificates/authorisations and supervision activity;

(d) We operate a competence management system for those conducting supervision activities;

(e) We utilise decision-making criteria when evaluating transport operators' activities;

(f) Where necessary (such as cross-border railway operation activity) we cooperate and coordinate our supervisory activity with other national safety authorities.

3.49 'Supervision' means the arrangements put in place by the ORR to oversee safety performance after it has granted a safety certificate or safety authorisation.

ROGS Exemptions and the application of The Railway Safety Regulations 1999

3.50 Where a heritage railway applies for an exemption under Regulation 30(1) to carry out operations at speeds above 25mph (40km/h) on a short-term basis, it must also consider the requirements of the Railway Safety Regulations 1999 (S.I. 1999/2244) (RSR 1999).

3.51 If a heritage railway normally carries fare paying passengers but intends to temporarily introduce a separate operation at higher speed under possession conditions, it is considered to be a separate operation not carrying fare paying passengers, and RSR 1999 does not apply.

3.52 However, this separate operation will need to comply with the requirements of ROGS and the railway must be in possession of a non-mainline safety certificate and safety authorisation or an exemption before any higher speed operation can commence. We advise you to discuss any proposals with your lead inspector as early as possible.

3.53 The following example illustrates the principles of how RSR 1999 and ROGS interact:

Example

A non-mainline heritage railway normally carries fare paying passengers on a railway where the line speed is 25mph (40km/h). The railway plans to conduct tests on a new vehicle at speeds up to 55mph (88km/h) over a set period of time with specific operating conditions. The tests are to be carried out when normal operations are suspended.

1) System A – The railway normally carries fare paying passengers on a system with maximum speed of 25mph (40km/h). An SMS is required under ROGS. A safety certificate and safety authorisation are not required if ORR has determined that it is excluded from mainline requirements. It is not in scope of RSR1999 as the line speed is not above 25mph (40km/h).

2) System B – The railway puts in place specific operational and engineering arrangements to control the safety risks from operating at speeds above 25mph (40km/h). The operation will not carry fare paying passengers and will only be carried out at defined times with limited duration. The railway must comply with the requirements of ROGS and obtain a safety authorisation and certificate, or apply for a time bound exemption in accordance with ORR's guide. It is not within scope of RSR 1999 as no fare paying passengers are being carried.

If the operations described in systems A and B are taking place at the same time on the same transport system then the line speed on the system will be the greater of the two operations, and the system would normally be carrying fare paying passengers, both ROGS and RSR requirements apply. Please contact rogs@orr.gov.uk for further information.

More information

ORR guidance and application documents

- Safety certificate and safety authorisation application forms
- Assessment criteria for safety certificate and authorisation applications made under ROGS:

  - Mainline

  - Non-mainline
- Safety certificate and authorisation assessment manual
- The Railway Safety Regulations 1999 Assessment and Guidance Manual for Exemption Applications

Other guidance for the industry

- HSE worker involvement web pages - Consulting and involving your workers
- More detailed information on any aspects of this chapter can also be obtained by emailing rogs@orr.gov.uk.

4. Risk assessments

4.1 ROGS give transport operators a specific duty to carry out a 'suitable and sufficient' assessment of the safety risks involved in running the transport system. The purpose of this assessment is to identify the measures needed to make sure the transport system runs safely.

In the regulations

Regulation 19: Rail-specific duty to carry out risk assessments

Regulation 21: Document and record keeping

Schedule 3: Common Safety Indicators

4.2 A transport operator operating on the mainline or non-mainline is required by ROGS to carry out a suitable and sufficient assessment of risks to the safety of any person using the railway, and to ensure the safe operation of the transport system. Transport operators should ensure that their risk assessment allows them to meet their general duties under all relevant health and safety legislation, not just railway specific safety legislation. This includes ensuring compliance with the Health & Safety at Work etc Act 1974, the Management of Health and Safety at Work Regulations 1999, and other hazard specific legislation, such as fire safety and buildings legislation.

4.3 Transport operators are required to ensure they implement all measures identified in their risk assessment, and carry out regular reviews to ensure the measures remain relevant and valid. For any significant changes on the mainline railway that impact on safety, the CSM for risk evaluation and assessment Regulation 402/2013 must be applied.

4.4 ORR has published guidance on the relationship between the CSM for risk evaluation and assessment and other risk assessment requirements. This clarifies the relationship between railway-specific and more general health and safety legislation in respect of risk assessments for Britain's mainline railways, including the UK half of the Channel Tunnel. It summarises:

(a) how retained European and domestic rail legislation co-exist; and specifically,

(b) the relationship between the CSM for risk evaluation and assessment and domestic requirements to carry out a 'suitable and sufficient' risk assessment.

Requirements specific to railways and other guided transport systems

Regulation 19(5)

4.5 ROGS also give transport operators some extra duties:

(a) You must put in place any measures identified by the risk assessment, and make arrangements for planning, organising, controlling, monitoring and reviewing these measures.

Regulation 19(4)

(b) You must keep records (even if you have fewer than five employees) of:

(i) the assessment process, including the methods you have used to work out the risks and any assumptions you made;

(ii) the significant findings, any measures already in place and any further measures you need to take; and

(iii) the arrangements for planning, organising, controlling, monitoring and reviewing the measures.

Regulation 19(1)(a)

(c) The assessment must involve working with any related operators to tackle risks that arise from the 'interfaces' (where, for example, your vehicles cross or use their infrastructure).

A 'suitable and sufficient' risk assessment does the following:

Deals with all significant risks and dangers

As well as obvious rail safety factors such as collisions and derailments, your risk assessment should also cover more general issues (for example, assaults to staff or slips and trips).

Includes all parts of the organisation's work

As targets for improving rail safety only relate to the risks arising from vehicles in motion on a transport system, you should make sure you consider other types of activity (such as how you load freight wagons or manage stations).

Takes account of non-routine activities

For example, your emergency procedures need to take account of the health and safety of the people taking the emergency action.

Looks at risks and dangers as part of a system

There is a range of techniques for doing this (such as carrying out inspections or a job-safety analysis).

Considers the way work is organised

Management systems and shift patterns should be designed so that they do not put people's safety at risk. For example, not having enough members of staff can make some tasks unsafe.

Involves staff and their representatives

Employees and their safety representatives are well placed to contribute practical knowledge to the risk assessment process.

Takes account of risks to the public

This should go beyond people travelling on trains. For example, it may include taking reasonable steps to prevent people trespassing on the railway lines. It should also include risks to ‘third parties’, such as contractors working on the transport system.

Assesses the risks

Try to consider risks based on how likely they are to happen and how serious the effects would be. You should only need to take action if it is reasonable and if it will significantly reduce the likelihood or seriousness of the risk better than any existing measures. A bad example of this would be introducing speed restrictions where they have no safety benefit.

Decides which measures are necessary to protect people's safety

The assessment should either judge that you do not need to take any further action, or identify specific reasonable action you should take. This action should be designed to reduce or remove the likelihood of the risk happening (for example, by using powered equipment for manual-handling tasks). If this is not reasonable, the action should be designed to reduce the effects of the risk (in our example, making sure staff are trained to lift safely).

Involves staff with suitable knowledge and experience

As well as being familiar with carrying out risk assessments, staff must have appropriate knowledge of the work being carried out. This is one reason why it is important to involve staff representatives in carrying out the assessment.

4.6 You do not need to include records of your risk assessments in an application for a certificate or authorisation (see chapter 3), but you should explain how you carry out risk assessments and how you choose which action to take as a result. Your safety management system should say where you keep your risk assessment records. Where an application is submitted for an amended safety certificate or safety authorisation and the CSM for risk evaluation and assessment has been applied as part of the proposed change, we will ask to see the output of this assessment.

Purpose of a risk assessment

4.7 ROGS do not explain what is meant by 'suitable and sufficient'. The Health & Safety Executive provides guidance on determining whether your risk assessment approach is 'suitable and sufficient' on its website.

4.8 Both ROGS and the Management of Health & Safety at Work Regulations 1999 give you a duty to carry out a 'suitable and sufficient' assessment. There is a range of processes for achieving this. The five-step risk assessment model described in the Health & Safety Executive publication 'INDG163 A brief guide to controlling risks in the workplace' (formerly known as 'Five Steps To Risk Assessment') is widely used and can help you do this.

Five steps to carrying out a risk assessment

Step 1: Develop a system for identifying the dangers (hazards) resulting from the type of transport operated and / or infrastructure managed.

Step 2: Decide who might be harmed and how – in particular, you should identify any groups or types of passengers or workers who could be at risk.

Step 3: Evaluate the risk – you need to make a judgement about whether the arrangements you already have in place control the risk. If not, you should take action to correct this.

Step 4: Record your significant findings – this should include creating an action plan that you can monitor once it is put in place.

Step 5: Regularly review the assessment – regularly or as significant new processes or working arrangements (such as shift work) are introduced.

More information

- European Commission Implementing Regulation 402/2013 common safety method on risk evaluation and assessment (Retained in UK law).

ORR guidance

- ORR guidance on the application of the CSM on risk evaluation and assessment

Other guidance for the industry

- HSE web pages on risk management, including example risk assessments
- Rail Safety & Standards Board safety risk model for the mainline railway
- 'Risk Assessment' guidance, Heritage Railway Association (available only to HRA members) - Home | Heritage Railway Association (hra.uk.com)

5. Annual reports

In the regulations

Regulation 20: Annual safety reports

Regulation 21: Document and record keeping

Schedule 3: Common Safety Indicators

Timing

Regulation 20(2)

5.1 If you are a mainline railway transport operator, you must provide us with an annual safety report by 30 June every year. The report covers your safety performance during the previous calendar year. (For example, the report sent to us by 30 June 2023 will cover the period from January 2022 to December 2022, and so on.) Where there is a change of franchise holder during the year, reports are required from the outgoing operator and the present operator covering the timeframes for their respective operations of that franchise.

Regulation 20(1)

5.2 The annual report must include the following information:

5.3 Information on how you are meeting the safety targets identified in the safety management system (see chapter 1).

Your own safety targets

Specific examples might include the following:

- Reducing the number of 'signals passed at danger' (SPADs) (for example, by providing extra training for drivers and holding briefings on 'SPAD of the month').

- Reducing slips, trips and falls at stations (for example, by improving how surfaces are maintained and providing training for cleaning staff).
- Improving how staff assaults are reported (for example, through a new briefing programme).

CSMs

While the UK was a Member State of the EU the European Commission introduced the following:

- Commission Implementing Regulation 402/2013 which adopts a common safety method on risk evaluation and assessment; and
- Commission Regulation 1078/2012 which adopts a common safety method for monitoring of contractors by transport operators and ECMs.

The CSMs give transport operators a duty to report on their use of CSMs in their annual safety report. The report should briefly set out the operator's experience with applying the CSMs. ECMs must report in their annual maintenance report their experience of applying the CSM for monitoring.

The Rail Safety (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/837)

These regulations make necessary corrections to inoperabilities contained in ROGS and EU retained legislation that arise from the UK leaving the EU.

5.4 In addition to the CSMs referred to above, please also read The Rail Safety (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/837). Chapter 3 "Risk evaluation and assessment" highlights the changes applying to Article 18 of Commission Implementing Regulation (EU) 402/2013.

5.5 Chapter 2 "Supervision and monitoring" of The Rail Safety (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/837) highlights the changes to Article 5 of Commission Regulation (EU) 1078/2012.

5.6 The targets set out in the blue box above are examples and should reflect your own safety targets as described in your safety management system.

5.7 In each case, you should provide basic information on the plans you have in place for meeting the targets.

The results of plans put in place to try and meet those targets

5.8 This section should present information relating to each of the targets, including how much progress you made in achieving the expected results. You could take this information from the company's safety progress reports and review processes for that year.

Statistics for Common Safety Indicators (CSIs)

5.9 The CSIs that apply are those set out in Annex I of the Railway Safety Directive (as amended by the Rail Safety (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/837) under Regulation 3(8)).

5.10 You must provide information against a number of common indicators. Broadly speaking, CSIs cover the following:

(a) The number of accidents, broken down to give figures for specific types of accidents, such as:

(i) collisions;

(ii) derailments;

(iii) accidents at level crossings;

(iv) people being hit by trains;

(v) suicides; and

(vi) fires.

(b) The number of injuries and deaths, broken down to give figures for:

(i) passengers;

(ii) workers;

(iii) level-crossing users; and

(iv) trespassers.

(c) The number of incidents and near misses, broken down to give figures for:

(i) broken rails;

(ii) buckled rails;

(iii) wrong-side signalling failures (that is, where a signal failure creates danger);

(iv) 'signals passed at danger'; and

(v) broken wheels and axles on vehicles being used.

(d) The technical safety of the infrastructure, broken down to give figures for:

(i) coverage of train protection systems; and

(ii) the number of level crossings (including percentages for the ones that work manually or automatically).

(e) How your company manages its safety measures, particularly how often it carries out audits.

Findings of audits

5.11 The report should explain your own audit of your safety management system, and set out the main safety-related findings.

This could include an assessment of:

- whether the safety policy is suitable and detailed enough;
- whether line managers accept their health and safety responsibilities, and the quality of arrangements to secure control by managers of the safety management system;
- the effectiveness of arrangements to consult employees or their safety representatives on safety matters;
- whether arrangements to train all employees and provide safety advice are suitable;
- whether management arrangements and risk-control systems are suitable;
- whether staff at all levels are keeping to the management arrangements;
- the design of monitoring systems and whether these are still relevant; and

- whether your review systems allow your organisation to learn from experience, improve performance, develop the safety management system and respond to changes.

Comments on 'deficiencies and malfunctions'

5.12 This section should comment on serious accidents or 'near misses' which could have resulted in serious accidents, along with the lessons you have learnt and the action you have taken (if any). Incidents involving people committing suicide or trespassing should not be covered in this section. You do not need to repeat information you provided earlier in the report.

This section is likely to range from a few sentences to around half a page, depending on the type of incidents or information you are commenting on. Examples of 'deficiencies and malfunctions' include the following:

- An increase in signals passed at danger, identifying common causes for these incidents and the action you have taken as a result.
- A door fault, common to a particular class of train, which could result in serious injury, and the action you have taken to put right the fault.
- An increase in the number of broken rails, identifying the causes of this and the action you have taken to limit the risk.
- A significant increase in the number of injuries to passengers in stations, identifying any causes (such as passengers messing around or misusing alcohol) and the action you have taken to reduce the risk.
- Any incidents or trends that show that safety is getting worse, which are not covered elsewhere in the report.

Annual reporting on the mainline railway

5.13 If you are a mainline operator, your annual report must cover your performance against CSIs. As well as the indicators described above, your report on the mainline railway should also include:

(a) in relation to accidents, a breakdown of all other types of accidents not mentioned above;

(b) in relation to injuries and deaths, information broken down by all other types of people, such as employees, passengers and contractors; and

(c) a full account of the total costs of accidents, including:

(i) compensation;

(ii) repairs to vehicles or the infrastructure;

(iii) disruption to service; and

(iv) any working time lost.

5.14 Where an operation is carried out in part on the mainline railway and in part on another transport system, the report shall include only information in respect of the part carried out on the mainline railway.

5.15 Non-mainline operators operating on the mainline railway must cooperate with mainline duty holders so that relevant information is included in the mainline duty holder's annual report.

More information

- Guidance on annual safety reports
- Commission Implementing Regulation (EU) No 402/2013 of 30 April 2013 on the common safety method on risk evaluation and assessment

6. Cooperation

6.1 A large part of the safety risk arises at the 'interfaces' between transport operators (for example, different transport operators on the same infrastructure). For this reason, it is essential that transport operators, and their contractors, work together to make sure the system is safe.

6.2 Co-operation is one of the main themes of ROGS. This section of the guide refers only to the duty that transport operators have to co-operate with each other under ROGS. It does not refer to co-operating with, for example, us or recognised trade unions.

In the regulations

Regulation 22: Cooperation

(Regulation 26: Co-operation requirements for safety critical work)

6.3 The regulations introduce a specific duty of co-operation between operators (and other people such as contractors) whose activities affect one another. The duty is designed to make sure the railway is safe.

Who does the duty apply to?

Regulation 22(3)

6.4 The duty to co-operate applies to all transport operators and infrastructure managers, and to everyone who must have a safety management system. This includes those operators who do not need a safety certificate or authorisation under ROGS. Importantly, the duty also applies to contractors - including those who are self-employed.

6.5 ROGS may not apply directly to all persons working on the railway, such as freight end users or anyone employed by a third party terminal operator. Nonetheless, the work carried out by these workers has the potential to import risk onto the transport system, and they must be suitably trained and briefed before working on the railway.

6.6 Employers working on the railway system have a duty to co-operate with one another to enable them to comply with all requirements of health and safety legislation by virtue of Regulation 11 of the Management of Health and Safety at Work Regulations 1999.

Equal partnership

6.7 All transport operators are equally responsible for co-operating with other transport operators who operate on the same transport system to keep the system safe. Our role is to carry out inspections and provide advice to encourage operators to comply with the requirements of ROGS, and to mediate (bring about an agreement) where operators cannot sort out problems between themselves.

What does co-operation involve?

6.8 The aim of co-operating is to make sure the transport system is safe. This means operators doing all they reasonably can to allow other operators to comply with the requirements of ROGS. This particularly includes keeping to:

(a) the requirements of the safety management system duties (see chapter 1); and

(b) their risk assessment duties (see chapter 4).

For operators

Many areas of your safety management system give you a responsibility to co-operate with other operators (or give them a duty to co-operate with you). For example, it would be impossible for you to carry out an effective risk assessment of a part of the infrastructure that both you and they use without them co-operating with you. Each area of the safety management system that needs you or another operator to co-operate should explain the procedures for doing so.

There is a range of processes for successfully co-operating with other operators. These processes include:

- consulting operators you share infrastructure with to make sure all the risks are recorded in writing in an application for a safety certificate or authorisation;
- meeting the relevant standards (for example, RSSB standards);

- taking part in national schemes that aim to reduce risk (such as programmes to reduce the risk of signals passed at danger);
- being involved in the process of setting industry standards;
- planning emergency procedures; and
- allowing access to premises and vehicles for risk assessment purposes.

For contractors

The duty means that you will need evidence that your contractors are:

- meeting your standards and targets;
- keeping to your risk assessments;
- keeping and providing evidence that their staff are trained and fit to carry out their roles; and
- managing the fatigue levels of any staff performing safety-critical work (see chapter 7).

Disputes

6.9 In the event of disputes between duty holders, we expect that the duty to cooperate should normally result in duty holders finding a resolution between themselves. ORR will not normally become involved in disputes, but we have agreed with industry that in the case of severe disputes - where duty holders' attempts to find a resolution have failed - we will work with the duty holders to try to resolve the issue. ORR's involvement in this process should be seen as the final step in resolving the dispute.

6.10 ORR and the industry have worked together to produce guidance on how to escalate serious disputes to us and how we propose to handle them 'Escalating serious disputes to ORR under ROGS duty of cooperation'.

6.11 Disputes may be escalated by a joint submission or a single submission. Joint submissions are preferable, as ORR will need to gather representations from all external affected parties when a single submission is received.

6.12 Once we have established that all other avenues have already been exhausted and the dispute is serious enough to warrant allocation of resources, we will

establish a case team who will review all available information on the case and make a determination within 4 months. The outcome of the determination will be posted on our website.

6.13 In the case of new or modified vehicles being introduced to a railway that may impact other duty holders the Rail Safety & Standards Board (RSSB) have published the industry standard RIS - 8270 - RST Issue 1.1 Route Level Assessment of Technical Compatibility between Vehicles and Infrastructure which will assist duty holders to cooperate and resolve disputes. We expect to see evidence that this process has been used before we become involved.

More information

ORR guidance

- Our role in cooperation

Other guidance for the industry

- Rail Safety & Standards Board case study on route compatibility standards

7. Managing safety-critical work

7.1 ROGS give controllers of safety critical work specific duties to make sure that any person performing safety-critical tasks is competent and fit enough to do so, and is not affected by fatigue. ROGS also give controllers of safety critical work a duty to keep records of their assessment of safety-critical workers, and make these records available for us to inspect. Finally, controllers of safety-critical work must co-operate with each other to make sure they can all keep to the requirements.

In the regulations

Regulation 23: Defines safety critical tasks and terms

Regulation 24: Duty to manage competence and fitness of safety critical workers

Regulation 25: Duty to manage fatigue of safety critical workers

Regulation 26: Co-operation requirements

What is safety-critical work?

Regulation 23(1)(a),(b)&(c)

7.2 There are a number of areas of work that ROGS define as 'safety-critical tasks'. The regulations apply to how organisations manage all persons who perform these tasks where they could have a significant effect on the health and safety of persons working on or using the transport system.

7.3 The first group of tasks must only be performed by someone who has been assessed as competent and fit to carry them out. They are as follows:

(a) Driving and train dispatch

(b) Operating signals and level crossings, and related communication

(c) Coupling or uncoupling vehicles

(d) Controlling the power supply connected to track and vehicles

(e) Checking vehicles are working properly and, if loaded, loaded correctly

(f) Protecting the safety of people working on or near to the track

7.4 The work involved in supervising and checking a second group of tasks is also classed as safety-critical under ROGS. The important thing here is that these tasks are at least supervised, or the work checked, by someone who has been assessed as competent and fit to do so before the work has the opportunity to affect the health and safety of persons working or travelling on the transport system. These tasks are as follows:

(a) Installing vehicle parts

(b) Maintaining vehicles that are being used (and their parts)

(c) Installing or maintaining any part of the infrastructure

(d) Installing or maintaining the power supply

(e) Installing, maintaining or operating the communications systems used to control vehicles' movement or call the emergency services.

7.5 The final safety-critical task is training - or supervising training - in any of the above tasks where the training involves carrying out the actual task.

We have published guidance for industry that gives more detail on the safety-critical tasks defined in ROGS. This includes a list of the equivalent jobs for tramways and heritage railways.

- Safety-critical tasks – clarification of ROGS requirements

What about work in sidings and depots?

Regulation 23(1)

7.6 Your arrangements for managing safety-critical work will include times when the work is not carried out on the transport system (for example, in a maintenance depot or siding that is not part of the transport system). You must consider:

(a) if the work is being carried out on vehicles that are in use on a transport system; and

(b) if the work could significantly affect the safety of people working on or travelling on the transport system.

Example 1 – Coupling and uncoupling vehicles

Coupling vehicles in a depot so they can then be driven onto the transport system is a safety-critical task. However, coupling vehicles to be able to shunt them around within the depot is not.

Example 2 – Maintenance and repairs to vehicles

Supervising or checking maintenance work on a 'hot spare' vehicle that is in a depot on standby for use is a safety-critical task under ROGS. However, 'maintaining' parts or vehicles that are not available to be used (such as where parts have been sent away for reconditioning) is not a safety-critical task.

7.7 However, even if safety-critical duties under ROGS do not apply, there is still a general duty under the Health & Safety at Work etc Act 1974 to manage the quality of this kind of work.

Freight companies and freight end users

7.8 Regulation 26 of ROGS introduces a duty of co-operation between operators and contractors, where their activities affect one another. Operators also have a duty to manage safety-critical work under ROGS. Where work is carried out by freight end users in depots (such as loading and unloading of wagons), freight operating companies have a duty under ROGS to co-operate with the freight end user and to manage the safety-critical work that is carried out. Freight operating companies also have a requirement under the Health and Safety at Work etc. Act 1974 to manage the quality of the work carried out by the freight end user on their behalf.

7.9 Although ROGS do not apply to freight end users, they are required to co-operate with the freight operating companies they work with. Freight end users are also required to meet the requirements of the Health and Safety at Work etc. Act 1974 in the work that they carry out. All employers working on the railway system have a duty to co-operate with one another to enable them to comply with the

requirements imposed on them by health and safety legislation under Regulation 11 of the Management of Health and Safety at Work Regulations 1999.

Who has the duty to manage safety-critical work?

Regulation 23(1)

7.10 ROGS give this responsibility to the 'controller of safety-critical work'. This means those organisations that actually control the people doing the safety-critical tasks. ROGS do not give individuals within organisations a duty to be 'appointed' as controllers of safety-critical work, as the reference to 'any person' in the definition includes corporate organisations. So, the duty is on those organisations to have systems in place to make sure that individuals under their control are competent and fit.

Example

Who is the controller of safety critical work?

- A is an agency worker for agency B.
- Agency B provides staff to subcontractor C.
- C is the subcontractor for main contractor D.
- D are the infrastructure manager's contractor.

The infrastructure manager is the client.

If worker A is asked to carry out a safety-critical task, the controllers of the safety-critical work are C, D and the infrastructure manager.

Agency B is not a controller of safety-critical work as it does not 'control the carrying out of safety-critical work on a transport system or in relation to a vehicle used on a transport system'. However, as part of its general health and safety responsibilities, it would be appropriate for Agency B, when taking on a new employee, to carry out basic checks to make sure the employee is suitably trained and fit to carry out the work.

Subcontractor C must ensure that worker A has been assessed to make sure they are trained and fit, and make available accurate and up-to-date records for main contractor D or the infrastructure manager (the other controllers).

All operators and controllers of safety-critical work have a duty to co-operate with each other so that everyone can carry out their duties. The infrastructure manager will need systems to make sure their contractors (as people under their control) only use trained and fit people who are not too affected by fatigue to carry out safety-critical work. This may mean providing access to the information their contractors hold on the people carrying out safety-critical work, and information on contractors' management arrangements for dividing their responsibilities as controllers of safety-critical work.

What duty holders must do

Making sure people are competent and fit

Regulation 24(1)

7.11 ROGS do not give safety-critical workers a duty to carry identity cards. However, the controller of safety-critical work has a duty to make sure that every person who is under their management, supervision or control and is carrying out safety-critical tasks is competent and fit to do so (except when they are receiving practical training to carry out the task). Controllers of safety-critical work must:

(a) make sure an objective, trained assessor assesses safety-critical workers as being trained and fit to carry out the work;

(b) keep and update a written record of the safety critical worker's training and fitness, including the conditions against which they were assessed;

(c) make their written records available for us to inspect, or for other affected controllers or operators to inspect, after making a reasonable request to do so;

(d) put in place a suitable and sufficient system to monitor the training and fitness of safety-critical workers; and

Regulation 24(2)&(3)

(e) review and reassess safety-critical workers' competence or fitness if they have reason to doubt it or if the task changes significantly

7.12 ORR's Railway Safety Publication 1 'Developing and Maintaining Staff Competence' provides detailed guidance on monitoring the competence and fitness of staff - see in particular:

(a) Principle 10: Monitoring and re-assessing staff performance; and

(b) Appendix 1: Fitness

Competence-management systems

The most effective way for you to manage the competence and fitness of your workers is to develop a competence-management system (CMS). Setting up a CMS is a five-stage process.

1. Deciding what the CMS needs to cover

- Identify the work activities involved and assess the associated risks.
- Choose or develop standards to make sure the identified risks are controlled consistently.

2. Design the CMS

- Define the roles and responsibilities of the managers running the CMS.
- Develop a quality-assurance process to make sure each part of the system consistently achieves the results you want.
- Put in place the most suitable methods for developing and assessing staff to meet the standards you have set. For normal tasks, the assessment might just involve interviewing the relevant person. For emergency situations, this should be supported with techniques like group exercises or drills.
- Identify the training, development and assessments which staff, managers and employees need.

- Make sure the managers running the system (trainers, assessors and so on) continue to receive the training they need.

3. Put the CMS in place

- Choose and recruit staff using suitable standards and methods (for example, questionnaires, worked test examples, structured interviews). For a complicated task, it may be helpful for the candidate to work alongside a member of staff for a day or two.
- Train, develop and assess staff to your standards. Contractors should work to the same standards as permanent staff.
- Put a control process in place to make sure staff only carry out the tasks they are competent to do.

4. Maintain and develop competence

- Monitor and reassess staff to make sure the CMS works consistently. Monitoring could range from having a structured scheme of formal observation to unannounced checks (such as using a radar gun to check speed).
- Update individuals' training in response to relevant changes.
- Identify the reasons for any performance that fails to meet the standards and take action to correct this by dealing with the causes first.
- Maintain assessment records and make them available.

5. Check, audit and review CMS

- Check, audit and review CMS
- Make sure the system is being used correctly and that it is delivering suitable and sufficient training and assessment.
- Create ‘feedback loops’ so that the people carrying out the work can comment on the CMS arrangements and suggest improvements.
- Improve the system based on the review and information relating to safety performance.
- CMS are explained in more detail in our publication ‘Developing and maintaining staff competence’.

Access to training services

7.13 The Railways (Access to Training Services) Regulations 2006 allow railway undertakings applying for a safety certificate, and infrastructure managers and their staff who perform safety critical tasks, to have access to training services provided by other bodies.

7.14 The Regulations apply only to railways which are regarded as mainline under ROGS. They allow:

(a) Railway undertakings applying for a safety certificate to have fair and non-discriminatory access to training services for train drivers and staff accompanying the train, whenever such training is necessary to fulfil the requirements to obtain a safety certificate;

(b) Infrastructure managers and their staff performing vital safety tasks, to have fair and non-discriminatory access to training facilities.

7.15 The Regulations also extend to contractors, allowing the staff of contractors who undertake safety critical tasks of behalf of Network Rail to have fair and non-discriminatory access to training services.

7.16 Where the training services are provided by only one railway undertaking or infrastructure manager, they must make those services available to others at a reasonable and non-discriminatory price.

7.17 The training services offered must include:

- Necessary route knowledge;
- Operating rules and procedures;
- The signalling and control command system; and
- Emergency procedures, in respect of the routes operated.

7.18 Relevant experience gained with another employer must be taken into account by railway undertakings recruiting train drivers, on-board staff or staff performing safety critical tasks. Employees must be granted access to all relevant documents referring to their training, qualifications or experience.

Right of appeal

7.19 The Railway (Access to Training Services) Regulations 2006 provide railway undertakings, infrastructure managers and relevant employees with the right of appeal to the ORR if access to training services is denied, or if they believe that the price charged for access to these services is unreasonable or discriminatory. Please contact ORR at rogs@orr.gov.uk for further information.

Fatigue

Regulation 25(1)

7.20 Fatigue has been identified as one of the main causes of incidents on the railways. It can lead to workers becoming less alert, attentive or able to react, which may result in slower response times, errors or poor decision-making. Controllers of safety critical work must make sure that safety critical workers do not carry out safety-critical tasks if they are affected by fatigue (or would be affected if they carried out the task) and that the risks of fatigue on the health or safety of the safety critical worker or of any other persons on a transport system are controlled.

The work factors that influence fatigue levels normally include:

- how long a worker has been awake;
- how overtime is controlled;
- the nature of the work (for example, where workers have to carry out repetitive tasks or where a task requires a very high level of alertness);
- the workload and working environment;
- a roster that prevents workers from getting enough sleep between shifts;
- the timing and duration of breaks;
- workers' sleep being disturbed because they are 'on-call';
- how often workers have breaks;
- recovery time during periods of work; and

- how long it takes workers to travel to and from work.

7.21 ORR recommends that duty holders set up and operate an overarching Fatigue Risk Management System (FRMS); the FRMS need not be standalone but could be integrated into the wider SMS.

We have published revised guidance for industry that gives more detail on designing and implementing an FRMS that is proportionate to the size, risk and nature of the organisation. This guidance also identifies basic fatigue controls which would be expected of all responsible rail employers:

- Managing rail staff fatigue.

Co-operation requirements for safety-critical work

7.22 The co-operation requirement in ROGS builds on the existing requirement (in the Management of Health & Safety at Work Regulations 1999) for employers and self-employed people who share a workplace to co-ordinate their safety measures. Controllers of safety-critical work and safety-critical workers must all co-operate with each other to make sure that controllers can keep to their requirements under ROGS. There are two parts to the co-operation requirements, as follows:

Regulation 26(1)

(a) Controllers must co-operate with other controllers or operators whose activities their work affects.

Regulation 26(2)

(b) Anyone carrying out safety-critical tasks must co-operate with controllers affected by safety-critical work.

7.23 This co-operation would include things like sharing information, or co-ordinating and following agreed procedures.

More information

ORR guidance

- Safety-critical tasks - clarification of ROGS requirements
- Developing and maintaining staff competence
- Managing rail staff fatigue
- Further guidance on terms associated with safety-critical work

Other guidance for the industry

- Health & Safety Executive - Fatigue resources
- 'Safety Critical Work' guidance note produced by the Heritage Railway Association (available to members only) Home | Heritage Railway Association (hra.uk.com)

8. Entities in Charge of Maintenance (ECM)

Regulation 18A(1)

8.1 ROGS requires anyone placing a vehicle in service or using it on the mainline railway to make sure that:

(a) an ECM has been assigned to the vehicle;

(b) the details of the ECM are registered on the national vehicle register (NVR);

(c) the ECM holds an ECM certificate if the vehicle is a freight wagon;

(d) If the vehicle is not a freight wagon, but is used in cross border operations through the Channel Tunnel, the ECM must hold an ECM certificate.

On track machines

On track machines (such as tampers, regulators, monitoring trains etc.) which are used outside of engineering possessions on the mainline railway are treated in the same way as other mainline vehicles. Generally, when machines are moving between engineering possessions interacting with infrastructure in the same way as 'conventional' passenger/freight rolling stock (e.g. 'Running Mode') they are treated as locomotives if they are moving under their own power and wagons if they are being towed. When on track plant (such as excavators, etc.) are only used within engineering possessions the ECM requirements do not apply.

Testing trains

Occasionally there is a need for trains to be tested on the mainline, perhaps following routine maintenance or for the purpose of carrying out proving runs in the final stages of manufacture. In these circumstances, an ECM must be assigned if the vehicle is considered to be in service – that is to say being used for the purpose it was designed for. In practice this usually means that vehicles which are still in the process of being manufactured or modified (e.g. have not started carrying freight or passengers yet) are not required to comply with the ECM requirements (Regulation 18A of ROGS). Those that

have started being used for their intended purpose but have been taken out of service for a short period to be maintained are required to comply. Notwithstanding the requirement for an ECM to be assigned, the train operator remains responsible for ensuring the vehicle is in a safe state of running before it enters the mainline. We expect train operators to manage this through their safety management system.

In the regulations

Regulation 18A: Maintenance of vehicles on the mainline railway

Who can become an ECM?

8.2 An ECM is:

(a) anyone responsible for the safe maintenance of a vehicle; and

(b) registered as the ECM in the NVR.

8.3 Anyone meeting these criteria can become an ECM. This can include people or organisations such as transport undertakings, infrastructure managers, keepers or maintenance organisations. The parties to a contract that relates to a vehicle can decide who will be the ECM. This applies for example when a rolling-stock leasing company leases a vehicle to a transport undertaking. Under the terms of the lease, either the transport undertaking or the leasing company may be responsible for the maintenance of the vehicle and may be the ECM.

What is the NVR?

8.4 The NVR (National Vehicle Register) is a database of vehicles authorised or operated in Great Britain under the Railway (Interoperability) Regulations 2011 (RIR2011). The Secretary of State has appointed Network Rail as the registration entity to maintain the NVR.

The registration entity

Network Rail Infrastructure Ltd is the registration entity for the NVR in Great Britain. If you are not sure whether a vehicle has an ECM assigned to it, you can contact the director of asset information, or the senior rail vehicle asset knowledge engineer, as follows:

Address: Infrastructure Asset Data Management Network Rail

The Quadrant: MK
Elder Gate
Milton Keynes
MK9 1EN

Email: nvr@networkrail.co.uk
Phone: 01908 781346

The registration holder

The registration holder is the person that is responsible for providing information about a vehicle to the registration entity. Unless otherwise specified in the registration documents, the keeper of the vehicle is the registration holder.

The registration holder is also responsible for declaring:

- any modification to the data entered on the NVR;
- the destruction of a vehicle; or
- its decision to no longer register a vehicle to the registration entity.

Who is responsible for assigning an ECM to a vehicle?

Regulation 18A(1)

8.5 The registration holder is responsible for assigning an ECM to a vehicle. Manufacturers or 'contracting entities' may also assign an ECM to a vehicle but if they do so, they will be acting in the role of registration holder. A 'contracting entity' is the person who contracts, or intends to contract, with another person for that other person to design, construct, renew or upgrade a subsystem under RIR 2011.

Who is responsible for registering the ECM on the NVR?

8.6 The registration holder is responsible for giving the registration entity details of the ECM. If those details change, the registration holder is also responsible for telling the registration entity about those changes. A transport undertaking hauling a wagon for which the ECM changes should satisfy itself that the registration holder has given the registration entity the details of the new ECM for that vehicle.

8.7 Once the registration entity has been given the ECM's details, or details of any changes, it must make sure this information is entered on the NVR. The details that the registration entity needs are:

(a) the name of the ECM;

(b) the full address of the ECM;

(c) the Vehicle Number (which identifies the vehicle for which the ECM is responsible);

(d) the ECM's email address.

8.8 The transport undertaking must ensure that each vehicle it uses has an ECM assigned to it and is registered in the NVR. The transport undertaking is under no obligation to be the ECM for that vehicle.

8.9 A transport undertaking can check if a vehicle has an ECM assigned to it and is registered on the NVR in Great Britain by accessing the GB NVR. Permission to access the NVR is granted by the registration entity.

The keeper

The keeper of a vehicle is the person who owns it, or has a right to use it, and operates it as a means of transport.

The keeper of a vehicle could be, for example:

- the owner;
- a company running a fleet of wagons;
- a company leasing vehicles to a transport undertaking;

- a transport undertaking;
- an infrastructure manager using vehicles for maintaining its infrastructure; or
- a contracting entity (that is, someone who orders the design, construction, renewal or upgrading of a vehicle).

These people or organisations have control over vehicles used as a means of transport by a transport undertaking or an infrastructure manager. ORR regards the keeper as the registration holder for the purposes of the NVR, (unless other specific arrangements are made and explained to us). Further details on the role of the registration holder can be found in RSSB's Rail Industry Guidance Note on the Application of the ECM Regulations.

The role of the ECM

8.10 There are four discrete functions carried out by ECMs:

(a) The **Maintenance Management Function** which includes the supervision and coordination of all the maintenance functions and the overall responsibility for the safe running of the vehicle.

(b) The **Maintenance Development Function** which includes the management of maintenance documentation, including the configuration management, based on design and operational data as well as on performance and feedback from operating experience;

(c) The **Fleet-Maintenance Management Function** which includes managing the removal of the vehicle from the operational railway for maintenance and the return to operation after maintenance; and

(d) The **Maintenance Delivery Function** which includes the delivery of the required technical maintenance of vehicles and vehicle parts including the release to service documentation.

Regulation 18A(2)

8.11 The ECM does not have to carry out the maintenance of the vehicle itself. It can subcontract any or all of the maintenance functions except for the maintenance management function. The identified ECM cannot contract out its responsibility for

ensuring the safe running state of the vehicles. It is therefore important that ECMs who subcontract work make sure the contractor is competent.

Regulation 18A(3)

8.12 If you are an ECM, you must have a system of maintenance in place for all vehicles you are responsible for. The system of maintenance is the process that allows the vehicles to be maintained in line with:

(a) the maintenance file for that particular vehicle;

(b) maintenance rules; and

(c) National Technical Specification Notices.

8.13 RSSB's Rail Industry Guidance Note on the Application of the ECM Regulations provides further guidance on a system of maintenance. The system described is for freight wagons, but it is applicable to other vehicles.

Maintenance file

The maintenance file is the written file that contains all the technical and management information that is necessary to determine the maintenance activities that need to be carried out on a vehicle. We may ask to see this maintenance file.

It is a vital part of the maintenance arrangements of an ECM and allows the ECM to demonstrate that it has suitable maintenance arrangements in place to make sure relevant rules and regulations are followed.

The management information in the maintenance file includes details of the nature of operation of the vehicle.

Further guidance on the maintenance file is available in RSSB's Application of the ECM Regulations (referred to in paragraph 8.13) and RSSB's Key Wagon Maintenance Principles.

Maintenance rules

Maintenance rules are any rules and standards that set out requirements relating to maintaining vehicles which apply in Great Britain.

Cross-Border Operations via the Channel Tunnel

8.14 If you operate cross-border operations via the Channel Tunnel, please read the following: Guidance on Entities in Charge of Maintenance.

Certification

8.15 If you are an ECM responsible for the maintenance of freight wagons within Great Britain, you must hold a valid ECM certificate issued by a UK certification body.

Certification bodies

ECM certification bodies are independently accredited organisations that assess ECMs to verify that the ECM complies with the requirements of the ECM Regulation. In Great Britain, certification bodies must be accredited by the United Kingdom Accreditation Service (UKAS). A list of current certification bodies and accreditation bodies can be found on the UKAS website.

More information about the role of the certification body is in paragraph 8.16.

The role of certification bodies

8.16 Certification bodies are responsible for verifying that ECMs comply with the relevant ECM requirements and that they continue to comply throughout the period of validity of the ECM certificate. This means that in addition to carrying out the initial certification activity, certification bodies are expected to establish a surveillance programme. This will typically consist of routine audits and assessments as well as investigating any allegations of non-compliance.

8.17 ORR is no longer an ECM certification body so all applications must be made through an accredited certification body.

Regulation 27(1)

8.18 You may appeal to the Secretary of State if you are aggrieved by:

(a) a decision of the 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

(b) 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.

8.19 You can ask for details of the appeals process from the certification body.

The role of ORR in ECM certification

8.20 Our role is primarily to supervise the application of the ECM Regulation by ECMs and ECM Certification Bodies. What this means is that we monitor and enforce the application of the Regulation by ECMs and ECM Certification Bodies. We do not issue ECM certificates or carry out routine inspections or audits of ECMs.

8.21 For us to carry out our supervision role effectively we rely on the cooperation of ECMs, ECM certification bodies and operators.

Annual reports

ECMs are required to produce an annual maintenance report to their certification body. We may ask to see this.

When a certification body withdraws its services

8.22 If a certification body withdraws its services, for example due to the company ceasing trading or leaving the market, the certificates it issued do not automatically become invalid. ECMs that hold certificates issued by the certification body must transfer to a new certification body as soon as practicable and make arrangements for any programmed inspections/audits to be carried out on schedule.

More information

ORR guidance

- Guidance for Entities in Charge of Maintenance in Great Britain – A Guide to Duty Holders

Other guidance for industry

- National Vehicle Register requirements for compliance with ROGS - Available from Network Rail by emailing nvr@networkrail.co.uk.
- ROGS Schedule 9 - Applications for UK-issued ECM certificates by entities in charge of maintenance
- ROGS Schedule 10 - System of certification of entities in charge of maintenance in respect of Great Britain.
- RSSB webpage - Certification of Entities in Charge of Maintenance in Great Britain: Certification of Entities in Charge of Maintenance in Great Britain.
- RSSB's Application on the Entity in Charge of Maintenance Regulations
- RSSB's Key Wagon Maintenance Principles.
- Guidance on Railways (Interoperability) Regulations, Department for Transport.

Glossary of terms

Regulation 2

Regulation 2 of ROGS gives the full legal definitions of most of the terms used in the regulations. This guide gives a simple explanation of terms when they are first used. We have included some other important definitions that are not explained elsewhere in the guide in the following section. You should note that these explanations do not replace the full legal definitions in the regulations.

Term	Definition
Certification body	'Certification body' 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.
Controller of safety critical work	‘Controller of safety critical work’ means any person controlling the carrying out of safety critical work on a transport system or in relation to a vehicle used on a transport system.
Duty holder	'Duty holder' means the person responsible for carrying out a particular duty under the regulations
Entity in charge of maintenance (ECM)	'Entity in charge of maintenance' (ECM) means an entity in charge of maintenance of a vehicle, and includes a transport undertaking, an infrastructure manager or a keeper.
2011 EU ECM Regulation	‘2011 EU ECM Regulation’ means Commission Regulation (EU) 445/2011 on a system of certification of entities in charge of maintenance for freight wagons.
2019 EU ECM Regulation	‘2019 EU ECM Regulation’ means Commission Implementing Regulation (EU) 2019/779 laying down detailed provisions on a system of certification for entities in charge of maintenance for vehicles pursuant to Directive (EU) 2016/798.
ECM Certificate	‘ECM certificate’ means a certificate issued to an ECM in accordance with the applicable ECM Regulation as stated below: (i) An ECM certificate issued in accordance with Regulation (EU) 445/2011 that is valid on the terms of its original issue;

Term	Definition
Freight wagon	'Freight wagon' means a non-self-propelled vehicle designed for the purpose of transporting freight or other materials to be used for activities such as construction or infrastructure maintenance
Infrastructure	'Infrastructure' means fixed assets used for running a transport system, including: • the permanent way or any other method of guiding or supporting vehicles; • any station; • equipment used for signalling; and • equipment used only for supplying electricity to run the transport system
Keeper	'Keeper' means the person who, being the owner of a vehicle or having the right to use it, exploits the vehicle as a means of transport and is registered as being the keeper in the National Vehicle Register
Railway	‘Railway’ does not include tramways. A railway is a ‘mainline railway’ unless we determine that it falls within one or more of these categories: • metros and other light rail systems; • networks that are functionally separate from the rest of the mainline railway system and intended only for the operation of local, urban or suburban passenger services, as well as transport undertakings operating solely on these networks; • heritage, museum or tourist railways that operate on their own networks; or • we determine that heritage vehicles that operate on the mainline railway and comply with national safety rules are deemed not to operate on the mainline railway; or • it is privately owned infrastructure that exists solely for use by the infrastructure owner for its own freight operations. Railways that fall under (a) and (b) above are contained in an Approved List on our website. These railways are described as non-mainline railways.
Transport system	'Transport system' mainly means a railway (mainline or non-mainline), a tramway, or any other guided transport system used wholly or mainly to carry passengers. The exceptions to this are listed chapter 1.

Term	Definition

Tramway	'Tramway' means a system of transport:
	• which is used completely or mainly to carry passengers;
	• where the maximum speed allows the driver to stop a vehicle in the distance he can see to be clear ahead; and
	• which uses parallel rails which:
	  • support and guide vehicles carried on flanged wheels; and
	  • are laid completely or partly along a road or in any other place to which the public has access (including a place where the public has access only after making a payment).
	Under regulation 2A of ROGS certain systems can be excluded from the scope of mainline railway, the Approved List shows the tramways that are excluded to avoid doubt of their status. While some sections of the mainline railway that are street running, and operate by line of sight, may appear fit the definition of 'tramway' they are not considered to fall within the definition of 'tramway' for the purposes of ROGS and are not in the scope of the Approved List exclusions.
	The definition deliberately uses the term 'partly' to ensure that systems that are majority street running do not become railways by default due to the opening of a substantial off-street segregated section, as long as the method of operation on the system as a whole remains on the 'line of sight' principle.

Vehicle	'Vehicle' includes a mobile traction unit. In this guidance it is also used to include 'rolling stock', which means any carriage, wagon or other vehicle used on tracks and including locomotives. 'Vehicle' also refers to anything which, whether or not it is built or adapted to carry any person or load, is built or adapted to run on flanged wheels over or along track.

Annex 1: Table of updates to guidance

Updates following EU exit from the European Union

Section	Changes
Introduction	▪ Removed historical content and added text to outline the changes to ROGS that result from the UK exiting the European Union including referencing the Statutory Instruments created. ▪ Added text providing an overview of the inoperabilities that were contained within ROGS and other EU legislation, which were corrected by The Rail Safety (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/837). ▪ Added a table created showing new schedules within the ROGS regulations and the relevant EU legislation they replicate, in a corrected form.
Safety management systems	▪ Revised text to reflect that Common Safety Targets remain but that these are now contained within Schedule 11 of ROGS. ▪ Added text to clarify the Common Safety Methods for Monitoring and Risk Evaluation & Assessment being retained for use in the UK.
Safety verification	▪ Revised text to outline that a non-mainline transport operator can choose to voluntarily adopt the application of the CSM for risk assessment & evaluation as opposed safety verification for significant changes. Mainline transport operators must apply the CSM for risk assessment & evaluation. All transport operators must retain documentation showing the process used.
Safety certificates and safety authorisations	▪ Revised text regarding the validity of part A safety certificates to clarify the status of existing certificates issued by ORR. ▪ Revised text relating to consultation with affected parties on an application for a safety certificate and / or safety authorisation. ▪ Added text relating to exemption applications under Regulation 30(1) and the application of The Railway Safety Regulations 1999.

Section	Changes
	▪ Added text to clarify that a substantial change can have an impact at the interface between infrastructure managers and transport operators.
Annual reports	▪ Revised text advising those compiling annual safety reports that they need to refer to The Rail Safety (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/837), which made the necessary corrections to inoperabilities contained in ROGS and EU retained legislation that arise from the UK leaving the EU.
Co-operation	▪ Revised text to update terminology relating to “transport operators” and “transport system”.
Managing safety critical work	▪ Revised text to update terminology related to “persons” and “controller”.
Entities in charge of maintenance (ECM)	▪ Added text providing information on the application of ECM regulation 2019/779 for both domestic and cross-border operations.
Glossary	▪ Revised text for “Entity in charge of maintenance (ECM)”, “ECM Regulation”, “ECM Certificate” and “Keeper”. ▪ Added text for “Controller of safety critical work”.

Updates from 2022

Section	Changes
Introduction	▪ Revised text to clarify impact of the introduction of statutory instruments that came into force when the UK left the EU. ▪ Added text to confirm that the scope of the safety regime under ROGS is unchanged following EU Exit, and that the main impact of the statutory instruments that were introduced is to remove inoperabilities in retained EU law.

Section	Changes
Safety management systems	▪ Added text advising that EU Exit Regulations made changes to CSMREA, including changes to the use of mutual recognition and relaxed criteria when a significant change is made. ▪ Added text to explain when the CSM for monitoring should be applied. ▪ Added text to explain when the CSM for supervision must be applied.
Safety certificates and safety authorisations	▪ Added text advising on recognition of safety certificates in GB and EU, including that all duty holders must hold Part A and Part B safety certificates that have been issued by the ORR in order to operate on the GB mainline railway infrastructure.
Risk assessments	▪ Revised text to clarify that transport operators are required to carry out a suitable and sufficient assessment of risks to the safety of any person using the railway and to ensure the safe operation of the transport system. They must also ensure they meet all relevant health and safety legislation, not just railway specific safety legislation.
Co-operation	▪ Added text to confirm that the duty of co-operation applies to everyone working on the railway. ▪ Added text describing what duty holders can do to escalate serious disputes and the action the ORR will take to help resolve disputes.
Managing safety critical work	▪ Added text to clarify that while ROGS does not apply to freight end users, they are required to co-operate with other employees on the railway system to ensure everyone can meet their health and safety requirements. ▪ Added text from RIG 2008/03 to explain that railway undertakings applying for a safety certificate, as well as infrastructure managers and their staff who perform safety critical tasks, have access to training services provided by other bodies.
Entities in charge of maintenance (ECM)	▪ Revised text with an updated explanation of maintenance rules applying in GB.

Section	Changes
	▪ Replaced text under the heading Cross-border operations via the Channel Tunnel with a link to separate guidance for ECMs. ▪ Revised text to advise that an ECM responsible for maintenance of freight wagons in GB must hold a valid ECM certificate issued by a certification body. ▪ Revised text to clarify the appeals process where an application for an ECM certificate has been refused.
Glossary	▪ Replaced definition of ECM certificate following EU Exit.

Updates from 2026

Section	Changes
Foreword	▪ Revised text to refer to amended ROGS at legislation.gov.uk.
Introduction	▪ Revised text to note ROGS was also amended in 2023 by the Railways and Other Guided Transport Systems (Safety) (Amendment) Regulations 2023. ▪ Removed outdated terminology on fatigue for safety critical work.
Safety certificates and safety authorisations	▪ Revised text to update reference to relevant chapter in the latest ROGS Safety Certificate and Safety Authorisation Assessment Manual.
Managing safety critical work	▪ Revised text to reflect current terminology and guidance on fatigue, including addition of link to ORR's Managing rail staff fatigue guidance document.
Entities in charge of maintenance (ECM)	▪ Revised text to provide updated link to separate guidance for ECMs undertaking operations via the Channel Tunnel. ▪ Revised text to clarify that ECMs responsible for freight wagons used in domestic service must have UK-issued ECM certificate or an EU ECM certificate that was issued by a certification body accredited by UKAS.

Section	Changes
	▪ Removed links to ORR RIG-2012-01 and added links to RSSB's Rail Industry Guidance Note on the Application of the Entity in Charge of Maintenance Regulations and RSSB's Key Wagon Maintenance Principles. ▪ Added a link to ORR's Guidance for Entities in Charge of Maintenance in Great Britain – A Guide to Duty Holders.
Annex 1	▪ Merged and simplified the previous Annex 1: Table of updates to guidance published in October 2022 and Annex 2: Table of updates to guidance following UK exit from the European Union and other minor updates.

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