

A Guide to ROGS

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 information with a background colour offers:

- guidance, examples, or practical help
- more information, including on the regulations themselves
- the 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
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)	Entities in	10 - System of Certification of

Relevant EU legislation	Topic covered	New ROGS Schedule
445/2011	Charge of Maintenance (ECM)	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 on our website. 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. ROGS duties by transport system type

Duty Operation	Duty of co- operation	Managing safety critical work	Risk assessment	Safety management systems	Safety certificate authorisation
Mainline	Yes	Yes	Yes	Yes	Yes

Duty Operation	Duty of co- operation	Managing safety critical work	Risk assessment	Safety management systems	Safety certific authori
railway					
Non- mainline railway and other transport systems operating above 25/ mph (40km/ h) (for example, light rail, metro systems)	Yes	Yes	Yes	Yes	Yes
Non- mainline railway and other transport systems operating below 25mph	Yes	Yes	Yes	Yes	For par operati the ma only

Duty Operation	Duty of co- operation	Managing safety critical work	Risk assessment	Safety management systems	Safety certificat authori
(40km/h) (for example, heritage railway)					
Tram-train transport systems	Yes	Yes	Yes	Yes	For par operati the ma only
Tramways	Yes	Yes	Yes	Yes	No
Work in sidings	Yes	Yes	Only if the siding is part of the transport system	No	No
Work in engineering possessions	Yes	Yes	No	No	No
Work in	Yes	Some work on	No	No	No

Duty Operation	Duty of co- operation	Managing safety critical work	Risk assessment	Safety management systems	Safety certific authori
depots		vehicles			

- → Next 1. Safety management systems