

Is My Project Within Scope?

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Renewals & Upgrades
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Audience This Helpline note is applicable to all projects for new work or the renewal or upgrading of subsystems and contains information for **Project Entities**.

Background Once the **Project Entity** has decided to embark on a project to introduce a new, upgraded or renewed structural subsystem onto the rail system, there are a number of questions it will need to consider in order to determine whether or not the project is within scope of RIR 2011.

The essential questions for the project to ask itself are:

- is the work on a part of the rail system that is excluded from the scope of the regulations?
- is it introducing a new structural subsystem or a new part of a structural subsystem?
- is it upgrade or renewal work on a structural subsystem?

Note: Safety aspects of the work must be managed under the Railways and Other Guided Transport Systems (Safety) Regulations 2006 ("ROGS"). Holders of Safety Certificates under ROGS are required to have in place, as part of their Safety Management Systems, appropriate mechanisms for the safe management of engineering change.

Where do the regulations apply?

The regulations apply to the parts of the rail system located in the United Kingdom. Their scope is not limited to the TEN so those parts both on and off TEN are within scope unless they fall under the exclusion categories (see below). The standards against which the work will need to be assessed will cover the essential requirements of; health, safety, environmental protection, technical compatibility and reliability and availability. Currently, these standards will be contained in the TSIs and NNTRs for the TEN and NNTRs for the off TEN part of the rail system.

This means in the UK an authorisation will be necessary, unless, in the case of a vehicle, it was first authorised in another Member State, regardless of whether the first use of the new or upgraded and renewed structural subsystem occurs on an area where a TSI applies. It is possible that TSIs will eventually be applied off TEN (subject to ERA's positive cost benefit

analysis). The scope of the TEN is contained in Decision 661/2010/EU (which recasts the original Decision 1692/96/EC). Article 10 describes the characteristics of the TEN rail network (high-speed and conventional rail networks).

In most cases the essential requirements for the off TEN part of the rail system will be set out in the NNTRs, or possibly the NNTR makes reference to the same standards in a TSI where appropriate. **Note:** A project might volunteer to meet TSI standards for work off TEN as a means of demonstrating the essential requirements are met even if the TSI has not been formally extended to apply to the off TEN parts of the rail system, or instead of applying relevant NNTRs – it is advised that projects inform their Safety Authority in advance when they intend to use this approach.

What types of work are covered?

If a new structural subsystem, or one that has been upgraded and renewed, is to be first used on or as a part of the rail system, the person using it must seek an interoperability authorisation to place into service. **Note:** structural subsystems are defined in Annex II of Directive 2008/57/EC (as amended by Directive 2011/18/EU).

The definition of upgrade and renewal in the regulations is:

“upgrading” means any major modification work on a subsystem or part of a subsystem which improves the overall performance of the subsystem; and cognate words shall be construed accordingly;

“renewal” means any major substitution work on a subsystem or part subsystem which does not change the overall performance of the subsystem; and cognate words shall be construed accordingly;

See the Helpline on upgrade and renewals.

**Helpline on
upgrade and
renewals**

Reg 4

What is the difference between “placing into service” and “use” of a structural subsystem?

An authorisation for the “placing into service” of a subsystem is required before the actual use of the subsystem on or as a part of the rail system.

The regulations define placing into service as a subsystem being put into its “design operating state”. A person is not able to first use a subsystem (ie a new subsystem, or upgrade and renewal of an existing one) on the rail system without the authorisation for placing into service.

Note: the authorisation is a necessary stage to have been completed before a subsystem can be first used, but this does not mean the authorisation by itself is enough to enable the use to occur – there will be other processes outside

of the interoperability regulations that need to happen, eg checks for the safe operation of the subsystem (see reference to ROGS above).

Reg 3

What are the excluded categories?

The Department has published a list under regulation 3 (2) of the lines that the Secretary of State has determined fall within the following categories and are excluded from scope of the regulations:

- metros, trams and other light rail systems;
- networks that are functionally separate from the rest of the rail system and intended only for the operation of local, urban or suburban passenger services, as well as railway undertakings operating solely on these networks;
- infrastructure and vehicles reserved for a strictly local, historical or touristic use.

The Approved List of Exclusions is available on the DfT website. Applicants that wish to seek changes to the list should contact the interoperability team at interoperability@dft.gsi.gov.uk

There are also the following “blanket exemptions” from the scope of the regulations:

- privately owned railway infrastructure and vehicles exclusively used on such infrastructure that exist solely for use by the owner for its freight operations; or
- railways the lines of which have a gauge of less than 350 millimetres and vehicles running on such lines.

What about heritage vehicles that are sometimes used on the parts of the rail system that are within scope of the regulations?

It is possible that a heritage vehicle is not only used on a local, historic or touristic line that is out of scope. If a new, upgraded or renewed heritage vehicle is regularly used on lines in scope it is likely to require authorisation. In such cases where an operator of a vehicle considers it is difficult to determine if a vehicle is regularly used on a part of the rail system in scope of the regulations it is suggested they discuss this with the Department. It will be possible to add individual vehicles to the exclusion list.

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