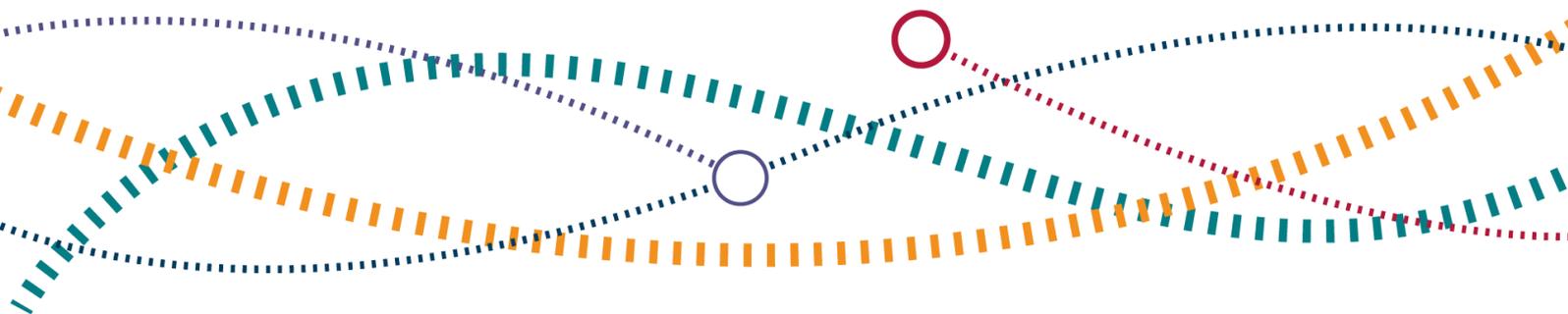




Guidance for Entities in Charge of Maintenance in Great Britain

A Guide for Duty Holders

21 August 2023



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Forward

What is the purpose of this guide?

This guidance sets out the requirements that apply to entities in charge of maintenance (ECMs) in Great Britain. An ECM is any person or organisation responsible for the safe maintenance of a rail vehicle. The requirements for ECMs differ depending on the type of vehicle it is responsible for, and whether it is being used in domestic traffic or cross-border traffic.

This guidance will be of particular interest to ECMs, certification bodies responsible for issuing ECM certificates, wagon keepers and railway undertakings responsible for the maintenance or operation of vehicles involved in cross-border traffic.

This guidance has been jointly prepared by the Department for Transport and Office of Rail and Road (ORR).

1. Introduction

Who are entities in charge of maintenance?

1. ECMs are people or organisations who are responsible for the maintenance of vehicles used on the mainline railway. The mainline railway means any railway except for any railway or part of a railway that has been excluded from the mainline railway by the ORR or is privately owned infrastructure.
2. All vehicles that run on the mainline railway are required to have an ECM assigned to them in the National Vehicle Register (NVR) in accordance with Regulation 18A(1) of the Railways and Other Guided Transport Systems (Safety) Regulations 2006 (S.I. 2006/599) (“ROGS”). The ECM may also be required to obtain ECM certification issued by a certification body, depending on the type of vehicle and where it is used (see section 2 for domestic mainline requirements and section 3 for requirements that apply to cross-border services).

What are the general requirements for ECMs?

3. There are general requirements that apply to all ECMs, which need to be met for vehicles to be used on the mainline railway. ECM certification is only required for certain ECMs (see section 2 for more detail). There are also some requirements that apply to other bodies who are not ECMs, including certification bodies, railway undertakings, infrastructure managers, manufacturers, and keepers.

What are the legislative requirements post-Brexit?

4. ROGS was amended by the Rail Safety (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/837) (“the 2019 EU Exit Regulations”) to ensure the legislative requirements remained operable when the UK left the EU. The amendments came into force on 31 December 2020. Following this, the UK is no longer bound by EU law. The 2019 EU Exit Regulations revoked Commission Regulation (EU) 445/2011 on a system of certification of ECMs for freight wagons, and then substantially reproduced the requirements set out in that Commission Regulation in Schedules 9 and 10 of ROGS.
5. During the period immediately prior to the UK’s exit from the EU, on 16 June 2020 the Commission Regulation (EU) 445/2011 was revoked and replaced by Commission Implementing Regulation (EU) 2019/779 which lay down detailed

provisions on a system of certification for ECMs of vehicles pursuant to Directive (EU) 2016/798¹ (“the Recast Safety Directive”).

6. In parallel, the Intergovernmental Organisation for International Carriage by Rail (“OTIF”) amended provisions established by the Convention concerning International Carriage by Rail (“COTIF”)², which the UK is a contracting signatory of. Specifically, OTIF amended the uniform rules concerning the Technical Admission of Railway Material used in International Traffic (“ATMF”) and the rules for the certification and auditing of ECMs set out in Annex A of Appendix G of COTIF to ensure it maintains equivalence with Commission Implementing Regulation (EU) 2019/779. This means that the requirements set out in Commission Implementing Regulation (EU) 2019/779 apply to international traffic between the UK and all other COTIF contracting states, such as France, where previously Commission Regulation (EU) 445/2011 applied. As a signatory of the COTIF, the UK was required to recognise and adhere to the requirements of ATMF and by extension Commission Implementing Regulation (EU) 2019/779 for international rail services, including those services through the Channel Tunnel cross-border area.
7. To meet these obligations and maintain the existing domestic mainline requirements for ECMs, the UK revoked Commission Implementing Regulation (EU) 2019/779 for the domestic mainline railway in Great Britain by the Railways (Miscellaneous Amendments, Revocations and Transitional Provisions) (EU Exit) Regulations 2020 (S.I. 2020/786), except for the UK section of the Channel Tunnel where there are cross-border services between the UK and EU, so that they would apply to international rail services. The requirements set out in the retained version of Commission Implementing Regulation (EU) 2019/779 therefore apply in the UK section of the Channel Tunnel (see Annex A of this guidance on how to interpret the requirements).
8. Whether it is necessary to comply with the requirements of Schedules 9 and 10 of ROGS, or the retained version of Commission Implementing Regulation (EU) 2019/779, depends on whether the vehicle is used only for domestic services or is used for cross-border services via the Channel Tunnel.
9. If a vehicle is used only for domestic services in Great Britain, then the ECM assigned to that vehicle in the NVR will need to comply with Regulation 18A (except for Regulation 18A(1A) which applies to cross-border services) and Schedules 9 and

¹ Directive (EU) 2016/798 of the European Parliament and of the Council of 11 May 2016 on railway safety (recast).

² There are 50 signatory states of the convention, including the UK and the European Union. The convention can be read in full here: CIT-Rail.org - COTIF

10 of ROGS. An ECM may alternatively voluntarily apply the requirements of the retained version of Commission Implementing Regulation (EU) 2019/779, including certification against these requirements, to comply with Regulation 18A of ROGS.

10. If a vehicle is used for cross-border services via the Channel Tunnel, then the ECM assigned to that vehicle in the NVR will need to comply with Regulation 18A of ROGS (except for paragraphs 18A(1) and 18(A)(4) of ROGS) and the retained version of Commission Implementing Regulation (EU) 2019/779.
11. The table below sets out the legislation to be complied with for each category of vehicle.

Type of vehicle	Applicable legislation
Domestic only services (Great Britain)	
Freight wagons	Regulation 18A(1), 18A(2), 18A(3), 18A(4) and Schedules 9 and 10 of ROGS; or an ECM may voluntarily apply Commission Implementing Regulation 2019/779 as retained by Regulation 11 of the Railways (Miscellaneous Amendments, and Transitional Provisions) (EU Exit) Regulations 2020 (S. Revocations I. 2020/786) which shall be deemed as meeting the requirements under Regulation 18A(1), 18A(2), 18A(3), 18A(4) and Schedules 9 and 10 of ROGS.
Other vehicles	Regulation 18A(1), 18A(2) and 18A(3) of ROGS
International (including cross-border services via the Channel Tunnel Fixed Link)	
Freight wagons	Regulation 18A(1A), 18A(2) and 18A(3) of ROGS and Commission Implementing Regulation 2019/779 as retained by Regulation 11 of the Railways (Miscellaneous Amendments, Revocations and Transitional Provisions) (EU Exit) Regulations 2020 (S.I. 2020/786).
Other vehicles	

2. ECM requirements for domestic only services under ROGS

Requirements for domestic only services

What are the requirements for domestic only services under ROGS?

12. Regulation 18A of ROGS requires that no person place into service or use a vehicle on the mainline railway, unless that vehicle has an ECM assigned to it, and that ECM is registered as such in the NVR. For example, a train operating company leasing passenger trains must make sure that there is an ECM registered against the vehicles in the NVR before it begins to haul them.
13. A domestic only service means a service that operates exclusively on the mainline railway in Great Britain. For example, a freight operating company running freight trains between Felixstowe and Doncaster.
14. Each ECM must ensure that, through a system of maintenance, a vehicle for which it is responsible is safe to run on the mainline railway. The system of maintenance is the maintenance of a vehicle in accordance with:
 - the maintenance file for that vehicle;
 - applicable maintenance rules; and
 - applicable National Technical Specification Notices (NTSNs) as defined in the Railways (Interoperability) Regulations 2011 (S.I. 2011/3066).
15. ECMs may also wish to apply the four maintenance functions, as described in Annex II of the retained version of Commission Implementing Regulation (EU) 2019/779, although this is not a legal requirement for ECMs assigned to domestic only vehicles.
16. All ECMs must comply with the retained and corrected versions of Commission Regulation (EU) 1078/2012 (“the Common Safety Method (CSM) for monitoring”) and

Commission Implementing Regulation (EU) 402/2013 (“the CSM for risk evaluation and assessment evaluation”). These were retained and corrected by the Rail Safety (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/837) to ensure they remained operable post-Brexit.

What vehicles do these requirements apply to?

17. These requirements apply to all passenger rolling stock, locomotives, freight wagons and all other vehicles placed in service or used on the mainline railway for domestic only services in Great Britain (for cross-border services see section 3).

Do I need an ECM certificate?

18. Overall, the changes introduced by the Railways and Other Guided Transport Systems (Safety) (Amendment) Regulations 2023 (“the 2023 Amendment Regulations”) (S.I. 2023/540) mean that if the ECM has responsibility for freight wagons in domestic only service in Great Britain, it must hold one of the following:
 - an ECM certificate issued in accordance with Commission Regulation (EU) 2011/445 before the UK left the EU that is valid on the terms of its original issue;
 - a UK-issued ECM certificate to use freight wagons on the mainline railway issued in accordance with Schedules 9 and 10 of ROGS; or
 - a cross-border UK-issued ECM certificate to use freight wagons on the mainline railway issued in accordance with the retained version of Commission Implementing Regulation (EU) 2019/779.
19. If the vehicle is a freight wagon in domestic only service, the ECM must have an ECM certificate issued by a certification body in accordance with Regulation 18A(1)(b) of ROGS.
20. The 2023 Amendment Regulations amended Regulation 18A(1)(b) to require that ECMs responsible for freight wagons being used in domestic service from 30th June 2023 in Great Britain must have a UK-issued ECM certificate or an EU ECM certificate that was issued by a **certification body** accredited by United Kingdom Accreditation Service (UKAS).
21. From 30th June 2023, certification issued by EU certification bodies to ECMs ceased to be valid in Great Britain, unless the ECM holding an ECM certificate issued by an EU certification body met the transitional provisions under Regulation 18A(1ZA).

Under Regulation 18A(1ZA), an ECM holding a certificate issued by an EU certification body can continue to use this certificate until 1st November 2023, on the condition that the ECM has made an application for a certificate from a UK certification body, and the certification body has not yet taken a decision on the application.

22. The 2023 Amendment Regulations also amended Regulation 18A(1)(b) to enable ECMs for wagons in domestic only services to use UK-issued ECM certificates under the retained version of Commission Implementing Regulation (EU) 2019/779, which were previously only valid for cross-border services.
23. If you are an ECM for vehicles other than freight wagons, you do not need an ECM certificate to operate vehicles on the mainline railway in Great Britain. However, you may obtain voluntary certification under Schedules 9 and 10 of ROGS or Commission Implementing Regulation (EU) 2019/779, should you wish to do so.

How do I apply for a UK-issued ECM certificate?

24. An ECM may apply to a certification body accredited by the UKAS for a UK-issued ECM certificate. A list of accredited certification bodies is maintained by the RSSB and can be found at: [Certification of Entities in Charge of Maintenance in Great Britain \(rssb.co.uk\)](https://www.rssb.co.uk/certification-of-entities-in-charge-of-maintenance-in-great-britain).
25. If you are an ECM responsible for vehicles other than freight wagons used to operate cross-border services, section 3 explains how to apply for a cross-border UK-issued ECM certificate.

3. ECM requirements for cross-border services

Requirements for cross-border services

What is a cross-border service?

26. A cross-border service means a service for the carriage of passengers or goods by way of the Channel Tunnel system. For example, this would include a freight service engaged in the transportation of goods between Calais-Fréthun station in France, and Dollands Moor freight yard in the UK. Cross-border services between the Republic of Ireland and Northern Ireland are subject to separate legislative requirements and are not covered here.

What are the requirements for cross-border services?

27. When the UK left the EU, the Government retained Commission Implementing Regulation (EU) 2019/779 for the UK section of the Channel Tunnel to support cross-border services³. This was necessary because Commission Implementing Regulation (EU) 2019/779 repealed and replaced Commission Regulation (EU) 445/2011 across the EU on 16 June 2020, including France, with whom the UK shares a direct rail link via the Channel Tunnel. When the UK left the EU, the requirements of Commission Regulation (EU) 445/2011 were substantially reproduced to apply in Great Britain under the Rail Safety (EU Exit) (Amendment etc.) Regulations 2019 (S.I. 2019/837). This meant there was a risk of divergence between the EU and Great Britain in the cross-border area. As a result, the requirements of Commission Implementing Regulation (EU) 2019/779 were retained to apply in the UK section of the Channel Tunnel to ensure the regimes through the cross-border area are consistent with each other.
28. This was also necessary to ensure the UK complies with the requirements set out under the COTIF which the UK is signatory of. The UK is required to follow the requirements of Annex A of Appendix G of COTIF, which is equivalent with the requirements of Commission Implementing Regulation (EU) 2019/779. Among other

³ This was implemented by the Railways (Miscellaneous Amendments, Revocations and Transitional Provisions) (EU Exit) Regulations 2020 (S.I. 2020/786).

requirements, this means that the UK must comply and recognise the requirements under Commission Implementing Regulation (EU) 2019/779 for vehicles in international traffic, including cross-border services between the UK and other COTIF contracting states e.g., France.

29. ECMs that are responsible for the maintenance of vehicles used for cross-border services must comply with Regulation 18A(1A), 18A(2) and 18A(3) of ROGS, which applies on the mainline in Great Britain, and the retained version of Commission Implementing Regulation (EU) 2019/779, as it applies in the UK section of the Channel Tunnel.

Who do these requirements apply to?

30. ECMs, certification bodies, manufacturers, railway undertakings and infrastructure managers that are involved in cross-border services via the Channel Tunnel all have responsibilities under Regulation 18A(1A), 18A(2) and 18A(3) of ROGS and the retained version of Commission Implementing Regulation (EU) 2019/779.

What are the requirements under the retained version of Commission Implementing Regulation (EU) 2019/779?

31. Commission Implementing Regulation (EU) 2019/779 maintains several of the requirements set out in Commission Regulation (EU) 445/2011, including the requirement for all vehicles to have an ECM assigned to them responsible for its maintenance. However, Commission Implementing Regulation (EU) 2019/779 widens the requirement for ECMs to hold certification if they are responsible for the maintenance of any type of vehicle on the mainline railway. Moreover, Commission Implementing Regulation (EU) 2019/779 introduces a new system for the management of components deemed to be safety critical.
32. The retained version of Commission Implementing Regulation (EU) 2019/779 has not yet been corrected for the UK section of the Channel Tunnel, meaning it contains references and obligations to the EU that are inoperable and should be ignored. There will be legislation to correct this regulation as part of establishing a revised framework for the Channel Tunnel in due course. In the meantime, stakeholders are advised to refer to paragraph 33 and Annex A of this guidance on how to interpret the requirements.

How do I interpret the requirements of the retained and uncorrected version of Commission Implementing Regulation (EU) 2019/779?

33. Stakeholders should read the uncorrected version of Commission Implementing Regulation (EU) 2019/779 in the context of the UK no longer being an EU Member State. Therefore, references to EU law, institutions and Member States should be disregarded and instead read in the context of UK law and institutions. As such, obligations relating to notifying EU institutions should also be disregarded. See Annex A for a non-exhaustive list of common deficiencies for illustrative purposes. If you have any questions related to these requirements, please contact rail.safety@dft.gov.uk if you have any questions about this guidance.

What are the certification requirements for the UK section of the Channel Tunnel?

34. All ECMs responsible for vehicles in the Channel Tunnel must hold a valid ECM certificate issued by a certification body. It is possible to obtain an ECM certificate issued under the retained version of Commission Implementing Regulation (EU) 2019/779 for the UK section of the Channel Tunnel. These are called 'cross-border UK-issued ECM certificates' to distinguish them from domestic UK-issued ECM certificates issued under Regulation 18A and Schedules 9 and 10 of ROGS for the mainline.

How do I apply for a cross-border UK-issued ECM certificate?

35. ECMs that are responsible for the maintenance of vehicles used for cross-border services and require a certificate can apply to a certification body accredited by the UKAS and in accordance with accreditation requirements of ECM Regulation 2019/779. The RSSB maintain a list of accredited UK certification bodies, which can be found here: [Certification of Entities in Charge of Maintenance in Great Britain \(rssb.co.uk\)](http://www.rssb.co.uk).

What are the criteria for exemption to mandatory ECM certification?

36. An exemption is made for ECMs that are also railway undertakings (RU) or infrastructure managers (IM) responsible for the maintenance of vehicles other than freight wagons exclusively for their own operations. These ECMs will still need to demonstrate that they comply with the requirements of Commission Implementing

Regulation 2019/779, in particular Annex II, but they have the option of doing this as part of safety certification/safety authorisation instead of separately obtaining a cross-border UK-issued ECM certificate. If this option is chosen, the RU/IM will need to be able to demonstrate that it is managing compliance with Annex II through its safety management system (SMS). ECMs that share a name or parent company with the RU/IM but are functionally separate and not covered by the RU/IMs SMS will need to obtain an ECM certificate from a certification body.

What are the requirements relating to the management of safety critical components?

37. Commission Implementing Regulation 2019/779 introduces obligations on the ECM and the manufacturer to identify, manage and record information on safety critical components. These are defined as components for which a single failure has a credible potential to lead directly to a serious accident.
38. The specific vehicle and its use must be taken into account when assessing components. Designers/manufacturers have initial responsibility for identifying safety critical components. ECMs have the ongoing responsibility for managing safety critical components and identifying new safety critical components once the vehicle is in service.
39. When unexpected or exceptional maintenance findings are discovered and/or new safety critical components are identified, the ECM and manufacturer must notify those parties involved in the maintenance of the vehicle and the relevant wider industry.

What is an international service?

40. An international service is defined as a rail journey whose vehicles are being used with the purpose of moving passengers or goods between states who have signed the COTIF. Vehicles being used to move goods or passengers in an international service are described as being in 'international traffic'. All international services are 'cross-border services' and are subject to the same requirements in Great Britain.
41. To ascertain whether a service is international, an assessment should be made about the purpose of the vehicles involved in the journey. A service that uses vehicles with the purpose of moving goods or passengers between two COTIF signatory states and has an uninterrupted journey (i.e., the vehicles do not unload goods or passengers until it reaches its destination) would meet the definition of an international service.

Case study: A freight operator intends to move goods from Amsterdam in the Netherlands to Derby in England via London. The vehicles do not unload their goods in London but these are unloaded in Derby, which is the target destination of the delivery.

The entire journey between Amsterdam to Derby via London would be considered an 'international service' because the vehicles involved in the service are being used to move products between these two locations that span an international border. The fact the service stopped temporarily in London does not mean it is no longer an international service, as the goods were not unloaded in London and were unloaded in Derby which is the destination of the delivery.

When does an international service cease to be an international service?

42. If a vehicle was originally being used for the purposes of moving goods or passengers between two locations across an international border and unloads said goods or passengers at their destination, but was then used to move a new set of goods or passengers to another location within the domestic rail network, the second section of the journey would be considered a domestic journey.

Case study: A freight operator transports goods from Amsterdam in the Netherlands to Derby in England where it unloads these goods. The vehicles are then loaded with different goods, which are transported on the domestic network from Derby to Doncaster.

Whilst the journey between Amsterdam and Derby would be considered an international service, the second part of the journey between Derby and Doncaster would no longer meet the definition of being in international service. This is because the vehicles involved are now being used to move different goods on the domestic mainline than those in the original service, meaning the vehicles being used are in domestic service.

Will UK-issued ECM certificates be recognised in the EU in accordance with COTIF?

43. Under COTIF, ECM certificates issued in accordance with the legal framework of COTIF should be recognised for the purposes of international traffic between Contracting States, in accordance with Annex A of Appendix G of COTIF, which is equivalent with the requirements of Commission Implementing Regulation (EU) 2019/779. The UK and all EU Member States with railways are signatories to COTIF.

Do I need to apply for separate ECM certificates for domestic only and cross-border services?

44. ECMs responsible for the maintenance of vehicles used for cross-border services will need to obtain a cross-border UK-issued ECM certificate issued in accordance with Commission Implementing Regulation (EU) 2019/779 for their cross-border operations.
45. ECMs responsible for the maintenance of freight wagons will also need to hold a UK-issued ECM certificate issued in accordance with Regulation 18A and Schedules 9 and 10 of ROGS for their domestic operations. EU issued ECM certificates belonging to ECMs responsible for freight wagons are no longer recognised for domestic only services in Great Britain as of 30th June 2023, unless the certification body has been accredited by the UK national accreditation body, in accordance with changes made by the 2023 Amendment Regulations.

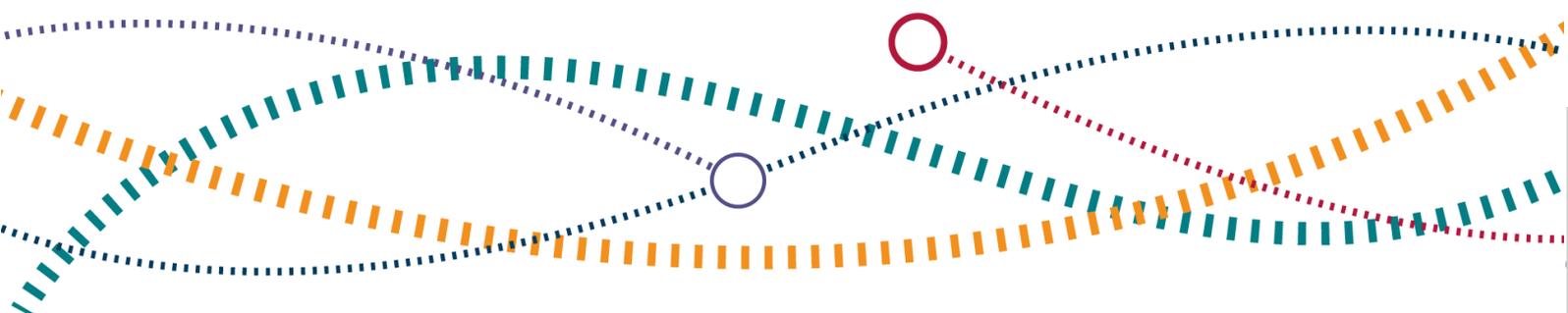
4. Requirements for Certification Bodies

How do I become an accredited certification body and what are the requirements?

24. To become an accredited certification body in Great Britain, an organisation needs to apply to UKAS, which can be initiated online at:
<https://www.ukas.com/accreditation/standards/certification-body-accreditation/>.
25. The type of ECM certification that an ECM certification body wants to be competent to issue depends on the area they intend to issue ECM certificates. If a certification body intends to be able to issue ECM certificates for the domestic mainline, it must comply with Part 3 of Schedule 10 of ROGS and the sectoral accreditation scheme established by UKAS.
26. If the certification body intends to issue cross-border UK-issued ECM certificates, the body must comply with the general criteria and principles set out in Annex I of the retained version of Commission Implementing Regulation (EU) 2019/779 and UKAS's sectoral accreditation scheme.

Annex A – Common deficiencies in Commission Implementing Regulation (EU) 2019/779

Deficiencies	How the provision could be read for application in the UK?
References to 'certification body'.	ECMs may consult the list of certification bodies on the RSSB's website: Certification of Entities in Charge of Maintenance in Great Britain (rssb.co.uk) .
References to Technical Specifications for Interoperability (TSIs)	Stakeholders should read these as National Technical Specification Notices (NTSNs) which are the specifications that fulfil the role of TSIs in Great Britain under the Railways (Interoperability) (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/345).
References to Member State	Stakeholders should read this as the UK where applicable.
References and obligations to the European Union Agency for Railways (the Agency)	Stakeholders should ignore these references and obligations with respect to UK territory.
Application forms	Stakeholders should reproduce and use the substantive parts of the forms.
Certification forms	Stakeholders should reproduce and use the substantive parts of the forms.





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