Railway Safety Legislation Update

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Author: Kevin Thompson
Safety Management System Specialist
RSSB
www.rssb.co.uk

Foreword

This Railway Safety Legislation Update (RSLU) is compiled by RSSB and published following consideration by the Data and Risk Strategy Group. Its aim is to identify emerging and revised health and safety legislation and supporting documents, which may affect the members of the railway industry. The update is not a definitive list of legislation and only represents the knowledge available at the time of going to print.

How to use this update

The Legislation implementation and update status table

This provides details on the proposed implementation dates of the new or updated legislation contained in this update together with a column showing whether the entry has been updated or is new to this issue.

Entries and updates

- New entries to the update are identified as such in their titles
- Significant changes to entries since the previous issue have been identified with a border
- Each entry is dated at the end with the month that the entry was last updated
- Entries in the update are deleted once they become law or soon after
- In sub-sections that cover several topics the UK position may be shown with shading
- Key dates are shown in red
Railway Safety Legislation Update - Governance

The Data and Risk Strategy Group (DRSG) is the governance group for the RSLU. The DRSG will:

- Alert RSSB members to actual and potential changes to safety-related legislation likely to impact on their operations or business
- Seek to influence and respond in such a way as to ensure that RSSB members’ interests are recognised, promoted and protected
- Disseminate early indications and subsequent information regarding legislative proposals that concern operational or occupational safety, their management or reporting. This includes European, UK national and rail industry specific legislation
- Identify and consider the implications of proposals for the GB rail industry. Inform and/or review RSSB activity in promoting or protecting its members’ interests by seeking to influence and/or respond to those proposals.¹ This may include preparing and making available to members template responses to formal consultations
- Where appropriate set up working parties or authorise the engagement of specialists to assist in meeting the above objectives
- Approve the text of the quarterly RSLU.

Improvements to the RSLU

RSSB is continuously trying to improve the products and services it provides to the industry. We therefore welcome any feedback regarding the RSLU.

¹ The position adopted by RSSB will be in the interests of overall safety of the industry but not necessarily representing the views of all individual members.
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Abbreviations and acronyms

ACOP  Approved Code of Practice
ACSH  Advisory Committee on Safety and Health at Work
CER   Community of European Railways
CSI   Common Safety Indicator
CSM   Common Safety Method
CST   Common Safety Target
DfT   Department for Transport
DRSG  Data Risk Strategy Group
ECM   Entity in charge of maintenance
EMF   Electro-magnetic fields
EUAR  EU Agency for Railways – previously the European Railway Agency
HSE   Health and Safety Executive
HSWA  Health and Safety at Work Act
IAB   Impact Assessment Board
ICNIRP International Commission on Non-Ionising Radiation Protection
IM    Infrastructure manager
MoJ   Ministry of Justice
NSA   National Safety Authority
NSR   National Safety Rule
NRV   National Reference Value
NTR   National Technical Rule
NVR   National Vehicle Register
ORR   Office of Rail Regulation
OSS   One Stop Shop
PoE   Pool of Experts
RDG   Rail Delivery Group
RAC-TS Risk Acceptance Criteria for Technical Systems
RE&A  Risk Evaluation and Assessment
RIDDOR Reporting of injuries, diseases and dangerous occurrences Regulations 1995
RIR   Railways (Interoperability) (Amendment) Regulations 2015
RISC  Railway Interoperability and Safety Committee
ROGS  Railways and Other Guided Transport Systems (Safety) Regulations
RSD   Railway Safety Directive
RSSB  Rail Safety and Standards Board
RU    Railway undertaking
SPWG  Safety Performance Working Group
SSC   Single Safety Certificate
SSRG  System Safety Risk Group
TEN   Trans-European Network
TSI   Technical Specification for Interoperability
UIC   International Union of Railways
Related websites

Business Innovation Skills (BIS)
https://www.gov.uk/government/organisations/department-for-business-innovation-skills

Department for Communities and Local Government (DCLG)

Department for Environment, Food and Rural Affairs (DEFRA)

Department for Transport (DFT)
https://www.gov.uk/government/organisations/department-for-transport

EUR-Lex
http://eur-lex.europa.eu/

European Commission (EC)
http://ec.europa.eu/index_en.htm

EU Agency for Railways (EUAR)
www.era.europa.eu/Pages/Home.aspx

Government News Network
http://www.knowledgeview.co.uk/node/10

Health and Safety Executive (HSE)
www.hse.gov.uk

Law Commission
http://www.justice.gov.uk/lawcommission/index.htm

legislation.gov.uk, managed by The National Archives
http://www.legislation.gov.uk

Network Rail
www.networkrail.co.uk

Office of Rail and Road (ORR)
www.orr.gov.uk

The Rail Accident Investigation Branch (RAIB)
www.raib.gov.uk

Rail Delivery Group
www.raildeliverygroup.com/

Scottish Law Commission
http://www.scotlawcom.gov.uk

International Union of Railways (UIC)
www.uic.org/

Ministry of Justice
https://consult.justice.gov.uk/
## Legislation implementation and update status

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Status of EU legislation post the June referendum result

The result of the referendum in June 2016 on Britain's membership of the European Union will not have any immediate impact for the British railway industry in complying with EU wide legislation.

While the UK is still a member of the EU (which will be at least until early 2019) compliance with EU wide legislation will not change, but it is too early to say what the longer-term implications post 2019 will be, but most commentators agree, that it will take considerable time for any government to change or withdraw EU legislation already embedded in British law.

In the meantime, RSSB will continue to represent British railway industry interests at European and international level on a range of issues, groups and activities as well as helping the industry to agree shared standards and guidance, some of which is to help rail companies meet legal obligations derived from EU law.

Therefore, we will continue to include in this publication details of any emerging EU wide legislation and it implication on Britain’s railways.
Section 1: Railway-specific legislation

The Fourth Railway Package

Main provisions

The Technical Pillar of the EU’s Fourth Package of Railway Legislation came into force on 16 June 2016 and is the most significant change in the EU legal framework for regulating safety and interoperability in nearly a decade.

The technical pillar comprises three pieces of legislation:

- Directive 2016/798/EU (the safety Directive, the former version of which is implemented in GB by the Railways & Other Guided Transport Systems Safety Regulations 2006 as amended “ROGS”)

- Directive 2016/797/EU (the interoperability Directive, the former version of which is implemented in GB by the Railways Interoperability Regulations 2011 “RIR2011”)

- Regulation 2016/796/EU (the European Union Agency for Railways or “ERA” regulation, which as a regulation has direct effect in the UK).

The technical pillar has a three-year deadline for implementation i.e. by 15 June 2019. The Directives include the possibility for Member States to request an additional year to complete implementation, at the moment UK does not plan to seek this additional time but this could be a consideration should we reach mid-2018 without a clear decision on the approach to UK’s exit from the EU in relation to rail legislation.

The content of the technical pillar will be further elaborated by a series of eleven further EU legal instruments (“implementing acts” and “delegated acts”) governing certification / authorisation processes, assessment criteria, fees and charges, and appeal mechanisms for EUAR decisions.

The European Commission’s aim for the legislation is to “achieve a 20% reduction in the time to market for new railway undertakings and a 20% reduction in the cost and time taken to authorise rolling stock, leading to €500 million savings over five years and contributing to the European rail industry’s competitive edge and leading position on world markets”.

The Commission’s objectives with the technical pillar are to:

• Reduce the number of certification / authorisation processes needed to operate train services in the EU;

• Improve transparency and efficiency of the processes which continue to be needed;
• Achieve consistency of regulatory approach between national safety authorities (NSAs) and much clearer alignment with EUAR;

• Progressively eliminate technical and operational differences between Member States’ railways

In very broad terms, the technical pillar aims to achieve this by:

• Introducing a pan-European Single Safety Certificate (for railway undertakings) and a single Authorisation to Place on the Market (for rail vehicles), replacing the current two-tier systems of Part A and B safety certificates and first / additional vehicle authorisations;

• Making EUAR responsible for safety certification of railway undertakings and interoperability authorisation of vehicles where they operate in more than one Member State;

• Allowing domestic operators and vehicle projects the choice to apply to EUAR or to their “home” NSA for certification / authorisation;

• Driving stronger harmonisation of certification / authorisation processes, through both further legal instruments and through the establishment by EUAR of a European “one-stop-shop” IT system through which all applications must be submitted and processed (including those to be determined by NSAs);

• Further reducing the circumstances in which national safety (operating) and technical (design) rules can be maintained;

• EUAR taking a “system authority” role for ERTMS, including approval of national and international specifications for trackside installations;

• Providing for close co-operation between EUAR and NSAs in the exercise of their respective functions, including involvement of NSA expertise in EUAR decision-making about international certificates / authorisations;

• Strengthening EUAR in terms of its competence and capability, and in terms of enhancing its role in monitoring national processes and challenging national rules.

It is worth noting that some important safety and interoperability regulatory functions are not changed by the technical pillar:

• NSAs will continue to be responsible for safety authorisation of infrastructure managers and for interoperability authorisation of non-vehicle sub-systems (infrastructure, signalling, energy).

• EUAR will not take any role in supervision (inspection) of railway undertakings or infrastructure managers.

• Enforcement arrangements are not affected by the legislation, which neither adds or removes any of the powers available to NSAs to revoke certificates / authorisations.

• Wider health and safety regulatory functions (under HSWA) are not affected.
The EC has established an Expert Group to give advice and input to the Commission on legislative and non-legislative measures in the technical pillar of the 4th railway package. The Group has a particular role in assisting the Commission in the preparation of delegated acts (that is, those which do not require a vote at RISC committee). The Group meets on 25 January and on either 10 or 12 April.

Current status

Vehicle authorisation

The European Council reached a general approach to a recast of the 2008 interoperability directive. The recast aims to remove the remaining administrative and technical barriers to a single railway market, in particular by increasing the efficiency of the vehicle authorisation process through an enhanced role for EUAR and by clarifying and updating technical standards and conformity assessment rules.

While the Commission proposed a centralised authorisation procedure with EUAR granting the authorisations to place vehicles on the market, member states had misgivings about such a transfer of competences from NSAs, fearing increased costs and administrative burden as well as potential liability issues and a possible negative impact on rail network safety. The draft text approach agreed therefore provides for a dual system of authorisations. EUAR will issue authorisations for vehicles to be used in cross-border operations, based on assessments carried out by NSAs. For vehicles used only in national traffic the applicant may choose to request authorisation either from EUAR or the NSA.

The draft also stresses the liability of EUAR for the authorisations it issues and stipulates that the NSA may enter into specific cooperation arrangements with EUAR in the case of networks requiring specific expertise for geographical or historical reasons. In addition, the EC’s reporting obligations will be extended to cover aspects such as the functioning of EUAR, cooperation agreements, convergence between national vehicle registers and traceability of safety-critical components. The transition period for introducing the new vehicle authorisation procedure is likely to be three or four years.

Fees paid by the applicant for an authorisation will need to be apportioned between EUAR and NSAs.

There is concern over the likely speed of authorisation when EUAR is responsible. In some member states authorisation is moving towards vehicle series rather than individual types, which has yet to occur at European level. There are also concerns that EUAR does not yet have a policy covering major and minor vehicle upgrades.

There are a few substantive comments still to be resolved on the Agency’s proposals for the implementing act on vehicle authorisations. In the light of this, the Agency will now submit its proposal to the Commission in March 2017, and the Commission will submit its recommendation for vote by Member States in November 2017.
Single Safety Certificate

The recast of the safety directive is similar to that for vehicle authorisation, with the current safety certification regime of separate European and national parts is to be replaced by single safety certification (SSC). Safety certificates for purely domestic services will be delivered either by EUAR or the local NSA, at the choice of the applicant. For cross border services, an RU would declare an ‘area of operation’ and EUAR would deliver the certificate. All applications (irrespective of whether they are to be determined by EUAR or the NSA) must be submitted and managed through the OSS.

The SSC scheme will be set down further in legislation through:

- The revision of the Common Safety Method on Conformity Assessment, which sets the application process and assessment criteria; and
- The development by the Commission of an Implementing Act (regulation) setting the “practical arrangements”, which we understand will include: fixed timescales for the application process (possibly including pre-application engagement); defined roles and responsibilities; and EU-wide document templates.

ORR is participating in the working party developing the revised CSM. The “practical arrangements” regulation is being developed by the Commission without a formal working party structure, though we have had the opportunity to influence its development through EUAR-led workshops.

The Agency’s proposals contain some positive elements for the SSC regime, including a process broadly aligned with ORR’s current assessment manuals and procedures, and recognition of the need for NSAs to have the ability to request further information from applicants. On language usage, it was agreed (in principle) that applicants apply ‘in their own language’ for the SMS part of the certificate, with the country-specific parts presented in the languages of the assessing NSAs.

The latest iterations of the revised CSMs on conformity assessment include significant improvements; these should be read across into the “practical arrangements” regulation. The agency led workshops in mid-September and early December on the practical arrangements for a SCC; these were positive collaborative meetings with the outputs likely to be compatible with UK industry.

One Stop Shop

Under the agreed texts, EUAR will develop a ‘one-stop shop’ (OSS) IT system for all applications for safety certification and the authorisation of vehicles - regardless of whether certification is issued by NSAs or EUAR.

EUAR is developing the detailed specification for the OSS over a series of workshops during 2016 and 2017 (there will be six OSS workshops for both safety certification and vehicle authorisation OSS requirements, before a combined event in February 2017 to bring it all together).
ORR representatives are participating and they aim to ensure the eventual system adopted is simple, usable and highly reliable. NSAs, including ORR, remain concerned about the delivery risks associated with the IT project of the OSS, although it should be noted that for the UK, which lacks a sophisticated IT system, the OSS could be a helpful admin improvement if developed correctly. Other concerns for NSAs include the prospective cost of the IT system, the ability to integrate with existing national systems and security concerns over data information.

The Agency presented a prototype of the OSS IT interface at a workshop during September 2016. At ERA’s specific invitation, ORR will participate in a User Group to conclude development and testing of the OSS. The User Group met for the first time in November 2016.

Revision of European Rail Agency Regulation

Regulation 2016/796/EU (the European Union Agency for Railways regulation) was published on the 11 May 2016

The EUAR regulation reflects the changing role of EUAR and takes account of the rest of the changes to the Directives made under the Fourth Railway Package.

The objective of the EUAR shall be to contribute to the further development and effective functioning of a single European railway area without frontiers, by guaranteeing a high level of railway safety and interoperability, while improving the competitive position of the railway sector. In particular, the EUAR shall contribute, on technical matters, to the implementation of Union legislation by developing a common approach to safety on the Union rail system and by enhancing the level of interoperability on the Union rail system.

Further objectives of the EUAR shall be to follow the development of national railway rules in order to support the performance of national authorities acting in the fields of railway safety and interoperability and to promote the optimisation of procedures, this includes examining all notified national rules before they are applied (these are contained with Railway Group Standards in Great Britain).

Where provided for by Directive (EU) 2016/797 and Directive (EU) 2016/798, the Agency shall perform the role of Union authority responsible for issuing authorisations for the placing on the market of railway vehicles and vehicle types and for issuing single safety certificates for railway undertakings.
NSA/EUAR cooperation agreements

To ensure that the new responsibilities work effectively, cooperation agreements will be needed between NSAs and EUAR. A subgroup of NSA Network, chaired by UK, will develop proposals for these agreements.

EUAR considered five possible scenarios for its work on issuing SSC. The chosen option will see EUAR coordinate the SMS assessment but involves nominees from a ‘pool of experts’ (PoE). EUAR has proposed the PoE shall be composed of three different groups: experts from NSAs; experts from non-NSA private and/or public organisations; independent experts. Most experts in the PoE will be nominated by NSAs.

Discussions between EUAR and NSAs focussed initially on the competency/skills requirement regime, with EUAR requesting input from NSAs on national competency frameworks. NSAs have suggested issues for EUAR to consider include assuring independence of external experts; retaining the link between (EUAR-led) assessment and (NSA-led) supervision; and the liabilities of experts working on foreign networks.

EUAR now sees cooperation agreements taking place over three phases: i) learning phase (2017); ii) shadow running (2018); iii) delivery phase (from 2019 onwards). In February 2016, ORR entered a collaboration agreement with EUAR to support phase one.

The Agency presented a possible legal framework for Cooperation Agreements, including its Partnership proposal based on EASA-NAA, at the Subgroup in September 2016. At present the Agency cannot draft a full legal agreement for cooperation agreements due to ongoing work preparing the practical arrangements implementing acts. The Agency will discuss legal issues with NSAs over the coming months: work between NSAs and the Agency to develop the cooperation agreements will continue over 2017.

Fees and Charges

In order to fund the new activities it will carry out, EUAR is required to implement a charging regime for applications. The arrangements for fees and charges will be set out in another implementing act (regulation). The Commission’s preferred charging model is not yet clear but it is likely to have different elements for pre-engagement and application phases.

A questionnaire to NSAs was sent out by a consultancy, SDG, commissioned by EUAR. This is likely to shape the finalised structure of fees and charges. Following input from ORR that was supported by other NSAs, a revised questionnaire was re-sent. SDG sent its final report to EUAR by 22 August 2016. The Commission has scheduled a meeting of the RISC 4th Railway Package Working Group on 16 February 2017 to discuss fees and charges.
The results from the SDG questionnaire were released to NSAs in late September. The full SDG report is now available on the Agency’s extranet.

The Commission has invited UK to participate in a smaller sub-group of Member States to develop further advice on fees and charges. This group met on 13 December and meets again on 16 February.

Date updated

January 2017

Background

The Railway Safety Directive (2004/49/EC) requires that EUAR sets Common Safety Targets (CST) for each member state. Member states are required to provide Common Safety Indicators (CSI) data to ERA on an annual basis (as per Annex 1 of the Safety Directive).


This legislation was last discussed at the NSA Network: 43rd Meeting – 15-16 November 2016.

Main provisions

Previous versions of the RSLU have included detailed background information and the main provisions on the following, relating to Railway Safety Directives:

- For detailed descriptions on:
  - Common Safety Indicators
  - Common Safety Targets
  - UNECE expert group on level crossing safety
  - Common occurrence reporting
  - National Safety Rules
  - EUAR Railway Indicators

Current status

NSA annual report to EUAR

The 2015 report is now published and can be found here

Common Safety Indicators and Targets

EUAR published Railway Safety Performance in the European Union in September 2016:

The results of that latest annual assessment of achievements of CSTs/NRVs indicates that railway safety performance remains acceptable for the EU as a whole for all categories of railway users under consideration. For individual Member States the past assessments of achievements of CSTs/NRVs occasionally resulted in possible or probable deterioration of safety performance (and never for the Union). In these instances, the Member States usually provided satisfactory explanations of the direct and indirect causes of the deterioration.

Member States are more likely to achieve acceptable safety performance in the category of passengers, level crossing users and other persons. Possible or probable deterioration of safety performance is most frequently determined in the categories of employees and unauthorised persons.

Following considerations of proposals for revisions, EUAR has published a draft proposal for the revision of the assessment method for CSTs with the purpose of addressing the weaknesses of the current method and of the general concept.

EUAR was planning to issue a recommendation regarding the CSM-CST revision by the end of June 2015. However, EUAR do not wish to prioritise this work and will shortly issue a recommendation to the Commission advising that the CSM-CST is not considered for revision until 2017 at the earliest.

Partly based on the CSTs, EUAR is putting together a programme of work to target ‘priority countries’ with the aim of reducing risk levels. The assessment and what action EUAR should take will also be based on evaluation of the transposition of the directives, findings from the cross audits, NIB assessment and matrix evaluation.

Common occurrence reporting

A common EU approach to occurrence reporting and analysis has been in place in both aviation and maritime for several years. EUAR is exploring whether a similar system would be possible for railways. Common occurrence reporting (COR) is seen as taking a system-wide and data-driven approach to accident prevention.
EUAR plans a two stage approach:

- A ‘safety alert’ system for the sector which is similar to the EUAR Safety Information System (which is only available to NSAs and NIBs) has been initiated
- Longer term, a more comprehensive industry tool for common occurrence reporting

GB’s position is to support improvement and harmonisation of occurrence reporting, but not a mandatory EU-wide model. In particular, to avoid the development of a system which imposes unnecessary burdens on duty holders as regards different information from our national system.

The system for safety alerts was launched in September 2016. This is a temporary and (currently) voluntary system in place until 2019 pending the completion of the COR project. While the system is not accessible to NSAs, ERA believes that NSAs have a key role to play in communicating the new system and encouraging uptake. The Safety Alerts IT Tool (SAIT) generally aligns with the level of information gathered for NIR Online for rolling stock technical failures, although SAIT’s scope extends to reporting infrastructure technical failures. Conversely NIR Online allows for the reporting of operational failures and risks to worker safety, whereas these are not part of the scope of SAIT.

ERA is currently considering the responses to its consultation on development of COR reporting taxonomy, which closed in July 2016. The Agency presented its latest thinking at the July RISC meeting, and received a wide range of challenging feedback from Member States and NSAs. While we share concerns that the scope of the project is too ambitious and the objectives are lacking in precision, we see advantages in industry continuing to engage constructively in this project – not least because the Commission may reach for legislation should this (currently) non-mandatory scheme fail to achieve progress.

The Agency carried out a consultation on domestic legislation on occurrence reporting and phasing of an EU Safety Management Data system which closed on 16 November. A workshop took place on 25-26 October attended by RSSB and ORR representatives, and the Agency presented the outcome at RISC on 9 November.

ERA have re-planned the next stage of the Safety Management Data project to allow the concerns of Member States to be addressed. They have launched a second informal consultation relating to national occurrence reporting systems and have invited alternative proposals for how an EU system could be developed. ORR and RSSB officials will start some thinking on this before Christmas, and we plan to engage with others in the new year ahead of the next ERA workshop in March 2017.
Safety Culture

Under Article 20 of the Recast of the RSD, the Agency is required to monitor and evaluate the development of a safety culture including occurrence reporting. A report must be filed to the Commission by 2024, including recommendations. The Agency has begun work including outlining a project plan up to 2024. A consultation ran until October 25 2016. ORR responded for UK.

Both ERA and the Commission are clear (currently) that this important area is suitable for “soft” measures – such as influencing, training and guidance – and not for legislation.

National Safety Rules for dangerous goods

EUAR is co-coordinating a group of experts from road, rail, inland waterways and pipelines to develop a risk evaluation tool that can be used across Europe for the Transport of Dangerous Goods. A first draft of a framework document has been produced by EUAR. This does not have any impact on the duties to comply with ADR/RID which governs the Regulations for the International Carriage of Dangerous Goods by Rail/Road. This group is not obligatory. EUAR has developed three guides on: risk estimation (method); risk-management and decision-making (method); data management and reporting regimes (use and needs). The sixth of a planned 11 workshops was held on 16-18 February. DfT attended as the UK representative.

Date updated

January 2017
Common Safety Method on risk evaluation and assessment

Background

The Railway Safety Directive (2004/49/EC) required that a series of Common Safety Methods (CSMs) were developed by the EUAR to describe how safety levels, achievement of safety targets and compliance with other safety requirements are assessed in the different member states.

The CSM on risk evaluation and assessment was last discussed at the NSA Network: 43rd Meeting – 15-16 November 2016.

Main Provisions

Previous versions of the RSLU have included detailed background information and the main provisions on the following, relating to the CSM on risk evaluation and assessment:

- Original Regulation
- Revised Regulation
- Risk acceptance criteria for technical systems
- CSM Design Targets
- Article 12 Assessment Bodies for domestic only changes
- RAC for transport of dangerous goods
- DV29bis
- Revised Railway Interoperability Directive Annexes V and VI


Current status

Revised regulation

The revised CSM RA has been in force since 23 May 2013 and applied from 21 May 2015 (meaning that it must be used from that date). The principal amendments relate to the recognition and accreditation of Assessment Bodies. The revised Regulation can be
Further changes to CSM Regulation were agreed at RISC in June 2015 and EUAR is preparing guidance to accompany the revised regulation.

CSM Risk Evaluation and Assessment - Amended

The publication of the Commission Implementing regulation (EU) 2015/1136 amending the earlier Implementing regulation (EU) No. 402/2013, often referred to as the CSM Risk Assessment, sets out harmonised design targets for technical systems which should help with mutual recognition of those systems across the EU. The CSM-RA originally contained a single, harmonised, risk acceptance criterion for catastrophic failures of technical systems which deemed that demonstrable failure rates of no greater than 10^{-9} per operating hour were acceptable. This limitation is addressed by the new Regulation, which came into force on 3 August 2015, through the extension of risk acceptance criteria to other, non-catastrophic, accidents so that a wider range of functional failures can be assessed.


CSM Task Forces


The Agency hosted training for Accreditation/Recognition Bodies on CSM for RA during 13-14 April, 2016.

CSM Design Targets (formally Risk Acceptance Criteria for Technical Systems - RACTS)

Revisions to the regulations were agreed at RISC on 4 June 2015: a functional failure rate for all catastrophic train accidents of 10^{-9}; Incidents with the potential for single fatalities would be 10^{-7}. A table of functions would give examples of each.

CER, UIC and EIM have strongly supported the inclusion of design targets in the RAC-TS. The sector bodies have also worked together to draft guidance for the RAC-TS, which is now available as draft EUAR guidance.
At RISC, it was agreed that EUAR would continue working on the guidance with the sector and NSAs. This is important guidance as it complements the revision to the regulation.

Details have been circulated by DfT via its newsflash emails of the revisions to the CSM.

**RAC for transport of dangerous goods**

The Commission is holding a series of 11 workshops over 2015/16 covering the transport of dangerous goods by road, rail, inland waterways and pipelines. The workshops were established following the recommendation of an EC-commissioned study by Det Norske Veritas Ltd on the development of harmonised RAC for the transport of dangerous goods.

DfT attends these workshops as the UK representative. EUAR is working with UNECE and OTIF to development a risk based approach to the management of dangerous goods transport.

No agreement has yet been reached over whether a stand-alone dangerous goods database should be developed or whether this can be incorporated into existing databases. The principle difference of opinion is between those who believed that, since the DG database is intended to be multimodal (covering road, rail and inland waterway transport), and on an international level, it has to be stand-alone, whilst others felt this would be duplication of effort given current domestic arrangements.

**Date updated**

February 2016
Common Safety Methods for conformity assessment, monitoring and supervision

Background

The Railway Safety Directive (2004/49/EC) requires that a series of Common Safety Methods (CSMs) are developed by the EUAR to describe how safety levels, achievement of safety targets and compliance with other safety requirements are assessed in the different member states. The EC has issued a mandate to EUAR for the revision of the CSM for conformity assessment and CSM for supervision with the aim of further harmonising approaches among Member States.

Main provisions

Previous versions of the RSLU have included detailed background information and the main provisions on the following, relating to the CSMs:

- Conformity Assessment
- Monitoring and Supervision


Current status

Revision of the CSMs for conformity assessment

Re-adoption of EUAR mandate to revise the CSMs was agreed at RISC on 6-7 July 2016, following the work carried out over the past year in the CSM Working Party. This was required because the former mandate had been rendered invalid due to the repeal of the old safety Directive under which it was initially established.

A report and final recommendation to the Commission are expected in 2017. Any revisions are not expected to be in force until 2018 at the earliest. EUAR does not envisage a fundamental recast of the CSMs, rather an ‘enhancement’ which would link conformity assessment more closely to a duty holder’s SMS. It was also seen as an opportunity to deal with some practical issues about conformity assessment which were
not harmonised or were unresolved, and this means EUAR’s proposals involve a lengthier and more detailed description of the assessment process.

The revisions are subject to a “light” impact assessment by EUAR. Impact assessment interviews between EUAR and NSA/sector organisations took place in December 2015, with follow-ups in June 2016.

EUAR does not intend to have a role in supervision. ORR and a number of other NSAs have made the point that clear co-operation and working principles will need to be in place to ensure the appropriate separation of functions. EUAR is no longer advancing proposals to merge the CSMs on conformity assessment and supervision.

In terms of the substance of the restructuring and reviewing of assessment criteria, EUAR are continuing developing an approach based on the ISO high level elements. They see this as a way of providing structure and a common language to the expected standards of management. Throughout the revision process EIM, CER and some NSAs stressed their preference for any criteria changes to be minimal and subject to reported benefits.

The introduction of the revised TSI OPE (expected in 2017) will significantly change what is looked at in a Part B safety certificate (under the current certification regime). In light of this EUAR is considering what a new Part A might look like and where that would leave the elements of Part B.

The Agency has proposed a new recital in the revised 1169/2010 to help provide context over the use of vehicles by IMs for infrastructure purposes and activities (e.g. carrying goods). The text by the Agency proposes that assessment of the IM’s capacity to operate vehicles should be included as part of its assessment for safety authorisation, providing they are not providing additional services such as passenger or freight operations. UK has suggested the use of the term ‘engineering train’ to provide clarity.


CSM for supervision

The CSM Supervision relates to how an NSA goes about checking a railway undertaking or infrastructure manager is compliant with their safety certificate. Details of the EC mandate to ERA for the revision of the CSM supervision can be found in section 7, CSM for conformity assessment.

The CSM Supervision is also being revised to ensure alignment with the Fourth Railway Package and associated revision of the CSM Conformity Assessment. The supporting
guidance on supervision is also being revised, including the publication by ERA of a risk management maturity and capability model.

ERA has revised its proposals on principles for co-ordinated and joint supervision between NSAs. This includes clarification on how deep the NSA assessment of maintenance activities should go to avoid duplication with ECM requirements. ERA has confirmed the revised CSM text will be developed before any revised ECM regulation.

The Agency has clarified Article 17(1)(c) by stating that NSA supervision should exclude from its scope the checking of applications of relevant CSMs by ECMs that are already certified in accordance with any relevant certification regime adopted at Union level, in order to avoid any duplication of supervision (or equivalent surveillance) activities.


**CSM for monitoring**


The guide covers monitoring activities, strategy, priorities and plan(s) that need to be adapted to the specific activities of every actor who is concerned by the regulations.

RSSB has published safety assurance guidance for industry and this covers the requirements of the CSM for monitoring: [http://www.rssb.co.uk/Library/improving-industry-performance/2013-leaflet-CSM-monitoring.pdf](http://www.rssb.co.uk/Library/improving-industry-performance/2013-leaflet-CSM-monitoring.pdf)

EUAR sent out a questionnaire to NSAs and ECM bodies for the purposes of ‘return of experience’ on implementation of the CSM for Monitoring. The intention is then to hold a workshop to share opinions and identify recommendations / action plans. The aim is to establish an agreement on the use and effectiveness of CSM for monitoring. EUAR will then produce a report based on the input from NSAs and ECMs bodies, who review before it is send to the EC.

**Date updated**

July 2016
EC Regulation EU/445/2011 (The Entities in Charge of Maintenance Regulation)

Background

Prompted by the incidents as Viareggio and Bressanone, EUAR established a task force to look at the management of contractors which reports back to the cooperation of certifying bodies’ task force.

The Entities in Charge of Maintenance Regulation (ECM) was published in the Official Journal of the European Union on 11 May 2011. As a result, certifying bodies that have offered certification since May 2012 and freight ECMs had to be certified by 2013.

The first amendment to ROGS, which includes the requirement for all vehicles registered in the national vehicle register (NVR) to be assigned to an ECM came into force on 26 August 2011. The second amendment came into force on 21 May 2013 and sets out the requirements for the certification of freight ECMs, and enables the supervision by ORR.

Main provision

An ECM has to be assigned to all vehicles and registered as such in the NVR. For domestic vehicles, this was done by 9 November 2010. (All international vehicles should have been entered on the NVR by 9 November 2009). The certification scheme currently only applies to freight wagons.

EUAR received a mandate in 2015 to make a recommendation to the Commission on examining the feasibility of extending the scope of the certification ECMs to all vehicles and propose the content for a revised legal act. In February 2016, EUAR obtained agreement from the Commission to pause this work, pending further evaluation of the current ECM scheme.

EUAR circulated an in-depth questionnaire to NSAs on 4 December 2015, which ORR has completed. This is to support an analysis of reservations some NSAs have regarding the existing certification of ECMs under the Commission regulation 445/2011. Following evaluation of the results, EUAR will seek an amended mandate with a view to setting up a revision working party in 2017. Alongside the working party activity, a full impact assessment of extension will be carried out before a recommendation for a revised ECM implementing act (which may or may not include extension of mandatory certification) is presented to the Commission during 2018.
Results of the questionnaire were presented at the NSA Network held in September 2016. There was a good response from NSAs who felt the ECM regime provides a structured and uniform process, enabling sharing of information. NSAs also responded that there was some conflict with national legislation and CUU agreement and increased costs for SMEs and training. Many NSAs reported finding non-conformities during supervision of maintenance.

The EC mandate for a feasibility study into extending the ECM certification scheme will be completed in 36 months according to the Agency. A first report on the definition of ‘safety critical components’ was expected by the end of 2016. The Agency is seeking NSA input on any definitions used nationally in rules/standards/practices on safety critical components. 13 questions were sent to NSAs to answer by 30 November 2016 that will form the basis of a policy paper.

Railway industry position

UKAS has accredited three organisations to perform the ECM certification function. Further details can be found on its website: http://www.ukas.com/accredited-organisations-search-result-more/?orgtype=11&col=newsched&str=ecm&post_code=

ORR currently is reviewing its role as an ECM certification body and will communicate its decision to industry in the first quarter of 2017.

Date updated

January 2017
Train Driving Licences and Certificates Regulations 2010 and changes to the Train Driving Licences Directive

Background

The Train Driving Licences and Certificates Regulations 2010 (TDLCR) sets out the legal requirements of the licensing and certification system for train drivers in Great Britain. This brings into force the requirements of the Train Driving Licences Directive 2007/59/EC (TDL) on the certification of train drivers operating locomotives and trains on the railway system in the community and it came into force on 6 April 2010:


Commission Directive 2014/82/EU amends Directive 2007/59/EC as regards general professional knowledge and medical and license requirements and it came into force on 1 January 2016:


Main provisions

Any new driver must have a train driver licence and certificate to drive on the mainline railway.

Existing drivers will need a train driver licence and certificate to drive by 29 October 2018.

Doctors, psychometric assessors and training and examination centres who assess new train drivers must be recognised by ORR.

Previous versions of the RSLU have included detailed background information on Train Driving Licences and Certificates and on related issues, including:

- EUAR Report on the Introduction of Smartcards
- Driver Registers

Current status

Extending requirements
The new section 8 paragraph 2 final sentence in Annex VI has been amended to read: ‘Drivers must be able to communicate orally and in writing according to level B1 of the Common European Framework of Reference for Languages (CEFR) established by the Council of Europe’. The requirement for written communication is additional to the existing requirements. The amendments were published by the Commission on 24 June 2014. DfT published the final amending regulations on 23 October 2015.

EUAR proposals for change
EUAR delivered a recommendation for further changes to the Train Drivers Directive and supporting legislation at the end of 2015 and this was discussed by RISC in February 2016.
The 19 recommendations generally reflect common sense practical improvements to the Directive including:

• Moving from periodic competence examinations carried out by an accredited examiner to a more proportionate approach for regular competence checks in line with the RU’s competence management system;
• Removing the requirement for periodic psychological assessment;
• Removing the requirement for printed certificates of competence.

Outstanding areas of UK concern include:
• The proposal to develop a common examination scheme for licence competence;
• Revised definitions of “shunting” and “driving on the open network” which may or may not help with our challenge around licensing of drivers who perform shunting manoeuvres into stations.
• The timetable for revision: Any changes to the Directive are unlikely before early 2019, which means we will face the challenge of completing the rollout of the original TDD requirements in the knowledge that revised and improved requirements are soon to come into force.
The European Commission held a consultation between 10 March and 10 June 2016, which evaluated the implementation of the Train Driver Licensing Directive. They announced the result of the consultation at a stakeholder meeting on 1 July. They received 72 responses mainly from rail industry stakeholder organisations. The key findings were:
• that the harmonisation of licences and mobility of train drivers across Europe had been achieved to a limited extent;
the majority felt it had not contributed to maintaining safety levels in the railway system;
the costs of implementation far outweighed the benefits;
and it had created a framework for EU wide acceptance and comparability to a limited extent.

There was considerable support to look at using smartcards again for train driver licences but almost an even yes/no split on certification of other train crew members and the majority were opposed to a single operational language across Europe.

Results of the questionnaire were presented at the NSA Network held in September 2016. There was a good response from NSAs who felt the ECM regime provides a structured and uniform process, enabling sharing of information. NSAs. Also responded that there was some conflict with national legislation and CUU agreement and increased costs for SMEs and training. Many NSAs reported finding non-conformities during supervision of maintenance,

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Railway industry position

Language Requirements.

Following discussion at two RISC meetings in 2015, the European Commission proposed amendment to TDD Annex VI 8.1 and new paragraph 2 are being adopted. These allow RUs to derogate from second language requirements subject to conditions: limited operation to border or first station; IM where border station is located agrees to a derogation; and RU/IM can demonstrate arrangements for ensuring communication. The principle of this flexibility was supported by the UK although the final wording could have been further improved. The European Commission have confirmed there will be a chance to further revisit this issue as part of the wider review of the Directive.

Date updated

January 2017

Background

The Railway Interoperability Directive (2008/57/EC) requires the production of a suite of Technical Specifications for Interoperability (TSIs). A TSI is an Annexe to a Decision or Regulation made by the European Commission (EC) and will come into force six months after the Decision or Regulation is made.

Decisions and Regulations are published in the Official Journal of the European Union, which can be found here - http://eur-lex.europa.eu/homepage.html?locale=en
Alternatively DfT produce a catalogue detailing the current status of all TSI applicable in GB – https://www.gov.uk/government/publications/rail-interoperability-tsi-catalogue

Main provisions

TSIs define the mandatory, technical and operational standards and expected performance levels which must be met in order to satisfy the ‘essential requirements’ defined in the Directive and to ensure the ‘interoperability’ of the European railway system. The ‘Essential requirements’ can be summarised as safety, technical compatibility, reliability, health, environmental protection and accessibility.

You must comply with TSIs and relevant NTRs if you are building new railway sub-systems or carrying out a major upgrade or renewal of an existing railway sub-system. Replacement of parts of a sub-system on a like-for-like basis, for example replacing track with track of a similar specification, does not trigger a legal obligation to comply with TSIs. Advice about whether a specific project must comply with TSIs and NTRs can be obtained from the DfT.

Previous versions of the RSLU have included detailed background information on TSIs.
Current status

Revised scope

From 1 January 2015 (1 July 2015 for the Control Command and Signalling TSI) the scope of TSIs was extended to cover the entire European Railway System (not just TEN) that fall under the scope of the Railway Interoperability Directive (2008/57/EC) and Railway Safety Directive (2004/49/EC). This means the TSIs apply to whole of the GB mainline railway system. The scope of mainline railway system can be found here - https://www.gov.uk/government/publications/scope-of-rail-interoperability.--539035

This means that the only NTRs which fulfil the following conditions should be mandated on projects completed after these dates:

- Specific Cases – Outlined in Chapter 7 of each TSI
- Open Points (where A TSI is not sufficient) – a NTR can provide a solution
- To ensure technical compatibility with the legacy rail system where it is not designed and built to TSIs

National Technical Rules

Where NTRs do not fall in the defined cases above, they should no longer be mandatory for new projects under the scope of the Railway Interoperability Directive and should subsequently be withdrawn as mandatory rules for new projects. The Chapter 7 of the TSIs defines the implementation of the new TSIs. In general the TSIs are not retrospectively applied and therefore do not apply to subsystems already authorised or projects already underway prior to 2015.


New TSIs

On January 1 2015, seven TSIs came into force, they are:

**Infrastructure TSI** - European Commission Regulation (EU) No 1299/2014

**Persons with Reduced Mobility TSI** - European Commission Regulation (EU) No 1300/2014


**Locomotives and passenger rolling stock TSI** - European Commission Regulation (EU) No 1302/2014


The TSIs mentioned above are now published as regulations, and not (as previously) decisions, therefore they do not require transposition into UK law and are directly applicable.

On 01 July 2015 the following TSI came into force:


The amended Control Command and Signalling TSI Decision was published on 5 June 2016, and entered into force on 05 July 2016

Control Command and Signalling TSI - European Commission Regulation (EU) 2016/919

Railway industry position

For further information contact Vaibhav.Puri@rssb.co.uk

Date updated
October 2015
ERA Joint Network Secretariat/ Quick response procedure (now known as JNS urgent procedure)

Background

[Note: this is an ERA procedure and is not a legislative requirement]

ERA’s Safety Unit established the Joint Network Secretariat (JNS) to consider issues concerning the safety regulatory framework and to find solutions to problems preferably using the existing structure of task forces, working groups and networks within ERA.

ERA established the quick response task force to develop a standard process for dealing with incidents that impact on more than one EU member state

Main provisions

Previous versions of the RSLU have included detailed background information on the JNS urgent procedure:

- Process for proposing topics for discussion and applying the JNS urgent procedure
- Testing the JNS urgent procedure using a test case on braking distance of brake blocks

See section 1 of issue 77 of the Railway Safety Legislation Update for earlier detailed background information.

Current status

ERA has recommended that the Freight Focus Group (FFG) is disbanded and merged into the JNS as a sub-process due to the similar issues discussed and the few issues raised by the FFG during the past 2 years. The JNS membership could be enlarged to 6 members as a result, including one NSA representative and one RB representative specialized in railway freight transport.

The JNS Panel last met on 27/28 January 2016

Date updated

February 2016
Section 2: General legislation

The Railways and Other Guided Transport Systems (Safety) (Amendment) Regulations 2015

No changes have been made since the last issue of the RSLU.

It is anticipated that ROGS will be amended to take account of changes proposed in the Fourth Railway Package.

Date updated

July 2016
The Railways (Interoperability) (Amendment) Regulations 2015

Background

These regulations make some minor amendments to the Railways (Interoperability) Regulations 2011 and came into force on 8 January 2016.

Main provisions

The Regulations are required to transpose European Directive 2014/106/EU which clarifies the process for an applicant to declare that their rail project meets required technical standards and the verification procedure carried out by notified and designated bodies.

The Regulations also make a minor amendment to the provisions dealing with railway infrastructure registers so that these are kept in accordance with the latest EU specification (Commission Implementing Decision 2014/880/EU) and update the cross reference to safety assessment reports.

It is anticipated that RIR will be amended to take account of changes proposed in the Fourth Railway Package.

Current status


Date updated

February 2016
Changes to PPE Regulations – transition period 2015-2018

It is more than 20 years since the Personal Protective Equipment (PPE) Directive (89/686/EEC) was first adopted by the European Council. This piece of legislation relates to occupational safety across Europe and was implemented into UK law as the Personal Protective Equipment (EC Directive) Regulations 1992, coming into effect in January 1993 and known as the Principal Regulations.


For the purposes of this directive, PPE means any device or appliance designed for use in domestic, leisure and sports activities, or for professional use. To be worn or held by an individual for protection against one or more health and safety hazards in the execution of a specific activity. It lays down the conditions governing PPE placed on the market and the basic safety requirements which it must satisfy in order to ensure the health, safety and protection of the user - these should not be confused with the Personal Protective Equipment (PPE) at Work Regulations 1992, which govern the employer on the suitability, provision, maintenance, instruction and use of PPE.

Having changed very little since implementation, the PPE rules are now in need of updating, to reflect the new technologies that are now employed in bringing PPE to market.

The new PPE Regulation (EU) 2016/425, was adopted on the 12th February 2016 and published in the Official Journal 20 days later. On the 21st April 2018 the new EU regulation will apply across all member states and the existing PPE Directive 89/686/EEC will be repealed

Safety managers procuring PPE need, therefore, to be aware of the changes, to ensure that their providers will be able to meet the new certification standards. While the existing PPE directive focuses on manufacturers, the new regulation will be effective over the whole supply chain. Anyone involved in the supply and distribution chain will, therefore, have to take appropriate action to ensure the PPE meets the required standards.

Date updated

July 2016
Control of Electromagnetic Fields at Work Regulations 2016

The Control of EMF at work regulations 2016(SI 2016/588) which transpose the EMF Directive 2013/35/EU into UK legislation came into force on 1 July 2016. They require employers to assess the risks to their workers from exposure to EMFs in the workplace (but not exposure to the public).

The legislation can be accessed at: Control of Electromagnetic Fields Regulations 2016


The RSSB guidance on this legislation - guidance note GLGN1620 Guidance on the Application of the Control of Electromagnetic Fields at Work Regulations is available here: http://www.rssb.co.uk/rgs/standards/glgn1620%20iss%201.pdf

The European Union Non-binding guide to good practice for implementing Directive 2013/35/EU, Vol I and II and guide for SMEs are available through the following links:

http://ec.europa.eu/social/main.jsp?catId=738&langId=en&pubId=7845&type=2&furthe
rPubs=yes

http://ec.europa.eu/social/main.jsp?catId=738&langId=en&pubId=7846&type=2&furthe
rPubs=yes

http://ec.europa.eu/social/main.jsp?catId=738&langId=en&pubId=7850&type=2&furthe
rPubs=yes

Date updated

July 2016
Main provisions

The guidance seeks to assist employers in complying with their duties under the Manual Handling Operations Regulations 1992, as amended by the Health and Safety (Miscellaneous Amendments) Regulations 2002.

It will help employers, managers, safety representatives and employees to control and reduce risk and injury from manual handling.

Updates

Changes to the publication include restructuring it into four parts, with the regulations and brief guidance in Part 1. Parts 2 – 4 provides more detailed guidance to help carry out risk assessments and control risks. Each part has been colour coded for easy identification.

The appendix contains risk filters which help identify those tasks that do not require a detailed assessment. It explains how HSE’s assessment tools can be used as part of the risk assessment process.

The full risk assessment checklists are now online only and do not appear in the book.

http://www.hse.gov.uk/pubns/ck5.pdf

Additionally, L23 includes changes introduced for the self-employed by the Health and Safety at Work Act 1974 (General Duties of Self-Employed Persons) (Prescribed Undertakings) Regulations 2015 and the Deregulation Act 2015 (Health and Safety at Work) (General Duties of Self-Employed Persons) (Consequential Amendments) Order 2015.

Current status

The Guidance is available from

Date updated

September 2016
INDG 478 Risk Assessment of Pushing and Pulling (RAPP) Tool

Main provisions

The RAPP Tool has been designed by the HSE to assist in assessing the key manual handling risks from pushing and pulling operations. The tool is designed to assess operations where whole body effort is used such as moving loaded trolleys or roll cages, or dragging, hauling, sliding or rolling loads.

The tool is intended to be used in conjunction with other manual handling assessment tools such as Manual Handling Assessment Charts (MAC).

There are two types of pushing and pulling operations which can be assessed by this tool:

• Moving loads on wheeled equipment, such as hand trolleys, pump trucks, carts or wheelbarrows;
• Moving loads without wheels, which involve actions such as dragging/sliding, churning (pivoting and rolling) and rolling.

The tool is not appropriate for assessing pushing and/or pulling operations involving:

• Just the upper limbs, such as pushing buttons/knobs, pulling levers or moving loads which are on a conveyor;
• Just the lower limbs, eg pushing on pedals, or with the feet;
• Powered handling equipment.

Current status

The Guidance is available from

Date updated

September 2016
Registration, Evaluation, Authorisation & restriction of Chemicals (REACH) 2007

Main provisions

REACH has several aims including:

- To provide a high level of protection of human health and the environment from the use of chemicals.
- To make the people who place chemicals on the market (manufacturers[1] and importers[2] responsible for understanding and managing the risks associated with their use.)
- To allow the free movement of substances[3] on the EU market.
- To enhance innovation in and the competitiveness of the EU chemicals industry.
- To promote the use of alternative methods for the assessment of the hazardous properties of substances e.g. quantitative structure-activity relationships (QSAR) and read across.

REACH is applicable manufacturers and importers of hazardous substances of 1 tonne or more although there are some duties applicable to users of chemicals. Generally, REACH applies to individual substances when on their own and in preparations or articles (if the substance is intended to be released during normal and reasonably foreseeable conditions of use from an article). Some substances are specifically excluded from REACH and some are covered by more specific legislation such as medicines.

The HSE REACH website has been updated and includes a section focussing on REACH 2018. The new webpage includes a number of relevant resources and bitesize leaflets.

REACH may not be applicable to all organisations however the implications of REACH will affect most to some degree and an understanding of the regulations will help you identify where you fit into the supply chain and if you are a duty holder.

As a chemical user, REACH is likely to make things better for you through improved information and advice on risk management measures from manufacturers and importers. If you do manufacture hazardous substances in 1 tonne or more (manufacturing includes chemicals produced through your normal or reasonably foreseeable activities as a by-product of those activities) or you import hazardous substances in similar quantities from outside of the EU, you may have further duties under REACH.
Current status

The Guidance is available from the Health and Safety Executive HSE website and European Chemicals Agency (ECHA):

http://www.hse.gov.uk/reach/
https://echa.europa.eu/reach-2018

Date updated

October 2016
Section 3: Railway-related consultations

Several consultations were concluded over the last few months:

<table>
<thead>
<tr>
<th>Consultation</th>
<th>Organisation</th>
<th>Deadline</th>
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<tbody>
<tr>
<td>Fitness for Work Guidance – ORR have drafted guidance on Fitness for Work in response to the upturn in enquiries that have been received on this topic</td>
<td>ORR</td>
<td>01/11/16</td>
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<td>Common Occurrence Reporting – Consultation on Legislation</td>
<td>ERA</td>
<td>16/11/16</td>
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<td>Post Implementation Review of the Railways (Interoperability) Regulations 2011 (RIR 2011)</td>
<td>DFT</td>
<td>31/08/16</td>
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<td>Goal-setting principles for railway safety</td>
<td>ORR</td>
<td>31/08/16</td>
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<td>Periodic review 2018 (PR18) of Network Rail Initial Consultation</td>
<td>ORR</td>
<td>24/08/16</td>
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<td>10/08/16</td>
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<td>Review of hazardous substances legislation</td>
<td>HSE</td>
<td>18/10/16</td>
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<td>Rail Safety Inquiry</td>
<td>The Transport Committee</td>
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<td>The Transport Committee has launched an inquiry to examine the safety and security of the rail network as a whole and to follow up on inquiries by previous Committees on safety at level crossings (March 2014) and security on the railway (November 2014).</td>
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Section 4: News

ORR published “goal setting principles for railway health and safety”

ORR has produced 'Goal-setting principles for railway health and safety' to help duty holders understand how to meet ORR’s expectations for the high-level goals that should be achieved by the railway when complying with the health and safety legislation. It highlights the factors which should be addressed by anyone designing and putting into use new railways or rail vehicles, including major upgrades and renewals from the earliest stage of such projects.


ORR’s report on driver only operation

On 5 January ORR published a report on the introduction of DOO on GTR – Southern which confirmed that Driver Only Operation is a safe method of working. As with all types of train dispatch, including dispatch by station staff and guards, this requires suitable equipment, proper procedures and competent staff in place.


Network Rail fined £4million for Suffolk level crossing fatality

Network Rail has been fined £4million for breaches of health and safety law which led to a fatality at Gipsy Lane pedestrian level crossing near Needham Market, Suffolk, in 2011.

Sentencing at Ipswich Crown Court followed an investigation by the Office of Rail and Road (ORR) into the death of Olive McFarland, 82, who was struck while using the crossing by a train travelling from London to Norwich on 24 August 2011.

ORR’s investigation found Network Rail had failed to act on substantial evidence that pedestrians had poor visibility of trains when approaching Gipsy Lane footpath crossing, and were exposed to an increased risk of being struck by a train.
Network Rail pleaded guilty to the charge on 28 June 2016, at Ipswich Magistrates’ Court.

Ian Prosser, HM Chief Inspector of Railways said:

“Today’s sentencing at Ipswich Crown Court brings to a close our prosecution of Network Rail for failures which contributed to the death of Ms. Olive McFarland. My thoughts are with Ms. McFarland’s family.

“In 2011, Network Rail’s safety management fell below the standards required, putting members of the public using Gipsy Lane footpath crossing in unnecessary danger.

“Over the past decade, Network Rail has focused its attention and investment on improving health and safety on Britain’s railways. However, despite now being ranked as the safest in Europe, there can be no room for complacency.

“Rail safety remains a top priority for the regulator. We will always take action against companies or individuals if failings are found.”

London Underground issued with Improvement Notice

London Underground Limited placed the safety of members of the public and its employees at risk when it permitted its own and Chiltern Railways trains to operate for around 75 minutes over track between Rickmansworth and Chorleywood stations following the collapse of part of the Western face of the embankment, before the stability of the said embankment was assessed by a competent Civil Engineer and it did not inform Chiltern Railways that the embankment had collapsed for around 66 minutes.

The line operating procedures for the Metropolitan line do not include any guidance on the action to be taken in the event of an infrastructure failure, such as the collapse of an embankment.

Network Rail fined £130,000 over health and safety failings

Network Rail has been fined £130,000 after a worker was hit by a 25,000 volt power surge.

David McDermott suffered "catastrophic injuries" while repairing an overhead line near Ardrossan South Beach station in 2009.

Network Rail admitted failing to provide safe working documentation and ensuring work was only done on isolated sections of line.
Kilmarnock Sheriff Court heard the firm had since improved working systems.

The court heard that Network Rail had provided crews carrying out the repairs in North Ayrshire with a "hopelessly inaccurate" work diagram.

Mr. McDermott was with a colleague in a mobile platform fixing an isolated section of cable when he touched a live wire and was struck by a 25,000 volt power surge.

The court heard that he was severely injured, resulting in significant loss of function and years of surgery.

Sheriff Alistair Watson described Mr. McDermott’s injuries as "catastrophic" and said no penalty would set a price or value on the pain and suffering he continued to endure.

The sheriff added: "The obvious failure in the system, which is perhaps self-evident, is the fact that the schematic or diagram used as an essential guide for those involved in the repair operation was hopelessly inaccurate for a considerable length of time, despite it potentially being an issue of life and death importance."

"It appears to have been in continuous use by those who entrusted their safety to their employer. Put bluntly, this meant that a serious accident of this type, while perhaps not inevitable, was eventually highly foreseeable."

Sheriff Watson also voiced his "grave concern" over the delay of seven years for the case to reach court, which prosecutors blamed on technical hitches involving statements and different agents being involved in the case.

**Network Rail fined £800,000 after Redhill injury incident**

Network Rail has been fined £800,000 at Guildford Crown Court for breaching health and safety laws after a track worker sustained multiple ‘life changing’ injuries when he was hit by a train.

The prosecution was brought by the ORR after the serious incident while the track worker was performing rail maintenance work near Redhill in Surrey back in June 2014.

ORR inspectors concluded that the track maintenance work along the main line between Brighton and London was inadequately planned and managed, falling below legal standards and putting workers at risk unnecessarily.

“This incident shows that although Britain’s railways are the safest in Europe, we can never be complacent,” said the ORR’s principal inspector Tom Wake.

“We continue to monitor the company. Our inspectors will not hesitate to step in if needed, to protect the safety of workers or members of the public.”

Guildford Crown Court heard that the urgent works, intended to address ‘metal fatigue’ to the track, were scheduled whilst trains continued to run close to a steep embankment
where workers’ ability to retreat to a ‘position of safety’ when trains approached was compromised.

The court heard that the works could have been carried out at night instead when no trains would have been running, thereby limiting the risk to the workers.

Network Rail’s route managing director John Halsall said of the incident: “Safety is our absolute priority and it is clear that we fell short in this instance.

“Our staff and contractors play a vital role in keeping trains running in often difficult circumstances and we continue to strive to improve safety for them and our passengers.”

Network Rail pleaded guilty to two counts of breaching the Health and Safety Act 1974 and were fined £800,000 for their role in the incident.

The infrastructure owner has since undertaken a review of worker safety on this stretch of the railway such as banning track maintenance while trains are running, introducing better warning systems and providing better staff training.