



STATUTORY INSTRUMENTS.

S.I. No. 476 of 2020

EUROPEAN UNION (RAILWAY SAFETY) REGULATIONS 2020

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EUROPEAN UNION (RAILWAY SAFETY) REGULATIONS 2020

I, EAMON RYAN, Minister for Transport, in exercise of the powers conferred on me by section 3 of the European Communities Act 1972 (No. 27 of 1972) and for the purpose of giving effect to Council Directive (EU) 2016/798 of the European Parliament and of the Council of 11 May 2016¹, other than Chapter V of that Directive, (as amended by Article 2 of Directive (EU) 2020/700 of the European Parliament and of the Council of 25 May 2020²), hereby make the following regulations:

Part 1
Preliminary and General

Citation and commencement

1. (1) These Regulations may be cited as the European Union (Railway Safety) Regulations 2020.
- (2) These Regulations come into operation on 31 October 2020.

Interpretation

2. (1) In these Regulations—

“accident” means an unwanted or unintended sudden event or a specific chain of such events which have harmful consequences; accidents are divided into the following categories: collisions; derailments; level crossing accidents; accidents to persons involving rolling stock in motion; fires and others;

“Act of 2005” means Railway Safety Act 2005 (No. 31 of 2005);

“actor” means entities in charge of maintenance and all others having a potential impact on the safe operation of the railway system, including manufacturers, maintenance suppliers, keepers, service providers, contracting entities, carriers, consignors, consignees, loaders, unloaders, fillers and unfillers;

“Agency” means European Union Agency for Railways;

“area of operation” means a network where a railway undertaking intends to operate;

“carrier” means an enterprise which carries out a transport operation pursuant to a contract of carriage;

“causes” means actions, omissions, events or conditions, or a combination thereof, which led to an accident or incident;

¹ OJ No. L138, 26.05.2016, p.102

² OJ No. L165, 27.05.2020, p.27

- “common safety indicators” are those safety indicators as set out in Annex I;
- “common safety methods” means the methods describing the assessment of safety levels and achievement of safety targets and compliance with other safety requirements;
- “common safety targets” means the minimum safety levels that are to be reached by the system as a whole, and where feasible, by different parts of the railway system (such as the conventional rail system, the high-speed rail system, long railway tunnels or lines solely used for freight transport);
- “consignee” means any person who receives goods pursuant to a contract of carriage; if the transport operation takes place without a contract of carriage, any person that takes charge of the goods on arrivals shall be deemed to be the consignee;
- “consignor” means an enterprise which consigns goods either on its own behalf or for a third party;
- “contracting entity” means a public or private entity which orders the design or construction or the renewal or upgrading of a subsystem;
- “CSIs” means common safety indicators;
- “CSMs” means common safety methods;
- “CSTs” means common safety targets;
- “Directive” means Directive (EU) 2016/798 of the European Parliament and of the Council of 11 May 2016¹;
- “ECM” means entity in charge of maintenance;
- “entity in charge of maintenance” means an entity in charge of maintenance of a vehicle, and registered as such in the vehicle register;
- “extensive damage” means damage that can be immediately assessed by the investigating body to cost at least €2 million in total;
- “extent of operation” means the extent characterised by the number of passengers or volume of goods and the estimated size of a railway undertaking in terms of number of employees working in the railway sector (i.e., as a micro, small, medium-sized or large enterprise);
- “filler” means an enterprise that loads goods into a tank (including a tank-wagon, wagon with demountable tank, portable tank or tank-container), into a wagon, a large container or small container for carriage in bulk, or into a battery-wagon or multiple-element gas container;
- “incident” means any occurrence, other than an accident or serious accident, affecting the safety of railway operations;
- “infrastructure manager” has the meaning assigned to it in the Regulations of 2015;
- “interoperability constituents” has the meaning assigned to it in the Interoperability Regulations;
- “Interoperability Regulations” means European Union (Interoperability of the Rail System) Regulations (S.I. No. 477 of 2020);

“investigation” means a process conducted for the purpose of accident and incident prevention which includes the gathering and analysis of information, the drawing of conclusions, including the determination of causes and, when appropriate, the making of safety recommendations;

“keeper” means the person that, being the owner of a vehicle or having the right to use it, exploits the vehicle as a means of transport and is registered as such in the vehicle register;

“light rail” means an urban and/or suburban rail transport system with a crashworthiness of C-III or C-IV (in accordance with EN 15227:2011) and a maximum strength of vehicle of 800 kN (longitudinal compressive force in coupling area); light rail systems may have their own right of way or share it with road traffic and usually do not exchange vehicles with long-distance passenger or freight traffic;

“loader” means an enterprise which loads packaged goods, small containers or portable tanks into or onto a wagon or a container, or which loads a container, bulk-container, multiple-element gas container, tank-container or portable tank onto a wagon;

“manufacturer” has the meaning assigned to it in the Interoperability Regulations;

“national rules” means all binding rules adopted in the State, irrespective of the body issuing them, which contain railway safety or technical requirements, other than those laid down by European Union or international rules, and which are applicable within the State to railway undertakings, infrastructure managers or third parties;

“network” has the meaning assigned to it in the Regulations of 2015;

“operative date” means the date published by the Minister in *Iris Oifigiúil* upon which the European Vehicle Register becomes operational as respects the State;

“railway infrastructure” has the meaning assigned to it in the Regulations of 2015;

“railway system” means the elements listed in Annex I to Directive (EU) 2016/797 of 11 May 2016³;

“railway undertaking” has the meaning assigned to it in the Regulations of 2015 and any other public or private undertaking, the activity of which is to provide transport of goods or passengers by rail on the basis that the undertaking is to ensure traction, including undertakings which provide traction only;

“Regulations of 2008” means European Communities (Railway Safety) Regulations 2008 (S.I. No. 61 of 2008);

“Regulations of 2010” means European Communities (Train Drivers Certification) Regulations 2010 (S.I. No. 399 of 2010);

“Regulations of 2013” means European Union (Railway Safety) Regulations 2013 (S.I. No. 444 of 2013);

³ OJ No. L138, 26.05. 2016, p.44

“Regulations of 2015” means European Union (Regulation of Railways) Regulations 2015 (S.I. No. 249 of 2015) (as amended by the European Union (Regulation of Railways) (Amendment) Regulations 2020 (S.I. No. 398 of 2020));

“safety authorisation” means safety authorisation issued by the safety authority under Regulation 10;

“safety authority” means Commission for Railway Regulation;

“safety-critical task” has the meaning assigned to “safety critical task” in Part 10 of the Act of 2005;

“safety management system” means the organisation, arrangements and procedures established by an infrastructure manager or a railway undertaking to ensure the safe management of its operations;

“serious accident” means any train collision or derailment of trains resulting in the death of at least one person or serious injuries to five or more persons or extensive damage to rolling stock, the infrastructure or the environment, and any other accident with the same consequences which has an obvious impact on railway safety regulation or the management of safety;

“single safety certificate” means the single safety certificate issued by the Agency in accordance with Article 10(5) to (7) or the safety authority under Regulation 9;

“subsystems” means the result of the division of the railway system as referred to in the Interoperability Regulations, which may be structural or functional;

“technical specification for interoperability” means a specification adopted by the European Commission in accordance with Directive (EU) 2016/797³ by which each subsystem or part of a subsystem is covered in order to meet the essential requirements and ensure the interoperability of the railway system;

“training centre” has the meaning assigned to it in the Regulations of 2010;

“TSI” means technical specification for interoperability;

“type of operation” means the type characterised by passenger transport, including or excluding high-speed services, freight transport, including or excluding dangerous goods services, and shunting services only;

“unfiller” means an enterprise that removes goods from a tank (including a tank-wagon, wagon with demountable tank, portable tank or tank-container), a wagon, a large container or small container for carriage in bulk, or from a battery-wagon or multiple-element gas container;

“unloader” means an enterprise which removes a container, bulk-container, multiple-element gas container, tank-container or portable tank from a wagon, or any enterprise which unloads packaged goods, small containers or portable tanks out of or from a wagon or a container, or any enterprise which discharges goods from a tank (tank-wagon, demountable tank, portable tank or tank-container), or from a battery-wagon or multiple-element gas container, or from a wagon, large container or small container for carriage in bulk or a bulk-container;

“vehicle” means a railway vehicle suitable for circulation on wheels on railway lines, with or without traction; a vehicle is composed of one or more structural and functional subsystems;

“vehicle register” means the national vehicle register established under the Interoperability Regulations and from the operative date the European Vehicle Register.

(2) A word or expression which is used in these Regulations and which is also used in the Directive has, unless the context otherwise requires, the same meaning in these Regulations as it has in the Directive.

(3) In these Regulations, save as otherwise indicated —

- (a) a reference to an Article is a reference to an Article of the Directive, and
- (b) a reference to an Annex is a reference to an Annex to the Directive.

Scope

3. (1) These Regulations apply to the railway system in the State. They cover safety requirements, including the safe management of infrastructure and of traffic operation and the interaction between railway undertakings, infrastructure managers and other actors.

(2) These Regulations do not apply to—

- (a) metros, trams and other light rail vehicles, and infrastructure used exclusively by those vehicles,
- (b) a network that is functionally separate from the rest of the railway system and is intended only for the operation of local, urban or suburban passenger services, as well as railway undertakings operating solely on that network,
- (c) a privately owned railway infrastructure, including sidings, used by the owner or by an operator for the purpose of their respective freight activities or for the transport of persons for non-commercial purposes, and vehicles used exclusively on such infrastructure,
- (d) infrastructure or vehicles reserved for strictly local, historical or tourist use,
- (e) light rail infrastructure occasionally used by heavy rail vehicles under the operational conditions of the light rail system, where it is necessary for the purposes of connectivity of those vehicles only, and
- (f) vehicles primarily used on light rail infrastructure but equipped with some heavy rail components necessary to enable transit to be effected on a confined and limited section of heavy rail infrastructure for connectivity purposes only.

Non-application of Part 4 of Act of 2005

4. Part 4 of the Act of 2005 does not apply in relation to the aspects of safety management, safety certification, safety authorisation or entity in charge of maintenance provisions in respect of the railway system in the State to which these Regulations apply.

Revocations

5. The following are revoked:

- (a) the European Union (Railway Safety) Regulations 2008 (S. I. No. 61 of 2008) (other than Regulations 2, 3(1)(c) and 7(1));
- (b) the European Communities (Railway Safety) Regulations 2011 (S.I. No. 70 of 2011);
- (c) the European Union (Railway Safety) Regulations 2013 (S. I. No. 444 of 2013) (other than in Regulation 2, the definition of “Act of 2005” and in Part 6, Regulations 20 and 21);
- (d) the European Union (Railway Safety) Regulations 2013 (Amendment) Regulations 2015 (S.I. No. 280 of 2015).

Amendment of Act of 2005

6. (1) Section 2(1) of the Act of 2005 (as amended by Regulation 3(1) of the Regulations of 2008 and Regulation 2(a) of the European Communities (Railway Safety) Regulations 2011 (S.I. No. 70 of 2011)) is amended by the deletion of the definitions of “annual report”, “Commission Regulation 851/2006/EC”, “Directive”, “European Commission”, “European Railway Agency”, “Railway Interoperability Directive” and “vehicle”.

(2) Section 2(1) of the Act of 2005 is amended by substituting for the definition of “railway organisation” (inserted by Regulation 20(1)(a)(i) of the Regulations of 2013) the following:

“‘railway organisation’ means—

- (a) an organisation with responsibility in operating:
 - (i) a metro, tram or other light railway system,
 - (ii) a heritage railway, museum railway or tourist railway that operates on its own network, including workshops, vehicles and staff,
 - (iii) a heritage railway that runs on the railway system in the State,
- (b) a railway undertaking or an infrastructure manager to which the European Union (Railway Safety) Regulations 2020 (S.I. No. 476 of 2020) apply except in the case of sections 39, 45, 46, 47, 48 and 50 of this Act, or
- (c) any other person who operates a railway;”.

Part 2
Safety Management, Certification and Authorisation

Role of railway undertakings, infrastructure managers and other actors

7. (1) Railway undertakings and infrastructure managers shall:
 - (a) implement the necessary risk control measures referred to in Article 6(1)(a), where appropriate in cooperation with each other and with other actors;
 - (b) take account in their safety management systems of the risks associated with the activities of other actors and third parties;
 - (c) where appropriate, contractually oblige the other actors having a potential impact on the safe operation of the railway system to implement risk control measures;
 - (d) ensure that their contractors implement risk control measures through the application of the CSMs for monitoring processes set out in the CSMs on monitoring referred to in the Directive, and that this is stipulated in contractual arrangements to be disclosed on request of the Agency or of the safety authority.
- (2) Without prejudice to the responsibilities of railway undertakings and infrastructure managers referred to in paragraph (1), entities in charge of maintenance and all other actors having a potential impact on the safe operation of the railway system shall:
 - (a) implement the necessary risk control measures, where appropriate in cooperation with other actors;
 - (b) ensure that subsystems, accessories, equipment and services supplied by them comply with specified requirements and conditions for use so that they can be safely operated by the railway undertaking or the infrastructure manager concerned.
- (3) Railway undertakings, infrastructure managers and any actor referred to in paragraph (2) who identifies or is informed of a safety risk relating to defects and construction non-conformities or malfunctions of technical equipment, including those of structural subsystems, shall, within the limits of their respective competence:
 - (a) take any necessary corrective measure to tackle the safety risk identified;
 - (b) report those risks to the relevant parties involved, in order to enable them to take any necessary further corrective action to ensure continuous achievement of the safety performance of the railway system.
- (4) In the case of exchange of vehicles between railway undertakings, any involved actor shall exchange all information relevant to safe operation including, but not limited to, the status and history of the vehicle concerned, elements of the maintenance files for the purpose of traceability, traceability of loading operations and consignment notes.

Safety management systems

8. (1) An infrastructure manager and a railway undertaking shall establish their respective safety management systems to ensure that—

- (a) the railway system can achieve at least the CSTs as laid down by the Agency and the European Commission,
- (b) it is in conformity with the safety requirements laid down in the TSIs, and
- (c) the relevant parts of the CSMs and national rules notified in accordance with Article 8 are applied.

(2) The safety management system shall be documented in all relevant parts and shall in particular describe the distribution of responsibilities within the organisation of the infrastructure manager or the railway undertaking.

(3) The safety management system shall show how—

- (a) control is ensured by the management on different levels,
- (b) staff and their representatives on all levels are involved, and
- (c) continuous improvement of the safety management system is ensured.

(4) There shall be a clear commitment to consistently apply human factors knowledge and methods. Through the safety management system, infrastructure managers and railway undertakings shall promote a culture of mutual trust, confidence and learning in which staff are encouraged to contribute to the development of safety while ensuring confidentiality.

(5) The safety management system shall contain the following basic elements:

- (a) a safety policy approved by the organisation's chief executive and communicated to all staff;
- (b) qualitative and quantitative targets of the organisation for the maintenance and enhancement of safety, and plans and procedures for reaching these targets;
- (c) procedures to meet existing, new and altered technical and operational standards or other prescriptive conditions as laid down in TSIs, national rules referred to in Article 8 and Annex II, other relevant rules or authority decisions;
- (d) procedures to assure compliance with the standards and other prescriptive conditions throughout the life cycle of equipment and operations;
- (e) procedures and methods for identifying risks, carrying out risk evaluation and implementing risk-control measures whenever a change of operating conditions or the introduction of new material imposes new risks on the infrastructure or the man-machine-organisation interface;
- (f) the provision of programmes for the training of staff and systems to ensure that the staff's competence is maintained and that tasks

- are carried out accordingly, including arrangements with regard to physical and psychological fitness;
- (g) arrangements for the provision of sufficient information within the organisation and, where appropriate, between organisations of the railway system;
 - (h) procedures and formats for the documentation of safety information and designation of procedure for the configuration control of vital safety information;
 - (i) procedures to ensure that accidents, incidents, near misses and other dangerous occurrences are reported, investigated and analysed and that necessary preventive measures are taken;
 - (j) the provision of actions plans, alerts and information in the event of an emergency, agreed upon with the appropriate public authorities;
 - (k) provisions for recurrent internal auditing of the safety management system.

Infrastructure managers and railway undertakings shall include any other element necessary to cover safety risks, in accordance with the assessment of risks arising from their own activity.

(6) The safety management system shall be adapted to the type, extent, area of operations and other conditions of the activity pursued. It shall ensure the control of all risks associated with the activity of the infrastructure manager or railway undertaking, including the supply of maintenance, without prejudice to Regulation 14, and material, and the use of contractors. Without prejudice to existing national and international liability rules, the safety management system shall also take into account, where appropriate and reasonable, the risks arising as a result of activities by all other actors having a potential impact on the safe operation of the railway system.

- (7) (a) The safety management system of any infrastructure manager shall take into account the effects of operations by different railway undertakings on the network and shall provide for all railway undertakings to be able to operate in accordance with TSIs and national rules and with the conditions laid down in their safety certificate.
- (b) Safety management systems shall be developed with the aim of coordinating the emergency procedures of the infrastructure manager with all railway undertakings that operate on its infrastructure, and with the emergency services, so as to facilitate the rapid intervention of rescue services, and with any other party that could be involved in an emergency situation. For cross-border infrastructure, the cooperation between the relevant infrastructure managers shall facilitate the necessary coordination and preparedness of the competent emergency services on the side of the border within the State.
- (c) Following a serious accident, the railway undertaking shall provide assistance to victims helping them in complaints

procedures under European Union law, in particular Regulation (EC) No 1371/2007 of the European Parliament and of the Council of 23 October 2007⁴, without prejudice to the obligations of other parties. Such assistance shall use channels for communicating with victims' families and include psychological support for accident victims and their families.

(8) Each infrastructure manager and railway undertaking shall submit to the safety authority, not later than 31 May in each year, an annual safety report concerning the preceding year. The safety report shall contain:

- (a) information on how the organisation's corporate safety targets are met and the results of safety plans;
- (b) an account of the development of national safety indicators, and of the CSIs set out in Annex I, in so far as it is relevant to the reporting organisation;
- (c) the results of internal safety auditing;
- (d) observations on deficiencies and malfunctions of railway operations and infrastructure management that might be relevant for the safety authority. This should include a summary of risks identified or informed by railway undertakings, infrastructure managers and other actors as outlined in Regulation 7(3)(b) relating to defects and construction non-conformities or malfunctions of technical equipment, including those of structural subsystems;
- (e) a report on the application of the relevant CSMs.

(9) The safety authority may give a direction to an infrastructure manager or a railway undertaking with respect to its safety management systems. The infrastructure manager or railway undertaking shall take reasonable steps to comply with the direction.

(10) Where the safety authority considers that an infrastructure manager or railway undertaking has not established its safety management system in accordance with paragraphs (1) to (8), it may give a direction to the infrastructure manager or railway undertaking to comply with this Regulation in accordance with the direction.

(11) An infrastructure manager or a railway undertaking receiving a direction under paragraph (9) or (10) may, within 14 days of service of the notice, make representations in respect of it. The safety authority shall consider any representations and affirm, modify or withdraw the direction.

(12) Where a direction is affirmed under paragraph (11) the infrastructure manager or railway undertaking may, within 14 days of the affirmation of the decision, appeal against the decision to the Circuit Court in the circuit where the appellant carries on business. The court may affirm or modify the direction or allow the appeal. The decision of the Circuit Court is final other than on a point of law, which lies to the High Court.

⁴ OJ No. L315, 03.12.2007, p.14

(13) An infrastructure manufacturer or a railway undertaking who fails to establish a safety management system in accordance with this Regulation or fails to comply with a direction under paragraph (9) commits an offence and is liable

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- (a) on summary conviction, to a class A fine, or
- (b) on conviction on indictment, to a fine not exceeding €250,000.

Single safety certificates

9. (1) Without prejudice to Article 10(9), a railway undertaking shall not have access to railway infrastructure on the railway system unless it holds the single safety certificate for the time being in force issued by the Agency in accordance with Article 10(5) to (7), or the safety authority under paragraph (2).

(2) Where the area of operation of a railway undertaking is limited to the State, the safety authority may, under its own responsibility and when the applicant so requests, issue a single safety certificate in accordance with Article 10(8).

(3) The safety authority shall only grant a railway undertaking a single safety certificate where the safety authority has assessed and accepted that the railway undertaking has established its safety management system and that it is able to operate safely in the intended area of operation.

(4) In its application for a single safety certificate, a railway undertaking shall specify the type and extent of the railway operations covered and the intended area of operation.

(5) An application for a single safety certificate shall be accompanied by a file including documentary evidence that—

- (a) the railway undertaking has established its safety management system in accordance with Regulation 8 and that it meets the requirements laid down in TSIs, CSMs and CSTs and in other relevant legislation in order to control risks and provide transport services safely on the network, and
- (b) the railway undertaking, where applicable, meets the requirements laid down in the relevant national safety rules notified in accordance with Article 8.

The application and information about all applications and the stages of the relevant procedures and their outcome shall be submitted through the one-stop shop referred to in Article 12 of Regulation (EU) 2016/796⁵.

(6) Within 1 month of receipt of an application to it, the safety authority shall inform the applicant that the file is complete or request relevant supplementary information.

(7) The safety authority shall issue the single safety certificate, or inform the applicant of its decision not to grant a safety certificate within 4 months after all the information required and any supplementary information requested have

⁵ OJ No. L138, 26.05.2016, p.1

been submitted by the applicant. The safety authority shall apply the practical arrangements on the certification procedure to be established in an implementing act, as referred to in Article 10(10).

(8) In order to issue a single safety certificate the safety authority shall assess the elements set out in paragraph (5). As part of this assessment, the safety authority may undertake visits and inspections on the sites of railway undertakings and audits and may request relevant supplementary information. The safety authority shall coordinate any visit or inspection with the Agency. Where the Agency disagrees with a negative assessment of the safety authority, the safety authority shall comply with the procedures set down in Article 10(7).

(9) The single safety certificate shall be valid without an extension of the area of operations for railway undertakings travelling to stations in a neighbouring Member State with similar network characteristics and similar operating rules, when those stations are close to the border, following consultation of the national safety authorities. This consultation may be carried out on a case-by-case basis or set out in a cross-border agreement between the State and the neighbouring Member State or national safety authority.

(10) The safety authority shall have full responsibility for any single safety certificate it issues.

(11) Single safety certificates shall specify the type and extent of the railway operations covered and the area of operation. They may also cover sidings owned by the railway undertaking if these are included in its safety management system.

(12) The safety authority shall give reasons to the applicant for a single safety certificate when refusing to issue a single safety certificate. The applicant may, within 1 month of the receipt of the decision, request the safety authority to review the decision. The safety authority shall have 2 months from the date of receipt of the request for review in which to confirm or reverse its decision.

(13) A single safety certificate issued by the safety authority under this Regulation shall be renewed upon application by the railway undertaking at intervals not exceeding 5 years. The single safety certificate shall be fully or partly updated whenever the type or extent of the operation is substantially altered.

(14) The holder of a single safety certificate who wishes to extend its area of operation to another Member State shall comply with Article 10(14).

(15) The safety authority may require that the relevant part of a safety certificate be revised following substantial changes in the safety regulatory framework.

(16) A decision under this Regulation shall be by way of notice to the railway undertaking concerned.

(17) The safety authority shall, within 14 days, inform the Agency of any single safety certificate that it has issued, renewed, amended or revoked. It shall state the name and address of the railway undertaking, the issue date, the type, extent, validity and area of operation of the single safety certificate.

(18) In respect of a railway system in the State to which these Regulations apply—

- (a) an application for a safety certificate made under Regulation 5 of the Regulations of 2013 shall be dealt with as though the application was made for a single safety certificate under this Regulation,
- (b) a reference to a safety certificate that was granted by the safety authority under Regulation 5 of the Regulations of 2013 and any reference in any enactment to such a certificate or to a requirement to the effect that the necessary safety requirements of the Regulations of 2013 be met is deemed to be a reference to a single safety certificate issued under this Regulation, and
- (c) a safety certificate that was granted under Regulation 5 of the Regulations of 2013 may be renewed, amended or revoked by the safety authority as if it had been issued under this Regulation.

Safety authorisation of infrastructure managers

10. (1) An infrastructure manager shall not manage or operate a railway infrastructure unless that infrastructure manager obtains and holds a safety authorisation to so manage or operate the infrastructure from the safety authority.

(2) A safety authorisation shall comprise—

- (a) an authorisation confirming acceptance of the infrastructure manager's safety management system, as provided for in Regulation 8, and
- (b) the procedures and the provisions fulfilling the requirements necessary for the safe design, maintenance and operation of the railway infrastructure, including where appropriate, the maintenance and operation of the traffic control and signalling system.

(3) The safety authority shall explain the requirements for a safety authorisation and the documents required, where appropriate, in the form of an application guidance document.

(4) A safety authorisation shall be valid for 5 years, and may be renewed by the safety authority upon application to it by the infrastructure manager holding the authorisation.

(5) The safety authority shall make a decision on an application for safety authorisation without delay and in any event not more than 4 months after all the information required and any supplementary information requested has been submitted by the applicant.

(6) The safety authority shall give reasons to the applicant for a safety authorisation when refusing to issue it. The applicant may, within 1 month of the receipt of the decision, request the safety authority to review the decision. The safety authority shall have 2 months from the date of receipt of the request for review in which to confirm or reverse its decision.

(7) The holder of a safety authorisation shall—

- (a) apply to the safety authority for the authorisation to be revised whenever substantial changes are made to the railway infrastructure, signalling or energy supply or to the principles of its operation and maintenance, and
- (b) inform the safety authority, without delay, of all such changes.

(8) A safety authorisation shall be wholly or partly revised whenever a substantial change referred to in paragraph (7) is made.

(9) The safety authority may require that the safety authorisation be revised following substantial changes in the safety regulatory framework.

(10) A decision or requirement under this Regulation shall be by way of notice to the infrastructure manager concerned.

(11) The safety authority shall inform the Agency, without delay, and in any case within 14 days of the safety authorisations that it has issued, renewed, amended or revoked. It shall state the name and address of the infrastructure manager, the issue date, scope and period of validity of the safety authorisation and, in the event of revocation, the reasons for its decision.

(12) In the case of cross-border infrastructure, the safety authority shall cooperate with other national safety authorities in order to issue the safety authorisations.

(13) In respect of the railway system in the State to which these Regulations apply—

- (a) an application for a safety authorisation made under Regulation 6 of the Regulations of 2013 shall be dealt with as though the application was made for a safety authorisation under this Regulation,
- (b) a reference to a safety authorisation that was granted by the safety authority under Regulation 6 of the Regulations of 2013 and any reference in any enactment to such authorisation or to a requirement to the effect that the necessary safety requirements of the Regulations of 2013 be met is deemed to be a reference to a safety authorisation issued under this Regulation, and
- (c) a safety authorisation that was granted under Regulation 6 of the Regulations of 2013 may be renewed, amended or revoked by the safety authority as if it had been issued under this Regulation.

Appeals

11. (1) Where the applicant for a single safety certificate under Regulation 9(12) or a safety authorisation under Regulation 10(6) makes a request to the safety authority to review its decision and the safety authority confirms the decision the person may, not later than 14 days of the date of the service of a notice confirming the decision of the safety authority to refuse to grant, renew, restrict, or revoke, the single safety certificate or the safety authorisation held by him or her, appeal the decision to the High Court.

(2) The High Court may either allow the appeal or confirm the decision (with or without modification).

(3) The decision of the High Court on an appeal under paragraph (1) is final, except by leave of the Court an appeal on a specified point of law lies to the Court of Appeal.

Prohibition on acting without single safety certificate or safety authorisation

12. (1) A railway undertaking who operates or manages a transport service on a railway infrastructure without holding a single safety certificate, for the time being in force, in relation to the provision of that transport service commits an offence.

(2) An infrastructure manager who manages or operates a railway infrastructure without holding a safety authorisation, for the time being in force, in respect of such management or operation commits an offence.

(3) A person who commits an offence under this Regulation is liable—

- (a) on summary conviction, to a class A fine, or
- (b) on conviction on indictment, to a fine not exceeding €250,000.

Access to training facilities

13. (1) For the purpose of Article 13, training facilities who provide training for train drivers and staff accompanying trains shall give railway undertakings and infrastructure managers and their staff performing safety-critical tasks fair and non-discriminatory access to their training, whenever such training is necessary for operating services on their network.

(2) For the purpose of paragraph (1), the safety authority shall ensure the fair and non-discriminatory access to training facilities.

(3) The training services shall include training on necessary route knowledge, operating rules and procedures, the signalling and control command system and emergency procedures applied on the routes operated.

(4) If the training services do not include examinations and granting of certificates, the safety authority shall ensure that each railway undertaking has access to such certificates.

(5) The safety authority shall ensure that training services meet the requirements specified in Article 13(1), point 4.

(6) If training facilities are available only through the services of one single railway undertaking or infrastructure manager, the safety authority may give a direction to the railway undertaking or infrastructure manager concerned to ensure that they are available to other railway undertakings at a reasonable and non-discriminatory price which is cost related and which may include a profit margin. The railway undertaking or infrastructure manager shall take all reasonable steps to comply with the direction.

(7) A railway undertaking or an infrastructure manager receiving a direction under paragraph (6) may, within 14 days of service of the notice, make

representations in respect of it. The safety authority shall consider any representations and affirm, modify or withdraw the direction.

(8) Where a direction is affirmed under paragraph (7) the railway undertaking or infrastructure manager may, within 14 days of the affirmation of the decision, appeal against the decision to the Circuit Court in the circuit where the undertaking or manager carries on business. The court may affirm or modify the direction or allow the appeal. The decision of the Circuit Court is final other than on a point of law, which lies to the High Court.

(9) When recruiting new train drivers, staff on board trains and staff performing safety-critical tasks, railway undertakings may take into account any training, qualification and experience acquired previously from other railway undertakings. For this purpose, such members of staff shall be entitled to have access to, obtain copies of, and communicate all documents attesting to their training, qualification and experience.

(10) Each infrastructure manager and each railway undertaking shall be responsible for the level of training and qualifications of any member of its staff carrying out safety-critical tasks.

Maintenance of vehicles

14. (1) Each vehicle, before it is being used on the network, shall have an entity in charge of maintenance (“ECM”) assigned to it, and this entity shall be registered in the vehicle register.

(2) Without prejudice to the responsibility of any railway undertaking or any infrastructure manager for the safe operation of a train as provided for in Regulations 15(4) and 7, the ECM shall ensure that any vehicle for which it is in charge of maintenance is in a safe state of running by means of a system of maintenance. To that end, the ECM shall establish a maintenance system for those vehicles and shall by means of that system:

- (a) ensure that vehicles are maintained in accordance with the maintenance file of each vehicle and the requirements in force, including maintenance rules and relevant TSI provisions,
- (b) implement the necessary risk evaluation and assessment methods established in the CSMs, where appropriate in cooperation with other actors,
- (c) ensure that its contractors implement risk control measures through the application of the CSM on monitoring and the methods for monitoring to be applied by railway undertakings, infrastructure managers and entities in charge of maintenance and that this is stipulated in contractual arrangements to be disclosed on request of the Agency or the safety authority, and
- (d) ensure the traceability of the maintenance activities.

(3) The maintenance system shall be composed of the following functions:

- (a) a management function to supervise and coordinate the maintenance functions referred to in subparagraphs (b) to (d) and to ensure the safe state of the vehicle in the railway system;
- (b) a maintenance development function responsible to manage the maintenance documentation, including the configuration management, based on design and operational data as well as on performance and return on experience;
- (c) a fleet-maintenance management function to manage the vehicle's removal for maintenance and its return to operation after maintenance;
- (d) a maintenance delivery function to deliver the required technical maintenance of a vehicle or parts of it, including the release to service documentation.

(4) The ECM shall carry out the maintenance itself or may outsource the maintenance functions referred to in subparagraphs (b) to (d) of paragraph (3) or parts thereof to other contracting parties such as maintenance workshops.

(5) The ECM shall ensure that all the functions set out in subparagraphs (a) to (d) of paragraph (3) comply with the requirements and assessment criteria set out in Annex III.

(6) Maintenance workshops shall apply the relevant sections of Annex III as identified in the implementing acts adopted by the European Commission pursuant to the maintenance functions carried out by maintenance workshops, including detailed provisions to ensure the uniform implementation of the certification of maintenance workshops, in compliance with the relevant CSM and TSIs, which correspond to the functions and activities to be certified.

(7) In the case of freight wagons, and after the adoption of the implementing acts referred to in Article 14(8)(b) in the case of other vehicles, each entity in charge of maintenance shall be certified and be awarded an entity in charge of maintenance certificate ("ECM certificate") by an accredited or recognised body or by the safety authority in accordance with the following conditions:

- (a) the accreditation and recognition processes of certification processes shall be based on criteria of independence, competence and impartiality;
- (b) the system of certification shall provide evidence that an entity in charge of maintenance has established the maintenance system to ensure the safe state of running of any vehicle for which it is in charge of maintenance;
- (c) the ECM certification shall be based on an assessment of the ability of the entity in charge of maintenance to meet the relevant requirements and assessment criteria set out in Annex III and to apply them consistently. It shall include a system of surveillance to ensure continuing compliance with those requirements and assessment criteria after award of the ECM certificate;

(d) the certification of maintenance workshops shall be based on the compliance with the relevant sections in Annex III applied to the corresponding functions and activities to be certified.

(8) Where the ECM is a railway undertaking or an infrastructure manager, compliance with the conditions set out in subparagraph (a) of paragraph (7) may be checked by the safety authority pursuant to the procedures referred to in Regulations 9 and 10 and may be confirmed on the certificates issued in accordance with those procedures.

(9) Certification granted by other Member States for the purposes of Article 14(4) are valid in the State.

(10) A person who –

- (a) places in service or uses a vehicle on the network in contravention of paragraph (1), or
- (b) in relation to a vehicle, fails to ensure compliance, by an ECM, it has assigned to the vehicle under paragraph (1), with paragraph (2), (3), (4) or (5), or by a workshop with paragraph (6),

commits an offence and is liable –

- (i) on summary conviction, to a class A fine, or
- (ii) on conviction on indictment, to a fine not exceeding €250,000.

(11) In respect of a railway system in the State to which these Regulations apply—

- (a) an ECM that was assigned to a vehicle under Regulation 12 of the Regulations of 2013 is deemed to have been assigned in accordance with this Regulation, and
- (b) in the case of a freight wagon, any certification of an ECM by the safety authority or a body accredited or recognised in accordance with Article 14(4) that was done for the purposes of Regulation 12 of the Regulations of 2013 is deemed to have been done to meet the requirements of paragraph (7).

Part 3

Safety Authority

Safety authority

15. (1) The Commission for Railway Regulation is established as the national safety authority in the State for the purposes of the Directive and these Regulations.

(2) The safety authority in exercising its functions under these Regulations and the Directive shall be independent in its organisation, legal structure and decision making from any railway undertaking, infrastructure manager,

applicant or contracting entity and from any entity awarding public service contracts.

(3) The safety authority shall comply with the requirements of a national safety authority under the Directive.

(4) The safety authority shall with the aim of the development and improvement of railway safety, within the limit of its competences,—

- (a) ensure that railway safety is maintained and, where reasonably practicable, continuously improved, taking into consideration the development of European Union law and international rules and of technical and scientific progress, and giving priority to the prevention of accidents,
- (b) ensure that all applicable legislation is enforced in an open and non-discriminatory manner, fostering the development of a single European rail transport system,
- (c) ensure that measures to develop and improve railway safety take account of the need for a system-based approach,
- (d) ensure that the responsibility for the safe operation of the railway system and the control of risks associated with it is laid upon infrastructure managers and railway undertakings each for its part of the system, obliging them to—
 - (i) implement necessary risk control measures as referred to in Article 6(1)(a), where appropriate in cooperation with each other,
 - (ii) apply European Union and national rules, and
 - (iii) establish safety management systems in accordance with the Directive and these Regulations,
- (e) without prejudice to civil liability in accordance with the legal requirements in the State, ensure that each infrastructure manager and each railway undertaking is made responsible for its part of the system and its safe operation, including supply of materials and contracting of services in relation to users, customers, the workers concerned and the other actors referred to in Regulation 7,
- (f) develop and publish annual safety plans setting out the measures envisaged to achieve the CSTs, and
- (g) where appropriate, support the Agency in its work to monitor the development of railway safety at European Union level.

(5) The safety authority shall be entrusted with at least the following tasks—

- (a) authorising the placing in service of the trackside control-command and signalling, energy and infrastructure subsystems constituting the railway system in accordance with Regulation 18(2) of the Interoperability Regulations;

- (b) issuing, renewing, amending and revoking vehicle authorisations for placing on the market in accordance with Regulation 21(9) of the Interoperability Regulations;
 - (c) supporting the Agency in the issuing, renewal, amendment and revocation of vehicle authorisations for placing on the market in accordance with Regulation 21(7) of the Interoperability Regulations and type authorisations of vehicle in accordance with Regulation 23 of the Interoperability Regulations;
 - (d) supervising, in the State, that interoperability constituents are in compliance with the essential requirements as required by Regulation 9 of the Interoperability Regulations;
 - (e) ensuring that a vehicle number has been assigned in accordance with Regulation 43 of the Interoperability Regulations;
 - (f) supporting the Agency in the issuing, renewal, amendment and revocation of single safety certificates granted in accordance with Article 10(5);
 - (g) issuing, renewing, amending and revoking single safety certificates granted in accordance with Regulation 9;
 - (h) issuing, renewing, amending and revoking safety authorisations granted in accordance with Regulation 10;
 - (i) monitoring, promoting, and, where appropriate, enforcing and updating the safety regulatory framework including the system of national rules;
 - (j) supervising railway undertakings and infrastructure managers in accordance with Regulation 16;
 - (k) where relevant, issuing, renewing, amending and revoking train driving licences in accordance with the Regulations of 2010;
 - (l) where relevant, issuing, renewing, amending and revoking certificates granted to entities in charge of maintenance.
- (6) The tasks referred to in paragraph (5) shall not be transferred or subcontracted to any infrastructure manager, railway undertaking or contracting entity.
- (7) (a) The safety authority shall carry out its tasks in an open, non-discriminatory and transparent way. In particular, the safety authority shall allow all interested parties to be heard and give reasons for its decisions.
- (b) The safety authority shall promptly respond to requests and applications and communicate its requests for information without delay and adopt all of its decisions within 4 months after all relevant information has been provided by the applicant. It may at any time request the technical assistance of infrastructure managers and railway undertakings or other qualified bodies when they are carrying out the tasks referred to in paragraph (5).

- (c) In the process of developing the regulatory framework in the State, the safety authority shall consult all interested parties, including infrastructure managers, railway undertakings, manufactures and maintenance providers, users and staff representatives.

(8) In order to facilitate assessment of the achievement of the CSTs and to provide for the monitoring of the general development of railway safety, the safety authority shall collect information on CSIs, set out in Annex I, through the annual reports of national safety authorities.

(9) The safety authority shall in each year publish a report concerning its activities in the preceding year and send it, not later than 30 September of that year, to the Agency. The report shall contain information on:

- (a) the development of railway safety, including an aggregation of the CSIs, in accordance with Article 5(1);
- (b) important changes in legislation and regulation concerning railway safety;
- (c) the development of safety certification and safety authorisation;
- (d) the results of, and experience relating to, the supervision of infrastructure managers and railway undertakings, including the number and outcome of inspections and audits;
- (e) the derogations decided in accordance with this Regulation;
- (f) the experience of the railway undertakings and infrastructure managers on the application of the relevant CSMs.

(10) The safety authority shall conduct an active exchange of views and experience and cooperate with other national safety authorities, in particular within the network established by the Agency in order to harmonise their decision-making criteria across the European Union.

Supervision

16. (1) The safety authority shall oversee continued compliance with the binding legal obligation on railway undertakings and infrastructure managers to use a safety management system as referred to in Regulation 8.

For that purpose, the safety authority shall apply the principles set out in the relevant CSMs for supervision to be applied by national safety authorities and the methods for monitoring to be applied by railway undertakings, infrastructure managers and entities in charge of maintenance, ensuring that supervision activities include, in particular, checking the application by railway undertakings and infrastructure managers of:

- (a) the safety management system to monitor its effectiveness;
- (b) the individual or partial elements of the safety management system, including operational activities, the supply of maintenance and material and the use of contractors to monitor their effectiveness;

- (c) the relevant CSMs referred to in Article 6, the supervision activities of which shall also apply to entities in charge of maintenance, where appropriate.
- (2) Railway undertakings shall inform the safety authority at least 2 months before commencing any new rail transport operation, in order to allow the latter to plan the supervision activities. Railway undertakings shall also provide a breakdown of the categories of staff and the types of vehicles.
- (3) The holder of a single safety certificate shall inform the safety authority without delay of any major changes to the information referred to in paragraph (2).
- (4) The monitoring of compliance with applicable working, driving and rest-time rules for train drivers shall be ensured by the safety authority.
- (5) Where the safety authority finds that a holder of a single safety certificate no longer satisfies the conditions for certification, it shall ask the Agency to restrict or revoke that certificate. In the event of disagreement, the safety authority shall comply with the procedure referred to in Article 17(5).
- (6) Where the safety authority issued the single safety certificate it may restrict or revoke the certificate, giving reasons for its decision and shall inform the Agency.
- (7) The holder of a single safety certificate whose certificate has been restricted or revoked either by the Agency or by the safety authority shall have the right of appeal in accordance with Regulation 9(12).
- (8)
 - (a) If, during supervision, the safety authority identifies a serious safety risk, it may at any time apply temporary safety measures, including immediately restricting or suspending the relevant operations. If the single safety certificate was issued by the Agency, the safety authority shall immediately inform the Agency thereof and provide supporting evidence for its decision.
 - (b) The decision of the safety authority relating to temporary safety measures shall be subject to appeal to the High Court, which must be made within 14 days of the decision. In such a case, the temporary safety measures may apply until the determination of the appeal, without prejudice to paragraphs (5) to (7). The High Court may make such order as it sees fit. The decision of the High Court on an appeal under this paragraph is final, except by leave of the Court an appeal on a specified point of law lies to the Court of Appeal.
 - (c) Where the Agency finds that the measures applied by the safety authority are disproportionate, the safety authority shall comply with the procedures set down in Article 17(6).
 - (d) If the duration of a temporary measure is longer than 3 months, the safety authority shall ask the Agency to restrict or revoke the single safety certificate and the procedure set out in paragraphs (5) to (7) shall apply.

(9) The safety authority shall supervise the trackside, control-command and signalling, energy and infrastructure subsystems and ensure that they are in compliance with the essential requirements. In the case of cross-border infrastructures, it will perform its activities of supervision in cooperation with other relevant national safety authorities. If the safety authority finds that an infrastructure manager no longer satisfies the conditions for its safety authorisation, it shall restrict or revoke that authorisation, giving reasons for its decision.

(10) When supervising the effectiveness of the safety management systems of infrastructure managers and railway undertakings, the safety authority may take into account the safety performance of those referred to in Regulation 7(2), and, where appropriate, the training centres as long as their activities have an impact on railway safety. This paragraph applies without prejudice to the responsibility of the railway undertakings and infrastructure managers referred to in Regulation 7(1).

(11) The safety authority shall cooperate in coordinating its supervision activities concerning railway undertakings to ensure that any key information on specific railway undertakings is shared, particularly on known risks and its safety performance. The safety authority shall also share information with other relevant national safety authorities and the Agency if it finds that the railway undertaking is not taking the necessary risk control measures. That cooperation shall ensure that the supervision has sufficient coverage and that the duplication of inspections and audits is avoided. The safety authority may develop a common supervision plan in order to ensure that audits and other inspections are carried out periodically, taking into account the type and extent of transport operations in the State.

(12) The safety authority may address notices to warn infrastructure managers and railway undertakings in cases of non-compliance with their obligations set out in paragraph (1).

(13) The safety authority shall use information gathered by the Agency during the assessment of the file referred to in Article 10(5)(a) for the purposes of supervision of a railway undertaking after issuing its single safety certificate. It shall use the information gathered during the process of safety authorisation in accordance with Regulation 10 for the purposes of supervision of the infrastructure manager.

(14) For the purpose of renewing single safety certificates, the safety authority in the case of a safety certificate issued in accordance with Regulation 9, shall use information gathered during the supervision activities. For the purpose of renewing safety authorisations, the safety authority shall also use information gathered during its supervision activities.

(15) A railway undertaking who fails to comply with paragraph (2) or the holder of a single safety certificate who fails to comply with paragraph (3) commits an offence and is liable on summary conviction to a class A fine.

Part 4
Enforcement

Inspectors

17. Inspectors appointed by the Commission for Railway Regulation under the Act of 2005—

- (a) are deemed to be inspectors to carry out any inspections, audits and investigations that are needed for the accomplishment of the tasks of the safety authority under these Regulations and to enforce these Regulations,
- (b) have the right of access to all relevant documents and to premises, installations and equipment of infrastructure managers and railway undertakings and, where necessary, of any actor referred to in Regulation 7, and
- (c) have the powers of inspectors under Part 7 of the Act of 2005 to perform those functions and, accordingly, a reference in that Part to the Act of 2005 is deemed to include a reference to these Regulations.

Prosecution of summary offences

18. Proceedings for an offence under these Regulations may be prosecuted summarily by the safety authority.

Offence by body corporate

19. (1) Where an offence under these Regulations is committed by a body corporate and is proved to have been committed with the consent or connivance of or is attributable to any wilful neglect on the part of any person being a director, manager, secretary or other officer of the body corporate or a person who was purporting to act in any such capacity, that person as well as the body corporate commits an offence and is liable to be proceeded against and punished as if he or she were guilty of the first-mentioned offence.

(2) Where the affairs of a body corporate are managed by its members, paragraph (1) applies in relation to the acts and defaults of a member in connection with his or her functions of management as if he or she were a director or manager of a body corporate.

Notices and directions

20. (1) Where a notice or direction is required to be given or served on a person under these Regulations, it shall be in writing and shall be addressed to that person and shall be given to the person in one of the following ways—

- (a) by giving a copy to the person, his or her employee, servant or agent, or in the case of a partnership, by delivery of a copy to any of the partners,
- (b) by leaving a copy at the address where the person ordinarily resides, where he or she carries on business, or, where an address for service of notices or directions has been furnished by the person to the safety authority, at that address,
- (c) by sending a copy by post in a prepaid registered letter to the address at which the person ordinarily resides or carries on business, in the case of a body corporate or unincorporated body at the registered office of the body or, where an address for service has been furnished by the person to the safety authority, at that address,
- (d) by sending a copy by means of electronic mail to a device or facility for the reception of electronic mail located at the address at which the person ordinarily resides or carries on business or, if an electronic address for the service of a notice or direction has been furnished by the person to the safety authority, that electronic address, but only if the recipient's facility for the reception of electronic mail generates a message confirming the successful receipt of the electronic mail.

(2) For the purposes of this Regulation, a company formed and registered under the Companies Act 2014 or an existing company within the meaning of that Act is considered to be ordinarily resident at its registered office and every other body corporate and every unincorporated body of persons is considered to be resident at its named place of business.

Compliance orders

21. Where a person fails to comply with a direction of the safety authority under Regulation 8(9) or (10) or 13(6) or a requirement of the safety authority under Regulation 10(9), the safety authority may apply to the Circuit Court where the person has his or her registered office or principally carries on business for an order directing compliance in accordance with the terms of the order. The court may make such order as it sees fit.

Taking effect of directions

22. A direction of the safety authority under Regulation 8(9) or (10) or 13(6) takes effect-

- (a) upon the expiration of the period allowed to make representations, if none are made within that period, or
- (b) if made within that period and the direction is confirmed (with or without modification) upon the expiration of the time allowed to make an appeal, if no appeal is made, or if an appeal is made, upon the determination of the appeal or its withdrawal.



L.S.

GIVEN under my Official Seal,
29 October, 2020.

EAMON RYAN,
Minister for Transport.

EXPLANATORY NOTE

(This note is not part of the Instrument and does purport to be a legal interpretation.)

The purpose of these Regulations is to give effect to Directive (EU) 2016/798 of the European Parliament and of the Council of 11 May 2016 on railway safety, except in respect of Chapter V (Accident and Incident Investigation). The national provisions for Chapter V are provided in the European Union (Railway Safety) (Reporting and Investigation of Serious Accidents, Accidents and Incidents) Regulations 2020 (S.I No. 430 of 2020). The Directive is part of the Technical Pillar of the EU Fourth Railway Package.

In giving effect to this Directive, these Regulations ensure the development and improvement of the safety of the railway system and improved access to the market for rail transport services. These Regulations cover safety requirements for the railway system as a whole, including the safe management of infrastructure and of traffic operation and the interaction between railway undertakings, infrastructure managers and other bodies, including the role of the Commission for Railway Regulation. In Ireland, these transposition Regulations apply to the Iarnród Éireann rail network.

These Regulations replace and repeal the European Union (Railway Safety) Regulations 2013 (S.I. No. 444 of 2013).

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