



# Railway safety legislation from 1 January 2021

4 January 2021

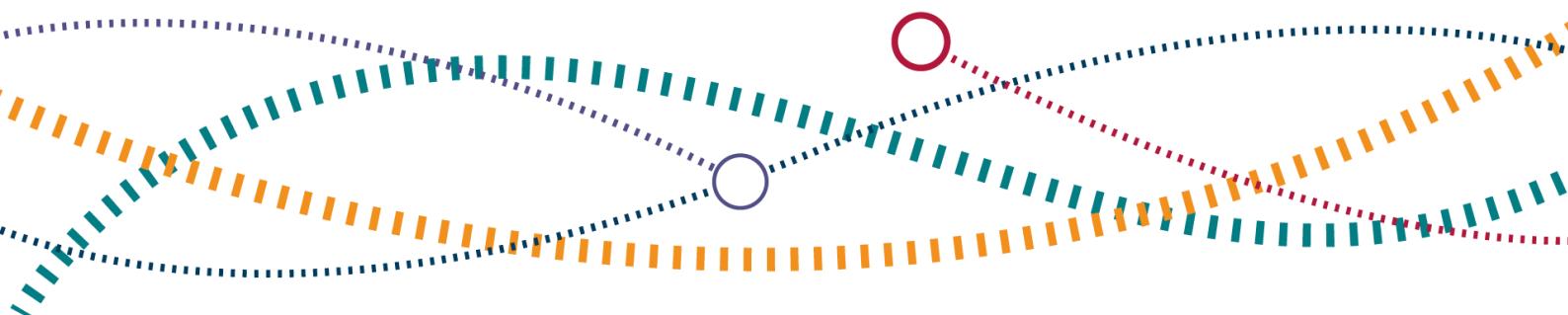
## Changes to:

Railways and Other Guided Transport Systems (Safety) Regulations 2006

Railways (Access to Training Services) Regulation 2006

Entities in Charge of Maintenance Regulation 445/2011

Railways (Interoperability) Regulations 2011



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# Foreword

On 31 January 2020 the United Kingdom withdrew from the European Union (EU) and stopped being a Member State. The EU Withdrawal Agreement provides for a transition period during which the UK is required to implement EU law, ending on 31 December 2020. After that date, new EU legislation will not apply in the UK.

This document provides an overview of the changes to:

- The Railways and Other Guided Transport Systems (Safety) Regulations 2006 (ROGS) (S.I. 2006/599);
- The Railways (Access to Training Services) Regulation 2006 (S.I. 2006/598);
- Entities in Charge of Maintenance Regulation 445/2011;
- The Railways (Interoperability) Regulations 2011 (S.I. 2011/3066), and;
- associated legislation.

These changes have been made to ensure that there continues to be a regime to support the safe operation of Great Britain's railways from 1 January 2021. An overview of the structure of the railway safety regulations is provided on page 9.

The regulations making changes to safety legislation are as follows and are referred to as 'EU exit amending regulations' throughout this document.

- The Railways Safety (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/837);
- 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 primary purpose of amendments made by the EU exit amending regulations is to ensure that UK legislation continues to work effectively from 1 January 2021. For example, to remove terminology or requirements which are no longer relevant.

ORR will amend its suite of guidance on railway safety regulations as soon as possible after 1 January 2021. Until we do so, the relevant aspects of current guidance should be considered in conjunction with this document.

More detailed information on the effect of the EU exit amending regulations on railway regulations is contained in guidance issued by the Department for Transport available [here](#)

This document reflects significant elements of the legislation that duty-holders (infrastructure managers, railway undertakings and service providers) need to be aware of. However, it does not seek to cover every aspect of the legislation. It is the responsibility of individual businesses to ensure that they are compliant with the law. We advise businesses to refer to the EU exit amending regulations as the primary source of information, as this document is not intended to cover every amendment to legislation.

# Affected legislation

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

1. ROGS are the main implementing regulations for the European Railway Safety Directive (2004/49/EC) (The Safety Directive) and they set out the regime for railway safety including the mainline railway, metros (including London Underground), tramways, light rail and heritage railways.
2. ROGS are domestic law and will continue to have effect in Great Britain from 1 January 2021 subject to the amendments made by the EU exit amending regulations to prevent, remedy or mitigate any deficiencies arising as a result of the withdrawal of the UK from the EU.

## The Railways (Interoperability) Regulations 2011 (RIR)

3. In parallel with the amendments made to ROGS, similar corrections have been made to RIR. RIR will also continue to have effect in Great Britain from 1 January 2021 and will be amended to create a new UK standards regime whereby Technical Specifications for Interoperability (TSIs) will be replaced by UK equivalents in the form of National Technical Specification Notices (NTSNs). Any references in ROGs to TSIs will be replaced by NTSNs from 1 January 2021.
4. DfT has produced detailed guidance on RIR from 1 January 2021 available [here](#).

## The Common Safety Methods (CSMs)

5. There is a suite of five CSM regulations which provide the methods for:
  - Assessing conformity with the requirements for obtaining a safety certificate;
  - Assessing conformity with the requirements for obtaining a safety authorisation;
  - Supervision of transport operators;
  - Monitoring the effectiveness of duty holders' safety management systems, and;

- Risk evaluation and assessment.
6. CSMs will be retained and corrected by the EU exit amending regulations and will continue to apply in the UK from 1 January 2021.

## The Common Safety Targets (CSTs)

7. The CSTs specify the level of safety that safety management systems must achieve through the use of the CSMs and the method for assessing the level of safety.
8. ROGS are amended by the EU exit amending regulations to ensure that CSTs and methods for assessing the level of safety which are equivalent to the CSTs are incorporated into domestic law. The task of assessing whether the CSTs have been achieved will pass from the EU Agency for Railways to the ORR from 1 January 2021.

## Entities in Charge of Maintenance Regulation (445/2011)

9. The Entities in Charge of Maintenance (ECM) Regulation establishes a system of certification for ECMs of freight wagons.
10. ROGS are amended by the EU exit amending regulations to establish a system for certifying ECMs of freight wagons which is equivalent to the ECM Regulation. These requirements will appear as new Schedules 9 and 10 of ROGS. More detailed information on the ECM requirements from 1 January 2021 is contained in separate document available [here](#).

## The Railways (Access to Training Services) Regulations 2006

11. These regulations implement the requirement in Article 13 of the Safety Directive to ensure that railway undertakings have fair and non-discriminatory access to training services. The regulations are domestic law and will continue to have effect in Great Britain from 1 January 2021 subject to minor amendments made by the EU exit amending regulations to prevent, remedy or mitigate any deficiencies arising as a result of the withdrawal of the UK from the EU. These amendments are made under Regulation 4 of the Railways Safety (Amendment etc.) (EU Exit) Regulations 2019.

# Changes after 1 January 2021

## Railway safety legislation

12. There are no substantive changes to the scope of railway safety legislation, or the requirements duty holders must comply with. In particular, there are **no** changes to how safety management must be carried out and **no** changes to the requirements for obtaining and renewing a safety certificate or safety authorisation.
13. There are minor changes to the format of safety certificates and the related application forms to reflect that these are now issued in Great Britain rather than the EU.

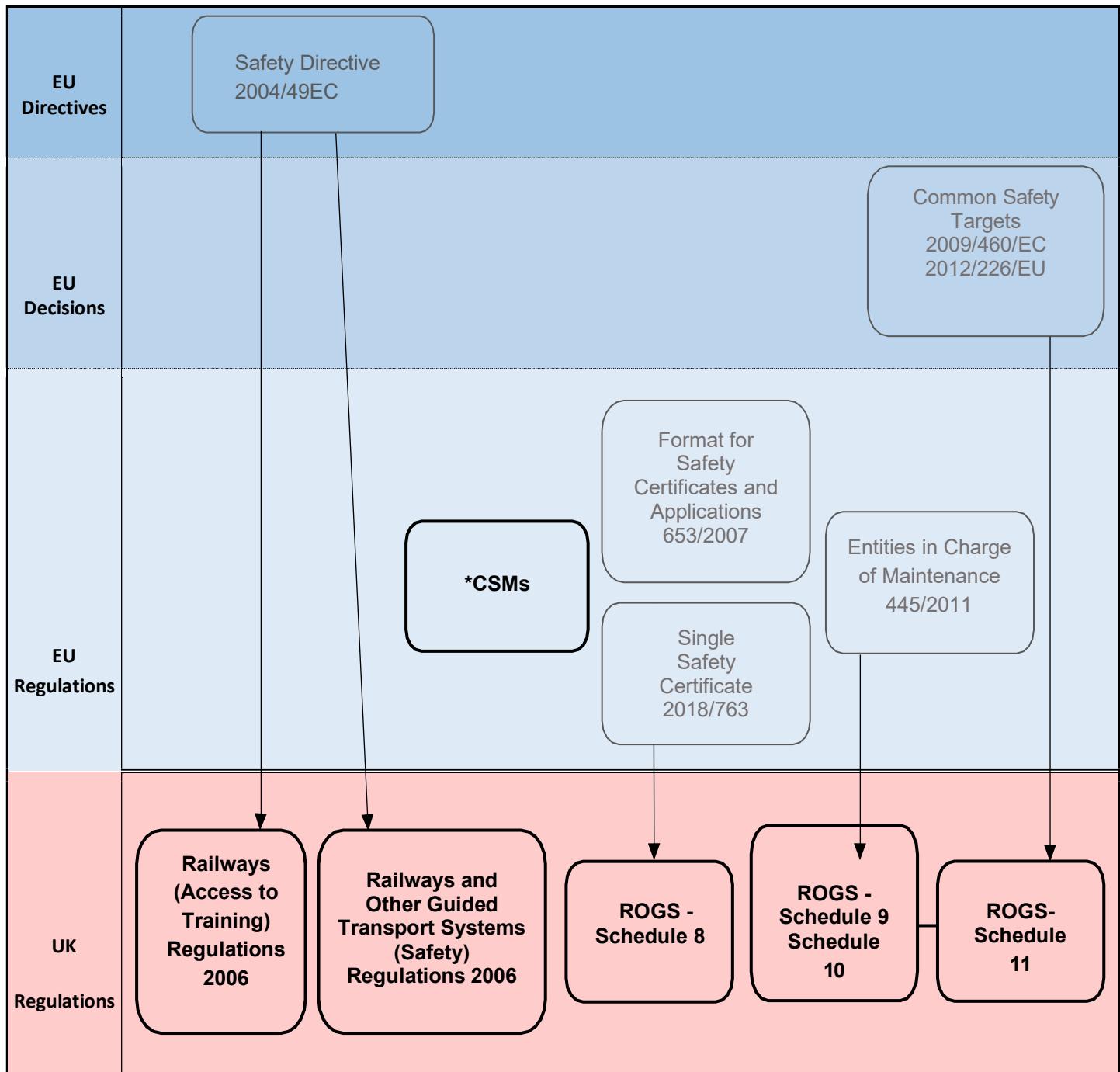
## Actions required by duty holders

14. Existing safety certificates, safety authorisations and ECM certificates issued by ORR in Great Britain (or, where applicable, by an ECM Certification Body) will continue to be valid and holders are not required to make any changes or reapply. However, these documents will no longer be valid outside the UK and duty holders who rely on such documents in order to operate lawfully in the EU must replace them with the relevant EU documentation by 1 January 2021.
15. Existing safety certificates issued by other EU safety authorities will remain valid in Great Britain until 31 January 2022 or until they expire (whichever is sooner). Upon expiry, holders of such certificates will need to apply to ORR for the necessary certification.
16. Applicants for new, amended or further safety certification, authorisation or ECM certification from 1 January 2021 will need to ensure their applications refer to and comply with the domestic legislation in force at the time.

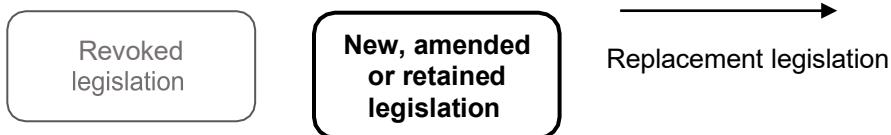
## Recognition of EU documentation

17. Stakeholders are advised to refer directly to DfT guidance available [here](#) regarding the recognition of EU documentation in the UK from 1 January 2021. It is the responsibility of duty-holders to ensure they hold the necessary documentation to comply with the relevant legislation from 1 January 2021.

# Diagram of railway safety legislation



## Key :



\***CSMs** = Common Safety Methods for:

- assessing conformity with the requirements for obtaining railway safety certificates (1158/2010)
- assessing conformity with the requirements for obtaining railway safety authorisation (1169/2010)
- supervision by national safety authorities after issuing a safety certificate or safety authorisation (1077/2012)
- monitoring to be applied by railway undertakings, infrastructure managers after receiving a safety certificate or safety authorisation and by entities in charge of maintenance (1078/2012)
- risk evaluation and assessment and repealing Regulation (EC) No 352/2009 (402/2013)



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