
STATUTORY INSTRUMENTS

2020 No. 786

The Railways (Miscellaneous Amendments, Revocations and Transitional Provisions) (EU Exit) Regulations 2020

PART 2

Amendments to secondary legislation

Amendment of the Rail Safety (Amendment etc.) (EU Exit) Regulations 2019

7.—(1) The Rail Safety (Amendment etc.) (EU Exit) Regulations 2019⁽¹⁾ are amended as follows.

(2) In regulation 3(2)—

(a) in sub-paragraph (a), before the new definition of “accident” insert—

““2011 EU ECM Regulation” means [Commission Regulation \(EU\) No 445/2011](#)⁽²⁾ on a system of certification of entities in charge of maintenance for freight wagons and amending Regulation [\(EC\) No 653/2007](#) as it had effect or as it has effect in EU law, as the context dictates;

“2019 EU ECM Regulation”, save in the expression “retained 2019 EU ECM Regulation”, means Commission Implementing Regulation (EU) 2019/779⁽³⁾ laying down detailed provisions on a system of certification of entities in charge of maintenance of vehicles pursuant to [Directive \(EU\) 2016/798](#) of the European Parliament and of the Council and repealing [Commission Regulation \(EU\) No 445/2011](#) as it had effect or as it has effect in EU law, as the context dictates;”;

(b) after sub-paragraph (d), insert—

“(dd) after the definition of “competent person”, insert—

““cross-border service” means a service for the carriage of passengers or goods by way of the tunnel system;

“cross-border UK-issued ECM certificate” means a certificate issued in the United Kingdom to an entity in charge of maintenance by an accredited or recognised body or by a safety authority in accordance with the retained 2019 EU ECM Regulation;”;

(c) in sub-paragraph (e), in the new definition of “EU ECM Certificate” for “EU ECM Regulation” substitute “2011 EU ECM Regulation or the 2019 EU ECM Regulation as may be applicable”;

(d) for sub-paragraph (g), substitute—

“(g) after the definition of “responsible person”, insert—

⁽¹⁾ [S.I. 2019/837](#), amended by [S.I. 2019/1310](#).

⁽²⁾ O.J. No. L 122, 11.5.2011, p. 22.

⁽³⁾ O.J. No. L 139I, 27.5.2019, p. 360.

““retained 2019 EU ECM Regulation” means [Commission Implementing Regulation \(EU\) 2019/779](#) laying down detailed provisions on a system of certification of entities in charge of maintenance of vehicles pursuant to Directive (EU) 2016/798 of the European Parliament and of the Council and repealing [Commission Regulation \(EU\) No 445/2011](#), as it has effect in the UK after IP completion day.””;

- (e) in sub-paragraph (k), for the new definition of “UK-issued ECM certificate”, substitute—
- ““UK-issued ECM certificate”, save in the expression “cross-border UK-issued ECM certificate”, means a certificate issued in the United Kingdom to an entity in charge of maintenance by an accredited or recognised body or by a safety authority in accordance with Schedule 10;”;
- (f) for sub-paragraph (l), substitute—
- “(l) for paragraph 3 substitute—
- “(3) Parts 2 and 3 of these Regulations shall not apply to or in relation to the operation of a train or the management or use of infrastructure in the tunnel system, save for—
- (a) regulation 18(A1) for vehicles used to operate a cross-border service;
- (b) regulation 18B for the tunnel system.””.
- (3) In regulation 3(4)(b)—
- (a) in the new paragraph (6)—
- (i) in sub-paragraph (b) after “railway safety functions in a member State” insert “or the European Union Agency for Railways”;
- (ii) for “European Railway Agency” substitute “European Union Agency for Railways”;
- (b) in the new paragraph (7) after “in accordance with Article 16.1 of the Directive” insert “or Article 16.1 of the Recast Safety Directive”.
- (4) In regulation 3(6) after paragraph (a), insert—
- “(aa) after paragraph (1), insert—
- “(1A) No person may use a vehicle to operate a cross-border service unless that vehicle has an entity in charge of maintenance assigned to it, and that entity in charge of maintenance—
- (a) is registered in relation to that vehicle in the National Vehicle Register; and
- (b) holds either an EU ECM certificate valid on the terms of its original issue or a cross-border UK-issued ECM certificate, where it is required to do so in accordance with the retained 2019 EU ECM Regulation.””.
- (5) In regulation 3(10)—
- (a) for sub-paragraph (a) substitute—
- “(a) in paragraph (1)(a), for “an ECM certificate”, substitute “an EU ECM certificate, a cross-border UK-issued ECM certificate or a UK-issued ECM certificate””;
- (b) for sub-paragraph (b) substitute—
- “(b) for paragraph (1)(d) substitute—
- “(d) decision of the Office of Rail and Road, concerning his EU ECM Certificate taken pursuant to either—
- (i) Article 7(3), (4) or (7) of the 2011 EU ECM Regulation; or

- (ii) Article 7(5) or (8) or 8(2) of the 2019 EU ECM Regulation;”;
- (c) in sub-paragraph (c)—
 - (i) at the end of the new sub-paragraph (dd) omit “or”;
 - (ii) after the new sub-paragraph (dd) insert—
 - “(de) decision of the Office of Rail and Road, concerning his cross-border UK-issued ECM certificate, taken pursuant to Article 7(5) or (8) or 8(2) of the retained 2019 EU ECM Regulation; or”;
- (d) in sub-paragraph (d), for the new paragraph (1A), substitute—
 - “(1A) A person who is aggrieved by—
 - (a) a decision taken either—
 - (i) to refuse an application for an EU ECM certificate or taken pursuant to Article 7(4) or (7) of the 2011 ECM Regulation by a certification body accredited or recognised in Great Britain for the purposes of the 2011 EU ECM Regulation; or
 - (ii) to refuse an application for an EU ECM certificate or taken pursuant to Article 7(8) or 8(2) of the 2019 EU ECM Regulation by a certification body accredited or recognised in Great Britain for the purposes of the 2019 EU ECM Regulation;
 - (b) a decision of a 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
 - (c) 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,may appeal to the Secretary of State.”.
- (6) In regulation 3(11), in the new paragraph 1(b)(i), for sub-paragraph (bb) substitute—
 - “(bb) the European Union Agency for Railways or a safety authority in a member State before the end of the second anniversary of exit day(4), under provisions giving effect to Article 10(2)(a) of the Directive or Article 10 of the Recast Safety Directive;”.
- (7) Omit regulation 10.
- (8) In the Schedule, in Part 4 of the new Schedule 8—
 - (a) in the Application form for a safety certificate in 8.5, 8.7 and 8.9, in each place that it occurs, for “TSIs” substitute “NTSNs”;
 - (b) in the Guidelines for Compilation in 8.5, 8.7 and 8.9, in each place that it occurs, for “TSIs” substitute “NTSNs”.

(4) Exit day is defined in section 20 of the European Union (Withdrawal) Act 2018 (c. 16).