

## RDG Guidance Note: Emergency Management Legal & Regulatory Register

RDG-OPS-GN-064  
Issue 1 – March 2023

# About this Guidance Note

## Explanatory Note

The Rail Delivery Group is not a regulatory body and compliance with Guidance Notes or Approved Codes of Practice is not mandatory; they reflect good practice and are advisory only. Users are recommended to evaluate the guidance against their own arrangements in a structured and systematic way, noting that parts of the guidance may not be appropriate to their operations. It is recommended that this process of evaluation and any subsequent decision to adopt (or not adopt) elements of the guidance should be documented. Compliance with any or all the contents herein is entirely at an organisation's own discretion.

Other Guidance Notes or Approved Codes of Practice are available on the [Rail Delivery Group \(RDG\) website](#).

## Executive Summary

The UK railway faces a range of threats, hazards and operational challenges that have the potential to jeopardise its ability to run services safely, and securely and to uphold customer confidence. Effective emergency management capability has never been more critical. This guidance note has been developed to support recommendations arising from the industry Rail Resilience Project (RRP) Emergency Management Review in that it describes the format of and use of the Rail Emergency Management Legal and Regulatory Register. It sets out how *the Register* will be maintained, updated, and communicated and provides guidance for rail infrastructure managers, passenger train and freight operators (the '*rail entity*' or '*rail entities*') with responsibility for the local implementation and management of *legal and regulatory obligations*.

## Issue Record:

| Issue | Date       | Comments       |
|-------|------------|----------------|
| 0.1   | 19/01/2023 | First Draft    |
| 1.0   | 23/02/2023 | Document Issue |

This document is reviewed on a regular 1-year cycle.

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The RRPWG and RRSG have representatives from the following Stakeholder groups:

- Train Operators
- Infrastructure Manager (Network Rail)
- TfL, TfW, Transport Scotland
- BTP
- DfT
- ORR
- GBRTT

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# 1 The Legal and Regulatory Register

## 1.1 About this document

This guidance document supplements and should be read in conjunction with the [Rail Emergency Management: Legal and Regulatory Register](#) (hereafter Register). The Register provides a single point of reference for the identification of emergency planning legal and regulatory /duties/ requirements (hereafter Obligations) that each passenger train and freight operating company running passenger or freight trains on, or infrastructure owner and manager of, mainline GB rail infrastructure (hereafter Rail Entity) must be compliant with due to the specific activities that they carry out. The register also provides a summary of key legislation relevant to emergency management (even where there is no legal or regulatory duty placed on Rail Entities within that legislation) and highlights key definitions provided for in the legislation.

This guidance document supports the Register by outlining:

- What the Register contains, the scope of the legal and regulatory obligations documented within it and how to navigate around it; (Section 1 of this document)
- How to use the Register: How to use the Register as a management tool for compliance. (Section 2 of this document).
- How to review and maintain the Register: responsibilities for the maintenance, upkeep of the Register and communication of changes to the legal and regulatory control environment. (Section 3 of this document)

## 1.2 About the Register

The [Register](#) documents the emergency management legal and regulatory Obligations placed upon Rail Entity or Entities. The UK’s primary legislative framework for emergency management Obligations are set out in primary and secondary legislation, alongside statutory guidance and relevant regulations - sometimes referred to as quasi-legislation. The scope of the Register is restricted to the obligations arising from three kinds of document:

| <b>Types of duties contained within this Register<sup>1</sup></b>                    |   |
|--|---|
| <b>Primary legislation</b><br>(Main laws passed by the legislative bodies of the UK) | Acts are pieces of statutory legislation that have been passed by either the UK Parliament, Scottish Parliament, Welsh Parliament or Northern Ireland Assembly. Breaching of an act creates liability enforceable in court.   |
| <b>Secondary legislation</b> (Also known as 'subordinate legislation')               | <p>Secondary legislation (also called 'subordinate legislation') is delegated legislation made by a person or body under authority contained in primary legislation.</p> <p>The majority of secondary legislation is classified as UK Statutory Instruments (and Scottish Statutory Instruments). There are three main types of Statutory Instrument: 'Orders', 'Regulations', 'Rules'. However, there is no limit imposed on the descriptions that may be given to Statutory Instruments. Statutory Instruments are supplementary to acts. They link to existing acts, and they are designed to aid a person to apply the principles of the primary act.</p> |
| <b>Regulation and quasi-legislation</b><br>(also known as 'statutory guidance')      | Statutory guidance (also known as 'Codes of Practice') sits below acts and statutory instruments. A breach of statutory guidance is not necessarily an offence, and any enforcement action would need to be directly linked back to the primary act offence. Regulatory enforcement action may include sanction, redress and restitution powers, including public censure, financial penalty, prohibition, suspension or restriction orders.  |

<sup>1</sup> For more information see UK Government 'Understanding legislation' website: <https://www.legislation.gov.uk/understanding-legislation>

Where the scope of legislation and regulation has a broader application than purely emergency management the coverage within the Register is restricted to emergency management Obligations only. The summary tab outlines the legislation considered and notes whether there is a legal obligation arising.

Where conflicts arise between primary legislation, secondary legislation, and statutory guidance with regard to interpretation - the more stringent definition of the Obligation should be implemented.

## 1.3 Navigation

The [Register](#) is structured as follows:

### 1.3.1 'Introduction and Document Control' (First tab):

This tab details the version status and defines applicable emergency management legislation and regulation by type.

### 1.3.2 'Summary of Legislation (Second tab):

This tab details the scope of the information contained within the Register and describes the key emergency management legislative and regulatory framework in place in the UK. URL links (within Column C of the spreadsheet) to individual primary and secondary legislation, and quasi-legislation/regulation.

### 1.3.3 'Definitions' (Third tab):

To aid understanding and clarity, within the context of the GB rail infrastructure, emergency management definitions and origins are provided; and for reference URL links (within Column E of the spreadsheet) are also provided to the exact data definition source.

### 1.3.4 'Obligations (Duties)' (Fourth tab):

This tab constitutes the main tool by which an operator/infrastructure manager can determine their compliance against legal and regulatory duties. This section is split into two parts:

**Columns B to Y (shown with headers grey)** - identify the specific Obligations and data source, legislative and regulatory jurisdiction, Rail Entity application, and where the obligation sits on the emergency management lifecycle.

- Columns B, C, D, E and G detail the date of identification, name, type and origin.
- Column F provides a dropdown menu to enable search of legislative and regulatory jurisdiction; domains can be searched as follows: England, England and Wales, England and Wales and Scotland, Scotland, or UK.
- Columns H, I, J, K, L and Y contain an extract of the Obligations that Rail Entities need to comply with and detail the precise reference paragraph and source within the regulatory and legislative framework. To aid further understanding URL links are provided (within Column E of the spreadsheet) to the source legislation or regulation.

Columns N, O, and P enable the Rail Entity to understand what Obligations apply to their particular sector of the rail industry, the data can be sorted or filtered for application to train operating companies, freight operating companies or infrastructure managers.

- Columns Q to W aligns the Obligations with the Integrated Emergency Management (IEM) lifecycle; and provides an understanding of their application in the following categories – anticipation, assessment, prevention, preparation, response, and recovery.

**Columns X to AH (shown with blue headers)** provide the compliance traceability record. It enables a simple gap analysis to be undertaken by Rail Entities to assess the current level of control effectiveness of their local management system in meeting the requirements of the Obligations detailed with *the* Register. Further details on how operators/infrastructure managers should use this section of the document are provided in section 2 of this guidance.

## 1.4 Thematic Coding

Within the 'Obligations (Duties)' (Fourth Tab, Columns N, O, and P) obligations have been thematically encoded by their relevance to the concept of Integrated Emergency Management (IEM). IEM comprises six related activities that collectively support the wider UK approach to emergency management outlined by the Civil Contingencies Act (2004):

|              |   |
|--------------|---|
| Anticipation | The need to 'horizon scan' for new hazards or threats that may cause potential emergencies.                                       |
| Assessment   | The analysis of emergencies to understand their likelihood of occurrence and impact (incorporating health and economic elements). |
| Prevention   | Activities to reduce the likelihood or impacts of an emergency.   |
| Preparation  | Developing and validating emergency plans to test response arrangements for known risks and unforeseen events.                    |
| Response     | The decisions and actions taken to deal with the immediate effects of an emergency.   |
| Recovery     | The process of rebuilding, restoring, and rehabilitating the community following an emergency.                                    |

Additionally, obligations have been encoded as relevant to 'co-operation' as it forms the bases of a significant proportion of obligations:

|              |   |
|--------------|---|
| Co-Operation | The need to work collaboratively with rail industry and/or emergency management partners to ensure the successful delivery of one or more IEM phases. In this context, co-operation is inclusive of multi-agency working, information sharing and interoperability. |
|--------------|---|

## 2 Using the Register to Manage Compliance

Within the 'Obligations (Duties)' Tab Columns Z to AH, shown with blue headers, provide the 'compliance traceability record' that can be used by rail entities as a tool to manage their compliance with emergency management obligations.

This compliance traceability record does not replace the need for a broader management system for compliance. Each Rail Entity is responsible for developing and maintaining local management systems to effectively manage and demonstrate compliance with legal and regulatory obligations.

Rail Entities may use the Register to trace (or map) their own compliance against their rail emergency management obligations.

It enables a simple gap analysis to be undertaken by Rail Entities to assess the current level of control effectiveness of their local management system in meeting the requirements of the Obligations detailed with the Register. This will inform any control improvement plans that may be necessary.

### 2.1 What is Compliance Traceability?

Compliance traceability is the process of understanding how the organisation's risk control environment relates to underlying compliance obligations. Compliance traceability:

- Increase understanding of how controls help to meet legal and regulatory obligations
- Provides a single view of compliance that can be called upon by control owners, internal

assurance colleagues and other interested parties e.g. the ORR.

- Can act as a trigger for deeper compliance assessment and/or control environment improvements where gaps are identified

Ultimately, linking regulation and legislation to business processes should support the better management of non-compliance risk and therefore lessen negative outcomes risk to rail users.

## 2.2 Ownership & Maintenance

### 2.2.1 Ownership

The Rail Entity should assign the responsibility for managing the completion and maintenance of the Register (and the compliance traceability record within) to the job role that has either responsibility for overall emergency management and/or managing organisational legal and regulatory compliance.

### 2.2.2 Maintenance

The compliance traceability record should be reviewed annually or immediately if there is any change to applicable legislation or regulation. Triggers for the review may include:

- Notification from Rail Delivery Group that there has been an update to the register.
- The Rail Entity through its own compliance risk horizon scanning process identifies any changes to obligations (note if this does occur it would be prudent to share this change with Rail Delivery Group so the master version of the Register can be updated and re-distributed across the industry)
- Any significant alternations to the Rail Entity's emergency management system and its associated risk controls.

## 2.3 Using the Compliance Traceability Record

Within the 'Obligations (Duties)' Tab Columns X to AF, shown with blue headers provide the 'compliance traceability record'.

- **Columns X and Y:** 'Applicability'. "*Is this duty applicable to the organisation?*"  
This question requires a *Yes* or *No* answer. Reasons the Obligation may not apply include limitation by geography and/or rail entity type. If selecting *No*, the user is required to enter a free text explanation of why they believe the obligation is not applicable.
- **Column Z:** 'What existing controls and policies/procedures are in place to comply with this obligation? (list all that apply including any unique identifiers)'  
List here all risk controls and relevant policies/procedures that have a material role in contributing to the organisation's compliance with the obligation in question. Where available, unique identifiers, such as control IDs and document reference numbers, should be entered to assist with cross-referencing.
- **Column AA:** 'What evidence can be provided to demonstrate control effectiveness?'  
List here all risk controls and relevant policies/procedures that have a material role in contributing to the organisation's compliance with the Obligation in question. Where available, unique identifiers, such as control IDs and document reference numbers, should be entered to assist any future cross-referencing requirements.
- **Column AB:** 'If existing controls are not in place or insufficient, then what should be created?'  
Upon review of the Obligation and supporting control environment, it may be apparent that the necessary controls are insufficient and/or not established. Should this be the case then a brief outline should be entered to explain what controls are required and/or how existing controls will be enhanced. An entry in this field should typically trigger a broader set of management actions to manage the non-compliance risk. This should be done in accordance with the organisation's management system – typically actions include the creation of a risk/issue, remediation plan and associated management reporting.
- **Column AC:** 'Who is the Accountable Person(s) for this obligation? (Job Title)'  
List here the Job Titles of all roles that hold overall accountability for compliance with the Obligation in question. Job roles listed here would usually be considered part of the

organisation's top management. If more than one job title is listed, then be sure to specify the distinct aspect of the Obligation that each job title is accountable for.

- **Column AD:** 'Who is the Responsible Person(s) for this obligation? (Who administers the requirement that must be complied with) (Job Title)'  
List here the Job Titles of all roles that hold responsibility for compliance with the Obligation in question. If more than one job title is listed, then be sure to specify the distinct aspect of the Obligation that each job title is responsible for.
- **Columns AE and AF:** 'Who completed this Compliance Traceability Record?'  
List here the name and job title of the person that has entered/last reviewed this 'compliance traceability record' and the date the content was added/amended.

## 3 Maintaining the Register

Rail Delivery Group is responsible for:

- The review and update of the Register and this Guidance Note. Both should be reviewed annually or immediately if there is any change to applicable legislation or regulation.
- Maintaining an appropriate horizon scanning process to identifying emerging legislation and compliance risks.
- Maintaining an effective change notification process to alert Rail Entities of changes to legal and regulatory obligations.

A suggested process for this annual review is to:

- 1) Review summarised legislative instruments/guidance documents listed in the second tab and determine if any have been amended or superseded since the last version.
- 2) For any which have been amended/superseded/withdrawn, determine:
  - What has changed in the source document
    - Are there any new obligations?
    - Are there any new definitions provided?
    - Is there more context provided in the wording which would be helpful to highlight to Rail Entities?
  - Determine what needs to be changed in the Register
    - Does the register entry need to be removed?
    - Does the register entry need to be amended (e.g. are there new obligations or points of significance for the rail industry that need highlighting?)
    - Which parts of the register are impacted by the change?
- 3) Disseminate the updated Register to all applicable Rail Entities making sure to notify them of the changes that have been made to it.

# ***Rail Delivery Group***

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