
STATUTORY RULES OF NORTHERN IRELAND

2006 No. 237

**THE RAILWAYS (SAFETY MANAGEMENT)
REGULATIONS (NORTHERN IRELAND) 2006**

PART II

SAFETY MANAGEMENT, CERTIFICATION AND AUTHORISATION

Use of infrastructure

3.—(1) After 30th June 2006 no person shall operate a train in relation to any infrastructure unless—

- (a) he has established and is maintaining a safety management system which meets the requirements set out in regulation 4(1) to (3); and
- (b) he holds a current safety certificate in relation to that operation,

except to the extent that he is doing so within an engineering possession.

(2) After 30th June 2006 no person who is responsible for developing and maintaining infrastructure shall manage and use it, or permit it to be used, for the operation of trains unless—

- (a) he has established and is maintaining a safety management system which meets the requirements referred to in regulation 4(4);
- (b) he holds a current safety authorisation in relation to that infrastructure; and
- (c) where he is using it or permitting such use, the person who is to use the infrastructure has complied with paragraph (1)(b)

(3) Paragraphs (1) and (2) shall not apply where the operation in question is only carried out on a railway on no part of which there is a permitted maximum speed exceeding 40 kilometres per hour and where the operator has furnished the Department with a risk assessment and the Department has approved that risk assessment.

Safety management system for railways

4.—(1) The requirements for a safety management system referred to in regulation 3(1)(a) are that—

- (a) subject to paragraph (2), it is established to ensure that any railway system—
 - (i) can achieve the CSTs; and
 - (ii) is in conformity with relevant national safety rules and relevant safety requirements laid down in TSIs;
- (b) it applies the relevant parts of CSMs;
- (c) it meets the requirements and contains the elements set out in Schedule 1, adapted to the character, extent and other characteristics of the operation in question;

- (d) subject to paragraph (2), it ensures the control of all categories of risk including new or existing risk associated with the operation in question which, without prejudice to the generality of the foregoing, shall include such risks relating to the—
 - (i) supply of maintenance and material;
 - (ii) use of contractors; and
 - (iii) placing in service of new or altered vehicles the design or construction of which incorporates significant changes compared to any vehicle already in use on any railway and which changes would be capable of significantly increasing an existing risk or creating a significant safety risk;
- (e) it takes into account, where appropriate and reasonable, the risks arising as a result of activities carried on by other persons; and
- (f) all parts of it are documented.

(2) The requirements in paragraph (1)(a) and (d) shall be met where the safety management system of a railway operator or of an applicant for a safety certificate or a safety authorisation taken with that of any relevant railway operator is capable of meeting the requirements of the paragraph in question.

(3) In paragraph (2), “relevant railway operator” means another railway operator whose operation is capable of materially affecting the safety of the operation carried on by the first operator.

(4) In paragraph 1(d)(iii) where such new or altered vehicles are intended to be first taken into service, then before that taking into service any railway operator shall ensure that it has—

- (a) an established written safety verification scheme which meets the requirements and contains the elements set out in Schedule 4; and
- (b) appointed a competent person to undertake that safety verification, and the competent person has undertaken that safety verification in relation to the new or altered vehicles.

(5) Where a new or altered vehicle has been authorised under regulation 4(1)(a) of the Interoperability Regulations for the placing into service on any railway, that authorisation shall be treated as satisfying the requirements of paragraph (4).

(6) In this regulation placing in service shall mean first placed in service for the provision of any railway service, and in ascertaining when this takes place no regard shall be had to any trials or testing that takes place to the relevant vehicle.

(7) The requirements for a safety management system referred to in regulation 3(2)(a) are the requirements in paragraphs (1) to (6) save that any reference to new or altered vehicles in those paragraphs shall be replaced with a reference to new or altered infrastructure and that it—

- (a) ensures the control of all categories of risk associated with the placing into service of new or altered infrastructure the design or construction of which incorporates significant changes compared to any infrastructure already in use on any railway and which changes would be capable of significantly increasing an existing risk or creating a significant safety risk;
- (b) takes into account the effects of operations of railway operators; and
- (c) contains provisions to ensure that the way in which the infrastructure manager carries out its operation makes it possible for any railway operator to operate in accordance with—
 - (i) relevant TSIs and national safety rules; and
 - (ii) the means adopted by the railway operator to meet the requirements referred to in regulation 5(4), of which the Department accepted that there was sufficient evidence upon issue or amendment of its safety certificate pursuant to these Regulations; and

(d) aims to co-ordinate the emergency procedures of the infrastructure manager or of the applicant for a safety authorisation with those of any railway operator, and in each case the requirements in sub-paragraphs (a) to (d) shall only apply in relation to any railway operator that operate or will operate a train in relation to the infrastructure of the infrastructure manager or of the applicant for a safety authorisation in question.

Safety certificate

- 5.—(1) An application for a first safety certificate in respect of the operation of a train shall—
- (a) be made to the Department; and
 - (b) subject to regulation 15(1) and (2), include the information set out in Schedule 2; and shall
 - (c) clearly indicate in respect of which part of the safety certificate any information is provided.
- (2) Where—
- (a) an applicant sends to the Department the matters specified in paragraphs 1(a) and 1(b)(i) of Schedule 2; and
 - (b) the Department is satisfied that the certificate in question is for an equivalent operation to that in respect of which the application is made,

then that certificate shall be deemed to be Part A of the safety certificate for the operation in respect of which the application is made.

- (3) Subject to regulation 15(6), within four months of the date of receipt of the application, the Department shall—
- (a) issue a safety certificate for the operation; or
 - (b) notify the applicant that it has refused the application,
- and in either case shall give reasons for its decision.

- (4) A safety certificate shall—
- (a) specify the type and extent of the operation in respect of which it is issued; and
 - (b) certify acceptance by the Department that the applicant has provided sufficient evidence—
 - (i) subject to paragraph (2), to demonstrate that the safety management system of the applicant meets the requirements set out in regulations 4(1) to (3) in respect of an application for a safety certificate and
 - (ii) of the provisions adopted by the applicant to meet the requirements that are necessary to ensure safe operation on any railway,

and reference the information on which the acceptance is based; and

- (c) be valid for no longer than five years from the date of issue and the period of validity shall be indicated in the safety certificate and where Part A of the certificate falls within paragraph 5(2) that period shall expire on or before the date of expiry of the certificate which is deemed to be the Part A.

(5) In paragraph (4)(b)(ii) “requirements” means the TSIs, national safety rules and other safety requirements referred to in paragraph 2(a) of Schedule 2.

Amended safety certificate

6.—(1) Where it is proposed that the type or extent of an operation in respect of which a safety certificate has been issued is to be substantially changed then the holder of the safety certificate

shall apply to the Department for the safety certificate to be amended accordingly and the substantial change shall not be made until the safety certificate is so amended.

- (2) An application for an amended safety certificate under this regulation shall—
- (a) provide details of the change proposed;
 - (b) provide details of any consequential changes to any information sent to the Department in respect of the operation which remains relevant to that operation; and
 - (c) clearly indicate in respect of which part of the safety certificate any information is provided.

(3) Where Part A of a safety certificate in respect of which an application is made falls within regulation 5(2) then the Department shall—

- (a) consider whether the Part A in question would still be for an equivalent operation if the change were made; and
- (b) if it considers that it would not be equivalent, notify the applicant in accordance with paragraph (4) that it has refused the application and that he should apply for a new safety certificate under regulation 5 if he wants to make the proposed change,

except that, in relation to Part B of the safety certificate, he only need provide the details set out in paragraph (2).

(4) Subject to regulation 15(6), within four months of the date of receipt of the application the Department shall—

- (a) issue a notice making any necessary amendments to the matters set out in the safety certificate; or
- (b) notify the applicant that it has refused the application,

and in either case shall give reasons for its decision.

Further safety certificate

7.—(1) Before the expiry of a safety certificate the holder of that safety certificate may apply to the Department for a further safety certificate to be issued for the operation in question.

(2) An application for a further safety certificate shall set out particulars of any changes to any information sent to the Department in respect of the operation in question which remains relevant to that operation.

(3) Regulation 5(1)(c) and (2) to (4) shall apply to an application for and the issuing of a further safety certificate as they apply to an application for and the issuing of a first safety certificate under regulation 5.

Safety authorisation

8.—(1) An application for a first safety authorisation in respect of infrastructure shall—

- (a) be made to the Department;
- (b) subject to regulation 15(1) and (2), set out particulars of—
 - (i) the infrastructure;
 - (ii) how the safety management system of the applicant meets the requirements in regulation 4(7); and
 - (iii) how the provisions adopted by the applicant meet any requirements which are necessary for the safe design, maintenance and operation of the infrastructure.

(2) Subject to regulation 15(6), within four months of the date of receipt of the application the Department shall—

- (a) issue a safety authorisation in relation to the infrastructure; or
- (b) notify the applicant that it has refused the application; and
- (c) in either case shall give reasons for its decision.

(3) A safety authorisation shall—

- (a) specify the infrastructure in respect of which the authorisation is issued;
- (b) accept that the applicant has provided sufficient evidence to demonstrate that the safety management system of the applicant meets the requirements referred to in regulation 5(4).
- (c) accept that the applicant has provided sufficient evidence of the provisions adopted by the applicant to meet any requirements that are necessary for the safe design, maintenance and operation of the infrastructure;
- (d) reference the information on which the acceptance referred to in sub-paragraphs (b) and (c) is based; and
- (e) be valid for no longer than five years from the date of issue and the period of validity shall be indicated in the safety authorisation.

Amended safety authorisation

9.—(1) Where it is proposed that a substantial change is to be made to—

- (a) the infrastructure in respect of which a safety authorisation has been issued;
- (b) any energy supply, not falling within sub-paragraph (a), which is used in connection with the infrastructure; or
- (c) the principles of operation and maintenance of such infrastructure or energy supply,

then the holder of the safety authorisation shall apply to the Department for the safety authorisation to be amended accordingly and the substantial change shall not be made until the safety authorisation is so amended.

(2) An application for an amended safety authorisation under this regulation shall provide details of—

- (a) the substantial changes proposed; and
- (b) any consequential changes to any information sent to the Department in respect of the operation in question which remains relevant to that operation.

(3) Subject to regulation 15(6), within four months of the date of receipt of the application the Department shall—

- (a) issue a notice making any necessary amendments to the matters set out in the safety authorisation; or
- (b) notify the applicant that it has refused the application,

and in either case shall give reasons for its decision.

Further safety authorisation

10.—(1) Before the expiry of a safety authorisation the holder of that safety authorisation may apply to the Department for a further safety authorisation to be issued for the infrastructure.

(2) An application for a further safety authorisation shall set out particulars of any changes to any information sent to the Department in respect of the operation in question which remains relevant to that operation.

(3) Regulations 8(2) and (3) shall apply to an application for and the issuing of a further safety authorisation as they apply to an application for and the issuing of a first safety authorisation under regulation 8.

Notice of changes by holder of a safety certificate or a safety authorisation

11.—(1) The holder of a safety certificate or a safety authorisation shall, without delay, notify the Department—

- (a) of any major changes—
 - (i) to the means by which he meets the requirements relating to the safety management system as set out in—
 - (aa) regulation 4(1) to (3) in relation to an operation of a train on any railway; or
 - (bb) regulation 4(4) in relation to an operation of an infrastructure manager on any railway; or
 - (ii) in the case of a railway operator, to the provisions adopted by him to meet any requirements necessary to ensure safe operation on any railway in relation to the operation in question; or
 - (iii) in the case of an infrastructure manager, to the provisions adopted by him to meet any requirements that are necessary for the safe design, maintenance and operation of the infrastructure;
- (b) when persons first commence work directly relating to the operation which is of a type which has not previously been carried out in relation to that operation; or
- (c) when types of vehicle which are new to the operation in question are first introduced.

Direction to apply for an amended safety certificate or safety authorisation

12.—(1) Where there is a substantial change to any of the relevant statutory provisions which make provision in relation to the safety of railways then the Department may direct the holder of a safety certificate or a safety authorisation to apply to the Department for an amendment to its safety certificate or safety authorisation.

- (2) A direction issued under paragraph (1) shall—
 - (a) state the reasons why the Department considers that it is necessary for any railway operator to apply for an amended safety certificate or safety authorisation;
 - (b) identify the information—
 - (i) on the basis of which the Department's acceptance referred to in regulation 5(4) or 8(3) was made upon issue or amendment of the safety certificate or safety authorisation; or
 - (ii) notified to the Department under regulation 11, which it considers will have to be changed; and
 - (c) specify the period, being not less than 28 days from the date of issue of the direction, within which the application shall be sent to the Department.
- (3) An application for an amended safety certificate or safety authorisation pursuant to this regulation shall provide details of any changes to any information—
 - (a) sent to the Department in respect of the operation in question which remains relevant to that operation; and
 - (b) which is consequential upon the relevant change to the relevant statutory provisions.

(4) Regulation 6(2)(c) and (4) shall apply to an application for and the issuing of a notice of amendment to safety certificate under this regulation as they apply to an application for and issuing of an amendment to a safety certificate under regulation 6.

(5) Regulation 9(3) shall apply to an application for and the issuing of a notice of amendment to a safety authorisation under this regulation as it applies to an application for and issuing of an amendment to a safety authorisation under regulation 9.

Revocation of safety certificate

13.—(1) The Department shall revoke—

- (a) either Part A or Part B of a safety certificate if it is satisfied that the holder is no longer satisfying the conditions of that part of the safety certificate and that there is a significant risk arising from the result;
- (b) a safety certificate if it is satisfied that the holder—
 - (i) is no longer satisfying the conditions of that safety certificate and that there is a significant risk arising as a result; or
 - (ii) is not operating a vehicle in relation to any infrastructure on any railway as intended pursuant to that safety certificate and has not done so throughout the period of one year commencing with the date of issue of the safety certificate by the Department, except that this paragraph shall not apply in relation to Part A of a safety certificate where it is deemed to be such a Part A in accordance with regulation 5(2).

(2) In this regulation, “conditions” means in relation to—

- (a) Part A of a safety certificate, any part of the requirements relating to the safety management system set out in regulation 4(1) to (3) in relation to an operation carried out on any railway;
- (b) Part B of a safety certificate, that the provisions adopted by the applicant are sufficient to meet any requirements that are necessary to ensure safe operation on any railway in relation to the operation; or
- (c) a safety certificate, the matters referred to in sub-paragraphs (a) and (b).

(3) Before revoking any safety certificate or Part A or B of it, the Department shall—

- (a) notify the holder that—
 - (i) it is considering revoking that safety certificate or Part A or B of it and the reasons why;
 - (ii) within a period specified in the notice, which shall be not less than 28 days, the holder may make representations in writing to the Department or, if the holder so requests, may make oral representations to the Department; and
- (b) consider any representations which are duly made and not withdrawn.

(4) Where the Department revokes a safety certificate or Part A or Part B of it, it shall send to the holder with the notice of revocation a statement of the reasons why.

(5) Where—

- (a) the Department revokes Part B of a safety certificate; and
- (b) Part A of that safety certificate is deemed to be Part A of a safety certificate pursuant to regulation 5(2) and was issued by the safety authority in another member State or in Great Britain.

then the Department shall notify that safety authority as soon as reasonably possible of that revocation.

Revocation of safety authorisation

14.—(1) The Department shall revoke a safety authorisation if it is satisfied that the holder is no longer satisfying the conditions of that safety authorisation and there is a significant risk arising as a result.

(2) In this regulation, “conditions” means—

- (a) any part of the requirements relating to the safety management system referred to in regulation 4(4) in relation to an operation carried out on any railway;
- (b) that the provisions adopted by the applicant are sufficient to meet any requirements that are necessary for the safe design, maintenance and operation of the infrastructure.

(3) Before revoking any safety authorisation, the Department shall—

- (a) notify the holder that—
 - (i) it is considering revoking that safety authorisation and the reasons why;
 - (ii) within a period specified in the notice, which shall be not less than 28 days, the holder may make representations in writing to the Department or, if the holder so requests, may make oral representations to the Department; and
- (b) consider any representations which are duly made and not withdrawn.

(4) Where the Department revokes a safety authorisation, it shall send to the holder with the notice of revocation a statement of the reasons why.

General provisions relating to safety certificates and safety authorisations

15.—(1) A railway operator may make one application for an operation in relation to which he requires both a safety certificate and a safety authorisation or an amended safety certificate and an amended safety authorisation but—

- (a) such application shall be split into separate parts relating to the safety authorisation and the safety certificate; and
- (b) these Regulations shall apply to those parts as if they were an application for a safety authorisation and a safety certificate or an amended safety authorisation and an amended safety certificate,

except that where the same information is required it need not be stated twice.

(2) Where—

- (a) an applicant sends—
 - (i) an application for a safety certificate or authorisation, an amended safety certificate or safety authorisation; or
 - (ii) further information to the Department pursuant to paragraph (4); or
- (b) the holder of a safety certificate or a safety authorisation sends a notice pursuant to regulation 11,

then he shall at the same time either copy it to any affected party or notify any affected party without delay that the application or further information has been sent and of the address of the website where those documents may be accessed and how they may be accessed and, in either case, shall notify such a party, where the document in question is an application, of the time for making representations to the Department pursuant to paragraph (5).

(3) Where the Department issues a—

- (a) safety certificate or safety authorisation;
- (b) notice amending a safety certificate or safety authorisation;

- (c) notice refusing an application for a safety certificate or a safety authorisation or an amended safety certificate or safety authorisation;
- (d) direction to apply for an amended safety certificate or safety authorisation;
- (e) notice that it is considering revoking a safety certificate or a safety authorisation; or
- (f) notice revoking a safety certificate or safety authorisation,

then the Department shall at the same time either copy it and the reasons given for the Department's decision to any affected party or notify any affected party that the relevant document has been issued and of the address of the website where those documents and the reasons given for the decision may be accessed and how they may be accessed and, in either case, shall notify such a party, where the document in question is a notice that it is considering revocation, as mentioned in sub-paragraph (e), of the time for making representations to the Department pursuant to paragraph (5).

(4) The Department may upon receipt of—

- (a) an application for a safety certificate or safety authorisation;
- (b) an application for an amended safety certificate or safety authorisation;
- (c) any further information requested under this paragraph,

request as soon as reasonably possible such further information as it may reasonably require and the applicant shall provide such information as soon as reasonably possible.

(5) Where an affected party receives a copy of an application or a notice relating to revocation pursuant to paragraph (2)(a) or (3)(e) then—

- (a) he may make any representations in writing to the Department which are relevant to the application or notice, within 28 days of the date of issue of the application or notice in question; and
- (b) the Department shall consider any such representations in making its decision.

(6) The period of 4 months for the Department to make a decision referred to in regulations 5(3), 6(4), 8(2) and 9(3) shall not start to run—

- (a) until the expiry of the 28 day period referred to in paragraph (5); or
- (b) until the date of receipt of the last information requested pursuant to paragraph (4);

whichever is the later and in any event shall not start to run until 31 October 2006.

(7) An employer who makes an application for a safety certificate or safety authorisation, an amended safety certificate or safety authorisation or sends a notice to the Department under regulation 11 shall, in relation to its preparation, consult—

- (a) safety representatives within the meaning of regulation 2(1) of the Safety Representatives and Safety Committees Regulations (Northern Ireland) 1979(1); and
- (b) such other employees as he is required to consult by virtue of regulation 3 of the Health and Safety (Consultation with Employees) Regulations (Northern Ireland) 1996(2).

(8) In this regulation, “affected party” means for a document sent or issued in relation to—

- (a) a safety certificate or an application for a safety certificate—
 - (i) any infrastructure manager; and
 - (ii) a trade union which is a recognised trade union within the meaning of regulation 2(1) of the Safety Representatives and Safety Committees Regulations (Northern Ireland) 1979) in relation to employees of the operator or applicant employed in relation to the operation in question;

- (b) a safety authorisation or an application for a safety authorisation—
 - (i) any railway operator who is or will be operating on the infrastructure of the applicant or infrastructure manager in question;
 - (ii) any infrastructure manager who manages infrastructure which interfaces or will interface with the infrastructure of the infrastructure manager in question; and
 - (iii) any person falling within paragraph (8)(a)(ii) or (iii).

Notification to the European Railway Agency regarding safety certificates and safety authorisations relating to the railway system

16.—(1) The Department shall notify the European Railway Agency of the issuing, amendment or revocation of—

- (a) Part A of a safety certificate; or
- (b) a safety authorisation,

pursuant to these Regulations within one month of such issue, amendment or revocation.

(2) A notice under paragraph (1) shall include the following information in relation to the safety certificate or safety authorisation—

- (a) the name and address of the holder;
- (b) its date of issue and period of validity;
- (c) the operation or infrastructure in relation to which it was issued; and
- (d) where it relates to a revocation, the reasons for that decision.