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STATUTORY INSTRUMENTS

2023 No. 540

**TRANSPORT
HEALTH AND SAFETY**

**The Railways and Other Guided Transport
Systems (Safety) (Amendment) Regulations 2023**

Made - - - - *11th May 2023*

Laid before Parliament *17th May 2023*

Coming into force - - *30th June 2023*

The Secretary of State, in exercise of the powers conferred by section 15(1), (2), and (3)(a) of, and paragraphs 1(1)(a) and (c), 1(2) and 5 of Schedule 3 to, the Health and Safety at Work etc. Act 1974⁽¹⁾, makes the following Regulations.

Citation and commencement

1. These Regulations may be cited as the Railways and Other Guided Transport Systems (Safety) (Amendment) Regulations 2023 and come into force on 30th June 2023.

Extent

2. These Regulations extend to England and Wales and Scotland.

Amendment to the Railways and Other Guided Transport Systems (Safety) Regulations 2006

3.—(1) The Railways and Other Guided Transport Systems (Safety) Regulations 2006⁽²⁾ are amended as follows.

(2) In regulation 2(3)(a), for “18(A1)” substitute “18A(1A)”.

(3) In regulation 18A (maintenance of vehicles on the mainline railway)—

(a) for paragraph 1(b), substitute—

(1) [1974. c. 37](#); section 15 was amended by the Employment Protection Act [1975 \(c. 71\)](#), Schedule 15, and [S.I. 2002/794](#), article 5(2) and Schedule 2; there are amendments to the Act not relevant to these Regulations.

(2) [S.I. 2006/599](#); relevant amending instruments are [S.I. 2019/837](#), [2013/950](#).

- “(b) where the vehicle is a freight wagon, holds—
 - (i) a UK-issued ECM certificate;
 - (ii) a cross-border UK-issued ECM certificate; or
 - (iii) if that person is compliant with the requirements set out in paragraphs (1ZA) or (1ZB), an EU ECM certificate;”;
- (b) after paragraph (1), insert—
 - “(1ZA) Before 1st November 2023, a person is compliant with the requirements referred to in paragraph (1)(b)(iii) if that person—
 - (a) places in service or uses a vehicle in circulation on railway lines across the territory of two states;
 - (b) has an EU ECM certificate that was issued by a certification body accredited by the UK national accreditation body; or
 - (c) has made an application to a certification body for a UK-issued ECM certificate and the certification body has not yet taken a decision on the application.
 - (1ZB) On or after 1st November 2023, a person is compliant with the requirements referred to in paragraph (1)(b)(iii) if that person—
 - (a) places in service or uses a vehicle in circulation on railway lines across the territory of two states; or
 - (b) has an EU ECM certificate that was issued by a certification body accredited by the UK national accreditation body.”;
- (c) after paragraph (4), insert—
 - “(5) In this regulation, “UK national accreditation body” means the body which was appointed by the Secretary of State in accordance with Regulation (EC) No 765/2008 of the European Parliament and of the Council setting out the requirements for accreditation and market surveillance relating to the marketing of products and repealing Regulation (EEC) No 339/93(3), as it had effect in EU law before IP completion day.”.
- (4) In Schedule 10 (system of certification of entities in charge of maintenance in respect of Great Britain), in paragraph 6(2), for “subsequent” substitute “relevant”.
- (5) In Schedule 11 (common safety targets), paragraph 14—
 - (a) in the third row, second column, in sub-paragraph 1.2, for “train-km”, substitute “passenger-km”;
 - (b) in the fourth row, second column, in sub-paragraph 2, for “passenger-km”, substitute “train-km”.

Signed by authority of the Secretary of State for Transport

11th May 2023

Huw Merriman
Minister of State
Department for Transport

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Railways and Other Guided Transport Systems (Safety) Regulations 2006 ([S.I. 2006/599](#)) (“ROGS”).

Amendments are being made to ROGS to correct earlier errors identified by the Department of Transport. These corrections are to be found in regulation 3(2) and regulations and 3(5) respectively.

Regulation 3(3) amends ROGS in order to end the use of EU-issued certificates for entities in charge of maintenance (“ECM”) responsible for freight wagons in domestic traffic in Great Britain. ECMs responsible for freight wagons operating on the domestic network will be required to have UK issued ECM certificates. This will ensure proper supervision of these freight wagons that run on the domestic network as the Office of Rail and Road will have enforcement powers in respect of UK issued ECM certificates. Regulation 3(4) removes a requirement for ECM certification bodies to follow the EU sectoral accreditation scheme.

An impact assessment has not been produced for this instrument as no, or no significant, impact on the private or voluntary sector is foreseen. An Explanatory Memorandum has been produced for this instrument and is published alongside this instrument at www.legislation.gov.uk.