

Regulations made by the Secretary of State, laid before Parliament under paragraph 5(3) of Schedule 7 to the European Union (Withdrawal) Act 2018, for approval by resolution of each House of Parliament within 28 days beginning with the day on which the Regulations were made, subject to extension for periods of dissolution, prorogation or adjournment for more than four days.

STATUTORY INSTRUMENTS

2019 No. 825

**EXITING THE EUROPEAN
UNION, NORTHERN IRELAND
HEALTH AND SAFETY, NORTHERN IRELAND
TRANSPORT, NORTHERN IRELAND**

**The Railways (Safety Management) (Amendment)
(EU Exit) Regulations (Northern Ireland) 2019**

Made - - - - 5th April 2019

Laid before Parliament 8th April 2019

Coming into force in accordance with regulation 1(2)

The Secretary of State makes these Regulations in exercise of the powers conferred by section 8(1) of, and paragraph 21 of Schedule 7 to, the European Union (Withdrawal) Act 2018⁽¹⁾.

The Secretary of State is of the opinion that, by reason of urgency, it is necessary to make these Regulations without a draft of the instrument being laid before, and approved by a resolution of, each House of Parliament.

Citation, commencement and extent

1.—(1) These Regulations may be cited as the Railways (Safety Management) (Amendment) (EU Exit) Regulations (Northern Ireland) 2019.

(2) These Regulations come into force on exit day.

(3) These Regulations extend to Northern Ireland only.

Amendment to the Railways (Safety Management) Regulations (Northern Ireland) 2006

2.—(1) The Railways (Safety Management) Regulations (Northern Ireland) 2006(2) are amended as follows.

(2) In regulation 2 (interpretation), paragraph (1)—

(a) for the definition of “common safety targets” (“CSTs”), substitute—

““common safety targets” (“CSTs”) means the minimum safety levels as set out in paragraph 17 of Schedule 7, that must be reached by the railway system, or parts of the railway system, expressed in risk categories as defined in paragraph 2 of Schedule 7;”;

(b) for the definition of “Department”, substitute—

““Department” means the Department for Infrastructure established by article 3(1) of the Departments (Northern Ireland) Order 1999(3) and renamed by section 1(6) of the Departments Act (Northern Ireland) 2016(4);”;

(c) omit the definition of “European Railway Agency”;

(d) after the definition of “new”, insert—

““Office of Rail and Road” means the body established by section 15 of the Railways and Transport Safety Act 2003(5) and renamed by the Office of Rail Regulation (Change of Name) Regulations 2006(6);”;

(e) for the definition of “safety authority”, substitute—

““safety authority” means—

- (a) as regards a member State of the European Union, the authority established in that State in accordance with article 16.1 of the Directive;
- (b) as regards Great Britain, the Office of Rail and Road;
- (c) as regards Northern Ireland, the Department;”;

(3) After regulation 7 (further safety certificate), insert—

“Format for safety certificates and applications

7A. Schedule 6 (format for safety certificates and applications) has effect.”

(4) In regulation 13(5)(b), for “another Member State”, substitute “a member State of the European Union”.

(5) In regulation 16 (notification to the European Railway Agency regarding safety certificates and safety authorisations relating to the railway system) and in the heading that precedes it, for “European Railway Agency” substitute “Office of Rail and Road”.

(6) In regulation 18—

(a) in paragraph (3), for “European Railway Agency”, substitute “Office of Rail and Road”;

(b) for paragraph (4) substitute—

(2) S.R. 2006 No. 237, amended by 2011 No. 261, 2013 No. 237, 2016 No. 267.

(3) S.I. 1999/283 (N.I. 1).

(4) 2016 c. 5 (N.I.). The Department for Infrastructure was originally established as the Department for Regional Development by article 3(1) of the Departments (Northern Ireland) Order 1999 (S.I. 1999/283) and subsequently renamed by subsection 1(6) of the Departments Act (Northern Ireland) 2016 (c. 5).

(5) 2003 c. 20.

(6) S.I. 2015/1682.

“(4) Annual reports for each calendar year must be sent to the Office of Rail and Road by 30th September in the year following the calendar year to which the report refers.”;

(c) in paragraph (5), for “European Railway Agency”, substitute “Office of Rail and Road”.

(7) After regulation 18 (annual safety reports) insert—

“Common safety targets

18A. The Department must assess the achievement of common safety targets in accordance with Schedule 7 (common safety targets).”.

(8) In Schedule 2 (application for a safety certificate), in paragraph 1(b)(i), for “in another member State or in Great Britain under provisions giving effect to article 10(2)(a) of the Directive” substitute “in a member State of the European Union or in Great Britain”.

(9) The Schedule has effect.

Signed by authority of the Secretary of State for Transport

5th April 2019

Sugg
Parliamentary Under Secretary of State
Department for Transport

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SCHEDULE

Regulation 2(9)

Schedules to be inserted in the Railways (Safety Management) Regulations (Northern Ireland) 2006

1. After Schedule 5 to the Railways (Safety Management) Regulations (Northern Ireland) 2006, insert—

“SCHEDULE 6

Regulation 7A

Format for safety certificates and applications

(This Schedule substantially reproduces the provisions of [Commission Regulation \(EC\) No 653/2007](#) on the use of a common European format for safety certificates and application documents in accordance with Article 10 of [Directive 2004/49/EC](#) of the European Parliament and of the Council and on the validity of safety certificates delivered under Directive 2001/14/E, with amendments for the purposes of addressing deficiencies arising out of the UK’s withdrawal from the EU.)

PART 1

1. Where Part A of a safety certificate is to be issued, renewed, updated, amended or revoked, the Department must use the form provided in Part 2.
2. Where Part B of a safety certificate is to be issued, renewed, updated, amended or revoked, the Department must use the form provided in Part 3.
3. An application for a new, updated, amended or renewed—
 - (a) Part A of a safety certificate;
 - (b) Part B of a safety certificate; or
 - (c) Parts A and Part B of a safety certificate where a combined application is made,must be made in the form provided in Part 4.

PART 2

Part A of a safety certificate

4. The form referred to in paragraph 1 follows.

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Safety Certificate – Part A

Safety certificate confirming acceptance of the safety management system under the Railways (Safety Management) Regulations (Northern Ireland) 2006(a)

Identification number

1. Certified railway undertaking

Legal denomination:	
Railway undertaking name:	Acronym:
Company registration number (if applicable):	VAT No:

2. Organisation issuing certificate

Organisation: Department for Infrastructure, Northern Ireland

3. Certificate information

This is a	- first/new certificate <input type="checkbox"/>	Identification number of the previous certificate:
	- further/renewed certificate <input type="checkbox"/>	
	- updated/amended certificate <input type="checkbox"/>	
Validity from:		to:
Type(s) of service(s):		
Transportation volume:		
Railway undertaking size:		

4. Applicable legislation

The Railways (Safety Management) Regulations (Northern Ireland) 2006
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5. Additional information

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Date issued	Signature
<input type="text"/>	<input type="text"/>
Internal reference number	Authority's stamp
<input type="text"/>	<input type="text"/>

(a) S.R. 2006/237.

PART 3

Part B of a safety certificate

5. The form referred to in paragraph 2 follows.

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Safety Certificate – Part B

Safety Certificate confirming acceptance of the provisions adopted by the railway undertaking to meet specific requirements necessary for the safe operation on the relevant network under the Railways (Safety Management) Regulations (Northern Ireland) 2006(a)

Identification number

1. Certified railway undertaking

Legal denomination:	
Railway undertaking name:	Acronym:
Company registration number (if applicable):	VAT No:

2. Certificate issuing organisation

Organisation: Department for Infrastructure, Northern Ireland

3. Certificate information

This is a	-first/new certificate	<input type="checkbox"/>	Identification number of the previous certificate:
	- further/renewed certificate	<input type="checkbox"/>	
	- updated/amended certificate	<input type="checkbox"/>	
Validity from:		to:	
Type(s) of service(s):			

4. Safety certificate - Part A (acceptance of the safety management system)

Identification number:

5. Lines operated

6. Specific conditions and obligations

7. Applicable legislation

The Railways (Safety Management) Regulations (Northern Ireland) 2006

Date issued	Signature
<input type="text"/>	<input type="text"/>
Internal reference number	Authority's stamp
<input type="text"/>	<input type="text"/>

(a) S.R. No. 2006/237.

PART 4

Application form for a safety certificate

6. The form referred to in paragraph 3 follows.

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SAFETY CERTIFICATE APPLICATION

Application for safety certificates confirming acceptance of the railway undertaking's safety management system (Part A safety certificate) and/or confirming acceptance of provisions adopted by the railway undertaking to meet specific requirements necessary for safe operation on the Northern Ireland network (Part B safety certificate)

Safety authority reference number

SAFETY ORGANISATION/AUTHORITY CONTACT INFORMATION

- 1.1 Safety organisation/authority addressed for the request _____
- 1.2 Complete postal address (street, postal code, city, country) _____

- 2.1 **This application is for a PART A SAFETY CERTIFICATE**
- 2.2 First/New certificate
- 2.3 Further/Renewed certificate
- 2.4 Updated/amended certificate
- 2.5 Identification number of the previous Part A safety certificate _____

Type(s) of service(s) requested (select one or more) and estimated total volume of goods/passengers

- 2.6 including high-speed services
- 2.7 excluding high-speed services
- 2.8 Less than 200 million passenger-km per year
- 2.9 200 million or more passenger-km per year
- 2.10 including dangerous goods services
- 2.11 excluding dangerous goods services
- 2.12 Less than 500 million tonne-km per year
- 2.13 500 million or more tonne-km per year
- 2.14 Shunting only
- 2.15 Service to begin in _____

The applying railway undertaking belongs to the following categories for estimated number of employees

- 2.16 Micro enterprise
- 2.17 Small enterprise
- 2.18 Medium sized enterprise
- 2.19 Large enterprise

- 3.1 **This application is for a PART B SAFETY CERTIFICATE**
- 3.2 First/New certificate
- 3.3 Further/Renewed
- 3.4 Updated/amended certificate
- 3.5 Identification Number of the _____

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certificate previous Part B safety certificate _____

Type(s) of service(s) requested and estimated volume of goods/passengers on the network where Part B will apply (one or more to be selected)

Passenger transport	3.6	including high-speed services	<input type="checkbox"/>	3.8	Less than 200 million passenger-km per year	<input type="checkbox"/>
	3.7	excluding high-speed services	<input type="checkbox"/>	3.9	200 million or more passenger-km per year	<input type="checkbox"/>
Freight transport	3.10	including dangerous goods services	<input type="checkbox"/>	3.12	Less than 500 million tonne-km per year	<input type="checkbox"/>
	3.11	excluding dangerous goods services	<input type="checkbox"/>	3.13	500 million or more tonne-km per year	<input type="checkbox"/>

3.14 Shunting only

3.15 Service to begin in _____

3.16 Lines intended to be operated

If the applicant already holds a valid Part A safety certificate (acceptance of the safety management system) it should provide the following information

3.17 Identification number of Part A safety certificate _____

3.18 Organisation that has issued the Part A safety certificate _____

IF THE APPLICANT ALREADY HOLDS ONE (OR MORE) VALID PART B CERTIFICATE(S) IT SHOULD PROVIDE THE FOLLOWING INFORMATION

4.1 Identification number(s) of issued Part B safety certificate(s) _____

IF THE APPLICANT HAS AN OPERATOR LICENCE AND IS APPLYING FOR PART A AND/OR PART B CERTIFICATE(S) IT SHOULD PROVIDE THE FOLLOWING INFORMATION

4.2 Notification number of the licence _____

4.3 Organisation that has issued the licence _____

APPLICANT'S INFORMATION

5.1 Legal denomination _____

5.2 Railway undertaking name _____ 5.3 Acronym _____

5.4 Complete postal address (street, postal code, city, country) _____

5.5 Phone number _____ 5.6 Fax number _____

5.7 Email address _____ 5.8 Website _____

5.9 Company registration number _____ 5.10 VAT No _____

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5.11 Other information _____

Contact person information

6.1 Family name and first name _____

6.2 Complete postal address
(street, postal code, city,
country) _____

6.3 Phone number _____ 6.4 Fax number _____

6.5 Email address _____

Applicant
(first name, family name)

Date _____

Signature _____

Internal reference number

Date application received _____

SPACE RESERVED FOR THE
ADDRESSED OFFICE/AUTHORITY

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GUIDELINES FOR COMPILATION

Information to be entered into the Application Form for
Safety Certificates Part A and Part B

INTRODUCTION

This application form is to be used by railway undertakings applying for a Part A or Part B safety certificate. References in this document are made, unless otherwise mentioned, to the Railways (Safety Management) Regulations (Northern Ireland) 2006.(a)

A railway undertaking applying for either one or both of these certificates should use this application form to forward its request to the Department for Infrastructure in Northern Ireland. Its use will enable the authority to process the request without undue delay within the terms set out in regulation 5(3) of the Railways (Safety Management) Regulation (Northern Ireland) 2006. Fields in the form should be completed in accordance with the information given below.

Key terms used in these Guidelines are explained in the Glossary at the end.

Safety Certificates Part A and Part B

This document allows a railway undertaking to apply either for a first/new Part A or Part B Certificate separately, or for both simultaneously. It can also be used to request either a further/renewed or updated/amended Part A and/or Part B Certificate (as defined in regulations 6 and 7 of the Railways (Safety Management) Regulations (Northern Ireland) 2006 (as amended)). It is possible to apply for a first/new Part A Certificate alone, with a later, second application, for a first Part B Certificate. If applying only for a Part B Certificate, it is necessary to hold a valid Part A Certificate.

Type and extent of railway operations

Regulation 6 of the Railways (Safety Management) Regulations (Northern Ireland) 2006 provides that a Safety Certificate shall be wholly or partly updated whenever the type or extent of the operation is substantially altered. Therefore it is important for the railway undertaking to make the "type" and "extent" of its total railway operations known to the safety authority.

"Type" of service is defined by the following categories:

- passenger transport, including high speed services, or
- passenger transport excluding high-speed services;
- freight transport including dangerous goods services; or
- freight transport excluding dangerous goods services ;
- shunting services only.

"Extent" of service and of the railway undertaking is characterised by volume of passengers/goods and the estimated size of the railway undertaking in terms of employees working in the railway sector (micro, small, medium sized, large enterprise).

"Type" and "extent" of services for all Part B Certificates, carried out by the same railway undertaking, must be covered by "type" and "extent" of services of the corresponding Part A Certificate.

All the information contained in fields 2.6 to 2.19 and 3.6 to 3.16 is necessary to establish if services intended to be operated with the requested Safety Certificate are equivalent or not to other rail transport operations already carried out by the applicant under any existing valid certificate(s).

ADDITIONAL INFORMATION

Page 3 of the application form indicates what documents the applicant must submit with each application. It is to be used as a reference list both for the applicant and for the issuing authority and therefore be used as the front page of any annexes to the application form.

(a) S.R. 2006/237 as amended by SR 2011/ 261, S.R. 2013/ 237, SR 2016/ 267.

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For easy reference each field in the Application Form has been numbered and guidance on their completion is given against the numbering in the following pages. Once completed, an authorised person should sign it, giving their full name, before submitting it to the issuing authority.

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EXPLANATIONS AND INSTRUCTIONS FOR USE

- 1.1.- Name and address of the safety authority/organisation to which the application is being sent.
- 1.2. You should send this to the Department for Infrastructure, Transport Strategy Division, Legislation Branch, Level 3, Clarence Court, 10-18 Adelaide Street, Belfast BT2 8GB.
- 2.1. If the application is for a Part A safety certificate, you should tick this box. You should then indicate the type and extent of the railway undertaking's services in boxes 2.6-2.19.
- 2.2. Select this box:
 - a) if applying for a Part A safety certificate for the first time;
 - b) if the previous safety certificate, for the same type and extent of service, was revoked; or
 - c) For any other case not covered by the following fields 2.3 and 2.4.
- 2.3. Select this box if applying to renew an existing safety certificate (to be renewed at intervals not exceeding five years) (Regulation 5(4)(c) and 7 of the Railways (Safety Management) Regulations (Northern Ireland) 2006).
- 2.4. Select this box whenever the type or extent of the operation of a railway undertaking is to be substantially altered. You should submit your application and have it accepted before the substantial alteration(s) are introduced. (Regulation 6 of the Railways (Safety Management) Regulations (Northern Ireland) 2006).
- 2.5. Where applicable, you should specify the identification number of your previous Part A Certificate (in general, for renewals and amendments this will be the number of the one which is still current at the time of application).
- 2.6.- For passenger services, you should specify if the operations will include or exclude high-speed services. Whichever is selected, they are both inclusive of any other type of passenger transport (i.e. regional, short, medium, long distance etc.) as well as of any other service necessary to carry out the passenger services (shunting operations, etc.). High-speed services shall comprise those on specially built high-speed lines equipped for speeds generally equal to or greater than 250 km/h: specially upgraded high-speed lines equipped for speeds of the order of 200 km/h, or specially upgraded high-speed lines which have special features as a result of topographical, relief or town planning constraints, on which the speed must be adapted to each case. This category also includes interconnecting lines between high-speed and conventional methods, lines through stations, accessed terminals, depots, etc. travelled at conventional speed by "high-speed" rolling stock.
- 2.8.- When applying for passenger services you should specify the estimated current or planned volume, in terms of passenger-km per year. Only one option should be selected.
- 2.9.
- 2.10.- For freight services, you should specify if the operations will include or exclude transport of dangerous goods. Whichever is selected, both are inclusive of any other type of freight transport not explicitly mentioned as well as any other service necessary to carry out the freight services (shunting operations, etc.). Railway undertakings carrying out rail transport services for internal railway needs only (e.g. track maintenance companies transferring working machines from one site to another or companies operating measurement trains) should be categorised as operating freight services (excluding dangerous goods).
- 2.11.
- 2.12.- When applying for freight services you should specify the estimated current or planned volume, in terms of tonne-km per year. Only one option should be selected.
- 2.13.
- 2.14. If you only intend to carry out shunting services without performing passenger or freight transport, then you should select this box.
- 2.15. You should enter the date on which this service is intended to begin or, in the case of a renewed or amended certificate, the date on which the certificate is intended to become effective and replace the previous one.
- 2.16. If the number of employees working in all railway related activities, including contractors, is between 0 (thus providing only a job for the entrepreneur) and 9 persons, then you should select the option "Micro enterprise". Only one option can be chosen among those available

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(2.16, 2.17, 2.18, 2.19).

- 2.17. If the number of employees working in all railway related activities, including contractors, is between 10 and 49 persons, then you should select the option "Small enterprise".
- 2.18. If the number of employees working in all railway related activities, including contractors, is between 50 and 249 persons, then you should select the option "Medium sized enterprise".
- 2.19. If the number of employees working in all railway related activities, including contractors, is 250 or more persons, then you should select the option "Large enterprise".
- 3.1. If the application is for a Part B safety certificate you should tick this box. You should then indicate the type and extent of the railway undertaking's services for which the Part B application is made in boxes 3.6-3.14.
- 3.2. You should select this box:
- if applying for the first or any other new Part B safety certificate;
 - if the previous safety certificate, for the same type and extent of service, has been revoked;
 - in any other case not covered by the following fields 3.3 and 3.4.
- 3.3. You should select this box if applying to renew your existing safety certificate (to be renewed at intervals not exceeding five years). (Regulation 5(4)(c) and 7 of the Railways (Safety Management) Regulations (Northern Ireland) 2006).
- 3.4. You should select this box whenever the type or extent of the operation of a railway undertaking is to be substantially altered. You should submit your application and have it accepted before the substantial alteration(s) is introduced. (Regulation 6 of the Railways (Safety Management) Regulations (Northern Ireland) 2006.)
- 3.5. Where applicable, you should specify the identification number of your previous Part B certificate (in general where making a renewal or amendment application, this will be the number of the one which is still current).
- 3.6.-3.7. Same as 2.6, 2.7
- 3.8.-3.9. Same as 2.8, 2.9
- 3.10.-3.11. Same as 2.10, 2.11
- 3.12.-3.13. Same as 2.12, 2.13
- 3.14. Same as 2.14
- 3.15. Same as 2.15
- 3.16. A Part B safety certificate may cover the whole railway network or only a defined part of it. You should therefore specify clearly all the lines where services (passenger, freight or shunting only) are intended to be operated. The names of the lines are those given in the Network Statement. If the available space is not sufficient, the applicant shall provide annexes to the Application Form and use this field to specify them.
- 3.17. You should only provide this information if you are applying for a new, renewed or updated/amended Part B safety certificate and already hold a valid Part A safety certificate. A copy of the Part A safety certificate should also be included with this application (see 8.1). If a Part A certificate is being applied for concurrently with the Part B you should write 'NOT APPLICABLE'.
- 3.18. You should enter the EU Member State which issued the Safety Certificate Part A if applicable.
- 4.1. You should provide the identification number(s) of any existing valid Part B safety certificate(s) which you hold. It is not necessary for the applicant to submit a copy or copies of the Part B safety certificate(s) with the application.
- 4.2. This information is to be provided for either Part A and/or Part B certificates where the railway undertaking already has a valid operator licence. This information does not exempt the applicant from submitting a copy of the licence together with the application.

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- 4.3. Where the operator licence was issued in a member State or an EEA member state, you should enter the state which issued the licence.
- 5.1. If legal denomination and railway undertaking name differ, then both shall be included.
- 5.2.-
5.8. You should provide the necessary information to allow the issuing body to contact the railway undertaking. Telephone numbers should indicate the general contact number for the undertaking rather than the direct line of the person in charge of the certification process; telephone and fax numbers should include the country code; the e-mail address should refer to the general email address of the railway undertaking; specification of the website (5.8) is not compulsory. The railway undertaking's contact information should indicate the company's main address or head office avoiding references to specific person(s) (which should be given at 6.1 to 6.5).
- 5.9.-
5.10. The company registration number should relate to the railway undertaking for which the application is being made. If this differs between the Parts A and B applications then you should enter both and make it clear which is which. Similarly, this applies to VAT numbers.
- 5.11. Information, other than that clearly requested in the other fields, can be added if necessary.
- 6.1.-
6.5. During the certification process, the contact person is the interface between the railway undertaking submitting the request and the Department for Infrastructure. He/she provides support, assistance, information, clarifications, where necessary, and is the reference point for the Department.
- 7.1. You should submit this documentation if applying for a Part A safety certificate (new, renewed or updated/amended certificate); 'Summary of the manual of the Safety Management System' means a document outlining the main elements of the railway undertaking's Safety Management System required by regulation 1 of and Schedule 2 to the Railway (Safety Management) Regulations (Northern Ireland) 2006 (in the case of a renewal or amendment application, this only needs to be for those parts of the SMS where there has been a change of information from the previously submitted documentation).
- 7.2. A railway undertaking must be licensed in accordance with the Operator Licensing Regulations. If a railway undertaking does not require a licence in accordance with those regulations, you do not need to submit a copy of a valid licence and should select the 'Not applicable' option. If a licence has been applied for and not yet approved, refer to 4.2.
- 7.3. Refer to 7.2.
- 8.1. If the application is for a Part B Safety Certificate only (new, renewed or updated/amended certificate), then you should submit a copy of the valid Part A Safety Certificate.
- 8.2. Same as 7.2.
- 8.3. Same as 7.3.
- 8.4. A railway undertaking must be adequately insured or make equivalent arrangements (e.g. a financial guarantee) to cover its liabilities in the event of accidents. You are therefore required to submit details of the insurance or financial cover for liability with a safety certificate application.
- 8.5. You must list or submit documentation on the TSIs or parts of the TSIs and, where relevant, of the national safety rules and other rules applicable to staff, rolling stock and, in general, to the services intended to be operated with the requested certificate. Clear reference should be made to the processes and documents where the TSIs are applicable and implemented.
- 8.6. You must submit a complete list of the different categories of staff employed or contracted for services intended to be operated with the requested certificate. The list of categories of staff must comply with national and network specific rules that apply for their categorisation.
- 8.7. You must submit a description or evidence of those processes within the Safety Management System that are related to staff, including evidence that they meet the requirements of the national rules and/or relevant TSIs and that the staff have been duly certified where relevant.
- 8.8. You must submit documentation on the different types of rolling stock intended to be operated with the requested certificate.

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- 8.9 You must provide a description or evidence of those processes within the safety management system that are related to rolling stock, including evidence that they meet requirements of the national rules and/or relevant TSIs and that the rolling stock has been duly certified according to the requirements of the Railways (Interoperability) Regulations 2011^(a).
- 8.10 Available space to specify other documents submitted with the application. Please identify number and type, together with a short description of the content of the document.

GLOSSARY OF TERMS

The following terms have the meanings given to them for the purposes of these Guidelines—

“dangerous goods” means those substances the carriage of which is prohibited by RID, or authorised only under the conditions prescribed therein;

“national rule” means notified national rules as defined in the Railways (Interoperability) Regulations 2011 and national safety rules as defined in the Railways (Safety Management) Regulations (Northern Ireland) 2006;

“Network Statement” means the network statement required under regulation 13 of the Operator Licensing Regulations;

“operator licence” means any licence which authorises a person to provide a train service in Northern Ireland for the purposes of regulation 43 of the Operator Licensing Regulations;

“Operator Licensing Regulations” means the Railways Infrastructure (Access, Management and Licensing of Railway Undertakings) Regulations (Northern Ireland) 2016;^(b)

“RID” means the Annex to the Regulation concerning the international carriage of dangerous goods by rail which forms Appendix C to the Convention Concerning International Carriage by Rail (COTIF).^(c)

Terms not otherwise defined have the meanings given in the Railways (Safety Management) Regulations (Northern Ireland) 2006.

(a) S.I.2011/3066.

(b) S.I. 2005/3050.

(c) January 2019 edition at <https://cit-rail.org/en/rail-transport-law/cotif/>. COTIF is given effect under the Railways (Convention on International Carriage by Rail) Regulations 2005 (S.I. 2005/2092).

SCHEDULE 7

Regulation 18A

Common safety targets

Application

1. This Schedule applies to the railway system⁽⁷⁾.

Interpretation

2. In this Schedule—

“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 caused by rolling stock in motion, fires and others;

“fatalities and weighted serious injuries” (“FWSIs”) means a measurement of the consequences of significant accidents combining fatalities and serious injuries, where 1 serious injury is considered statistically equivalent to 0.1 fatalities;

“level crossing users” means all persons using a level crossing to cross a railway line by any means of transportation or by foot;

“national reference value” (“NRV”) means a reference measure indicating the maximum tolerable level for a railway risk category;

“others” means all persons who are not passengers, staff or employees including the staff of contractors, level crossing users, or unauthorised persons on railway premises;

“passenger-km” means the unit of measure representing the transport of one passenger by rail over a distance of one kilometre;

“passenger train-km” means the unit of measure representing the movement of a passenger train over one kilometre;

“risk category” means one of the railway risk categories specified by Article 7(4)(a) and (b) of the Directive;

“risk to whole” means the collective risk to all categories of persons listed in Article 7(4) (a) of the Directive;

“safety enhancement plan” means a plan to implement the organisational structure, responsibilities, procedures, activities, capabilities and resources required to reduce the risk for one or more risk categories;

“staff” or “employees including the staff of contractors” means any persons whose employment is in connection with a railway and is at work at the moment of the accident; it includes the crew of the train and persons handling rolling stock and infrastructure installations;

“track-km” means the length measured in kilometres of the railway network where each track of a multiple track railway line is to be counted;

“train-km” means the unit of measure representing the movement of a train over one kilometre; the distance used is the distance actually run, if available, otherwise the standard network distance between the origin and destination must be used;

(7) This Schedule substantially reproduces the provisions of Commission [Decision 2009/460/EC](#) on the adoption of a common safety method for assessment of achievement of safety targets, Commission [Decision 2012/226/EU](#) on the second set of common safety targets as regards the rail system, and the Commission Implementing [Decision 2013/753/EU](#) amending [Decision 2012/226/EU](#) on the second set of common safety targets for the rail system, in so far as they continue to have effect in Northern Ireland following the withdrawal of the United Kingdom from the European Union.

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“unauthorised persons on railway premises” means any persons present on railway premises where such presence is forbidden, with the exception of level crossing users.

Measurement units for NRVs and CSTs

3. The measurement units for NRVs must be expressed in compliance with the mathematical definition of risk. The consequences of accidents which must be considered for each of the risk categories are the FWSIs.

4. For the purpose of assessment of achievement of the NRVs for the passenger and level crossing user risk categories, compliance with one or both of these NRVs must be considered sufficient.

Principles for the assessment of achievement of NRVs and CSTs

5. The following principles apply for assessing achievement of NRVs and CSTs—
- (a) for each risk category for which the NRV is equal to or lower than the corresponding CST, the achievement of the NRV also implies the achievement of the CST;
 - (b) the assessment of achievement of the NRV must be carried out according to the procedure described in paragraph 8 and the NRV represents the maximum tolerable level of the risk to which it refers, without prejudice to provisions of the range of tolerance laid down in paragraph 10;
 - (c) for each risk category for which the NRV is higher than the corresponding CST, the CST represents the maximum tolerable level of the risk to which it refers;
 - (d) the assessment of achievement is to be carried out in compliance with the requirements deriving from the impact assessment.

6. The assessment of achievement of the NRVs and CSTs must be carried out annually by the Department for Infrastructure, taking into consideration the most recent four preceding reporting years, including those years in which the assessment of achievement of the NRVs and CSTs in the United Kingdom was conducted by the European Railway Agency.

7. The outcome of the assessment of achievement referred to in paragraph 5 is to be classified as follows—

- (a) acceptable safety performance;
- (b) possible deterioration of safety performance; or
- (c) probable deterioration of safety performance,

and published by the Department for Infrastructure.

Procedure for assessment of achievement of NRVs and CSTs

8. The procedure for the assessment of achievement of NRVs is composed of four different steps as described in the following paragraphs. The overall decisional flowchart of the procedure is shown in paragraph 15, where positive and negative decisional arrows correspond respectively to a ‘passed’ and a ‘failed’ result of the different assessment steps.

9.—(1) The first assessment step must verify whether the observed safety performance is complying with the NRV or not.

(2) The observed safety performance must be measured by using the measurement units listed in paragraph 14 and data gathered by the Department for Infrastructure in respect of railway accidents and related consequences, with time series which must include the most recent years of observations as specified in paragraph 6.

- (3) The observed safety performance must be expressed in terms of:
 - (a) safety performance in the single most recent reported year; and
 - (b) moving weighted average (MWA), as specified in paragraph 13.

(4) The values returned must be compared with the NRV, and if one of these values does not exceed the NRV the safety performance must be considered acceptable. If this is not the case, the procedure must continue with the second assessment step.

10.—(1) The second assessment step shall deem the safety performance acceptable if the MWA does not exceed the NRV plus a 20% range of tolerance.

(2) If this condition is not satisfied, the Department for Infrastructure must obtain the specifics of the single highest-consequence accident, in terms of FWSIs, in the most recent years of observation as referred to in paragraph 6, excluding the years used to set the NRV.

(3) If this single accident is more severe, in terms of consequences, than the most severe single accident included in the data used for setting the NRV, it must be excluded from the statistics.

(4) The MWA is then recalculated to check whether it lies within the above-mentioned range of tolerance. If this is the case, the safety performance must be considered acceptable. If this is not the case, the procedure must continue with the third assessment step.

11. The third assessment step must verify whether it is the first time in the last 3 years that the second assessment step did not return evidence of acceptable safety performance. If this is the case, the outcome of the third assessment step must be classified as ‘passed’. The procedure must continue with the fourth step, whatever the outcome of the third step may be.

12.—(1) The fourth assessment step must verify whether the number of significant accidents per train-km, with respect to the previous years, remained stable (or decreased). The criteria for this appraisal are whether there has been a statistically significant increase in the number of relevant significant accidents per train-km. This must be evaluated by using an upper Poisson tolerance band which will determine the acceptable variability based on the number of accidents that occurred in the member States of the European Union.

(2) If the number of significant accidents per train-km does not exceed the abovementioned tolerance band, it is assumed that there has not been a statistically significant increase, and the outcome of this assessment step shall be classified as passed.

(3) Depending on the risk category to which the different NRVs under assessment of achievement refer, the significant accidents to be considered for carrying out this assessment step are as follows—

- (a) risks to passengers: all relevant significant accidents;
- (b) risks to staff or employees, including the staff of contractors: all relevant significant accidents;
- (c) risks to level crossing users: all relevant significant accidents included in the risk category of level crossing accidents;
- (d) risks to unauthorised persons on railway premises: all relevant significant accidents included in the risk category of accidents to persons caused by rolling stock in motion;
- (e) risks to others: all relevant significant accidents;
- (f) risk to society as a whole: all significant accidents.

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Moving weighted averaging process for the annual assessment of achievement of NRVs

13. For each of the risk categories to which the MWA is applied for carrying out in each year Y (starting from Y = 2010), the assessment steps described in paragraphs 9 to 12, the following phases must be applied for calculating the MWA_Y

- (a) calculation of the annual observations OBS_i returned by the corresponding indicators in paragraph 14 after providing as input the relevant data for the relevant years; the index i takes the values as defined in the formula in sub paragraph (e);
- (b) calculation of the 5-year average (AV) of annual observation OBS_i ;
- (c) calculation of the absolute value of the difference $ABSDIFF_i$ between each annual observation OBS_i and the AV . If $ABSDIFF_i < * 0.01 AV$, the $ABSDIFF_i$ is attributed a constant value equal to $0.01 * AV$; **(8)**
- (d) calculation of the weight W_i by taking the inverse of $ABSDIFF_i$;
- (e) calculation of the MWA_Y as follows—

$$MWA_Y = \frac{\sum_{i=x}^N W_i \times OBS_i}{\sum_{i=x}^N W_i};$$

where i is a natural number and $x = Y - 6$; $N = Y - 2$.

Measurement units for NRVs and CSTs

14. The following table sets out the measurement units for NRVs and CSTs.

<i>Risk category</i>	<i>Measurement units</i>	<i>Scaling bases</i>
1. Passengers	1.1 Number of passenger FWSIs per year arising from significant accidents/Number of passenger train-km per year	Passenger train-km per year
	1.2 Number of passenger FWSIs arising from significant accidents/ Number of passenger-km per year	Passenger-km per year
2. Employees	2. Number of employee FWSIs per year arising from significant accidents/Number of train-km per year	Train-km per year
3. Level crossing users	3.1 Number of level-crossing user FWSIs per year arising from significant accidents/Number of train-km per year	Train-km per year
	3.2 Number of level-crossing user FWSIs per year arising from significant accidents/[(Number of	(Train-km per year x Number of level crossings)/Track-km

(8) Asterisks in this paragraph have been used to indicate multiplication signs.

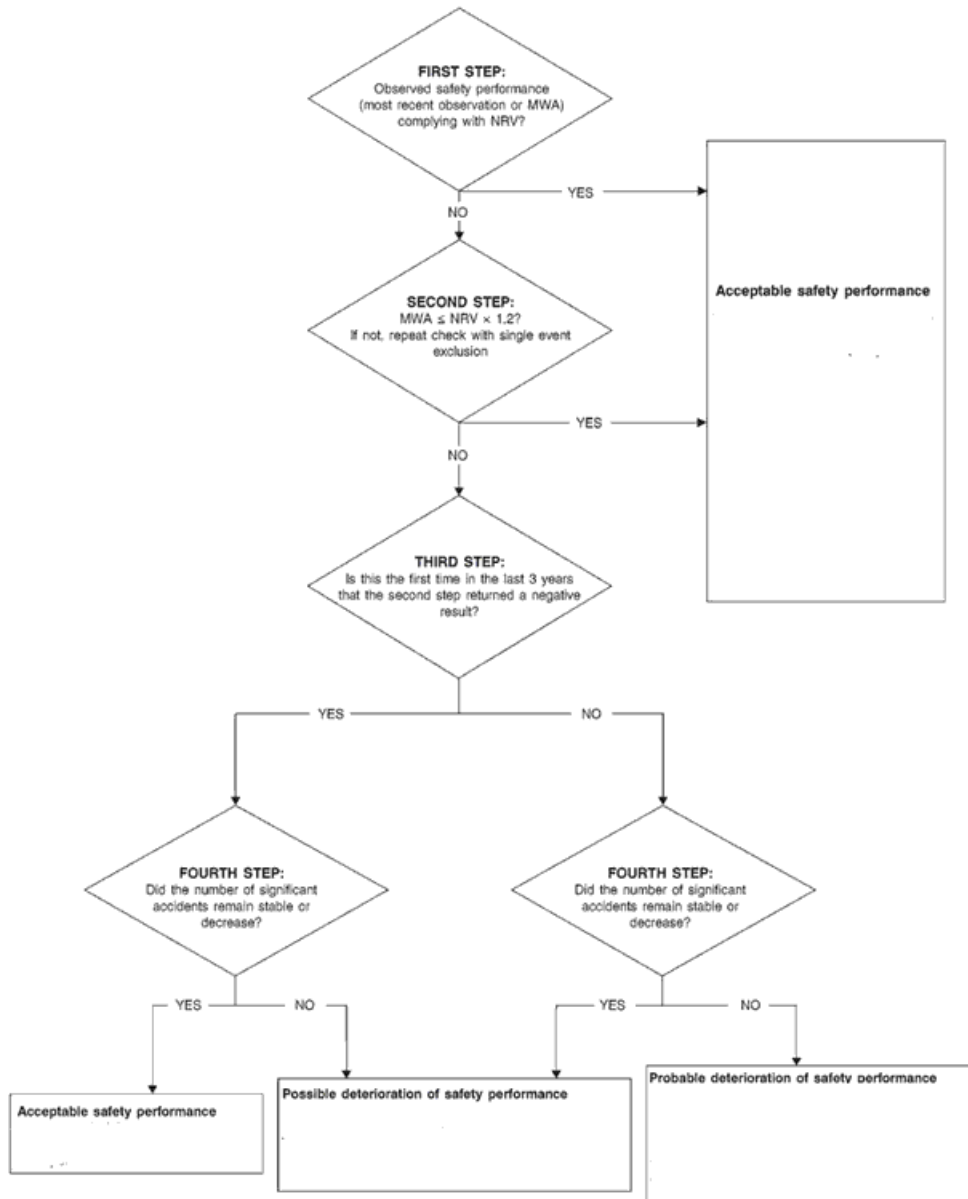
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<i>Risk category</i>	<i>Measurement units</i>	<i>Scaling bases</i>
	Train-km per year x Number of level crossings)/Track-km)]	
4. Others	4. Yearly number of FWSIs to persons belonging to the category 'others' arising from significant accidents/Number of train-km per year	Train-km per year
5. Unauthorised persons on railway premises	5. Number of FWSIs to unauthorised persons on railway premises per year arising from significant accidents/Number of train-km per year	Train-km per year
6. Whole society	6. Total number of FWSIs per year arising from significant accidents/ Number of train-km per year	Train-km per year

Decision flowchart

15. The flowchart referred to in paragraph 8 is as follows—

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Values for NRVs

16. The following table sets out the values of the NRVs for the purposes of this Schedule.

<i>NRV</i>	<i>Risk category</i>	<i>Value</i>
1.1 (x 10 ⁻⁹)	Risk to passengers	2.73
1.2 (x 10 ⁻⁹)		0.028
2 (x 10 ⁻⁹)	Risk to employees	5.17
3.1 (x 10 ⁻⁹)	Risk to level crossing users	23.5
3.2		n/a

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<i>NRV</i>	<i>Risk category</i>	<i>Value</i>
4 (x 10 ⁻⁹)	Risk to persons classified as others	7.00
5 (x 10 ⁻⁹)	Risk to unauthorised persons on railway premises	84.5
6 (x 10 ⁻⁹)	Societal risk	120.0

Values for CSTs

17. The following table sets out the values for the CSTs.

<i>Risk category</i>	<i>CST value (x 10⁻⁶)</i>	<i>Measurement units</i>
Risk to passengers	CST 1.1	0.17
	CST 1.2	0.00165
Risk to employees	CST 2	0.0779
Risk to level crossing users	CST 3.1	0.710
	CST 3.2	n/a
Risk to others	CST 4	0.0145
Risk to unauthorised persons on railway premises	CST 5	2.05
Risk to society as a whole	CST 6	2.59

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EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations are made in exercise of the powers conferred by section 8(1) of, and paragraph 21 of Schedule 7 to, the European Union (Withdrawal) Act 2018 (c. 16) in order to address failures of retained EU law to operate effectively and other deficiencies (in particular under section 8(2)(a), (d) and (g)) arising from the withdrawal of the UK from the European Union.

These Regulations make amendments to the Railways (Safety Management) Regulations (Northern Ireland) 2006, particularly in relation to safety certification and authorisation and the use of common safety targets.

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