

A Guide to ROGS

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:

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.
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