

<b>Title:</b> <b>How best to implement European Directives on the maintenance of railway vehicles and the improvement of data quality of accidents which amend the Railway Safety Directive</b>  <b>Lead department or agency:</b> Office of Rail Regulation <b>Other departments or agencies:</b> Department for Transport	<b>Impact Assessment (IA)</b>
	<b>IA No:</b> ORR1101
	<b>Date:</b> 27/05/2011
	<b>Stage:</b> Final
	<b>Source of intervention:</b> EU
	<b>Type of measure:</b> Secondary legislation
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## Summary: Intervention and Options

### What is the problem under consideration? Why is government intervention necessary?

The UK Government has to transpose Directive 2008/110/EC ("the Directive on vehicle maintenance"), which establishes a common system of maintenance across the EU to reduce costs and bureaucracy and Directive 2009/149/EC ("the CSI Directive"), on the calculation of accident data and common safety indicators ("CSI"). Both these Directives amend the Railway Safety Directive (2004/49/EC), which was transposed through the Railways and Other Guided Transport Systems (Safety) Regulations 2006 ("ROGS"). ROGS is being amended to transpose Directives 2008/110/EC and 2009/149/EC. As well as transposing the two Directives, ORR also wishes take the opportunity to: (a) clarify that in relation to safety critical work in Part 4 of the ROGS, "work" includes voluntary work, in the light of lessons learned from operating under the current regime; and (b) update the appeals provisions in ROGS as a result of amendments in the Tribunals Courts and Enforcement Act 2007.

### What are the policy objectives and the intended effects?

The European objectives are to: (a) improve safety by harmonising railway vehicle maintenance regimes across the EU and established an 'entity in charge of maintenance' ("ECM"); and (b) improve reporting and data quality of accidents. The UK objectives are to: (a) establish a maintenance regime applicable to the UK, which complies with the Directive on vehicle maintenance and is consistent with ROGS and (b) establish a method of collecting accident data which complies with the CSI Directive and is consistent with ROGS. The intended effects are to: (a) provide assurance that the ECM of a rail vehicle is able to safely maintain it; (b) measure safety performance more accurately; (c) make clear to volunteer-run organisations that they within the scope of Part 4 of ROGS; and (d) update the appeals provisions in ROGS.

### What policy options have been considered, including any alternatives to regulation? Please justify preferred option (further details in Evidence Base)

Option 1: Implement the whole of the CSI Directive and the whole of the Directive on vehicle maintenance.  
Option 2: Implement the whole of the CSI Directive and the Directive on vehicle maintenance in two stages with the second stage implementing the requirement to certify ECMs for freight wagons once the European Commission adopts a system of certification. (This has now been published as Commission Regulation 445/2011).  
Option 3: As Option 2, but in addition: clarify that volunteers are within the scope of Part 4 of ROGS; and update the appeals provisions in ROGS. Option 3 is preferred because it ensures that Regulations are made in accordance with UK lawmaking practices and it provides an opportunity to increase the transparency of ROGS, which will be amended to implement the Directives. This choice is based on legal reasons and not on monetary costs and benefits as these vary only marginally between the options.

**Will the policy be reviewed?** It will be reviewed. **If applicable, set review date:** July/2016

**What is the basis for this review?** Statutory Duty. **If applicable, set sunset clause date:** N/A

<b>Are there arrangements in place that will allow a systematic collection of monitoring information for future policy review?</b>	No
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**Ministerial Sign-off** For final Impact Assessments:

***I have read the Impact Assessment and I am satisfied that (a) it represents a fair and reasonable view of the expected costs, benefits and impact of the policy, and (b) the benefits justify the costs.***

Signed by the responsible Minister: \_\_\_\_\_ Theresa Villiers \_\_\_\_\_ Date: \_\_\_\_\_ 25th July 2011 \_\_\_\_\_

# Summary: Analysis and Evidence

# Policy Option 1

**Description:** This option is to implement the whole of the CSI Directive and the whole of the Directive on vehicle maintenance, which contains (a) the requirement to identify the ECM on the national vehicle register (NVR); (b) the requirement for the ECM to set up a maintenance system; and (c) the requirement for an ECM for freight wagons to obtain an ECM certificate from a certification body.

Price Base Year 2011	PV Base Year 2011	Time Period Years 5	Net Benefit (Present Value (PV)) (£m)		
			Low:	High:	Best Estimate:

COSTS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Cost (Present Value)
Low	5		
High			
Best Estimate		0.0816	0.0778

**Description and scale of key monetised costs by 'main affected groups'**

Regulations will amend ROGS to implement the CSI Directive and only those parts of the Directive on vehicle maintenance which relates to the identification of the ECM in the NVR and the ECM setting up a maintenance system. The overall impacts created by these Regulations will be negligible. The costs envisaged are the costs of familiarisation with the Regulations. As these costs are materially very small they have been classed as negligible (£57,600 assuming there are 100 ECMs each with a middle manager earning £15.01 per hour (multiplied by 1.60 for on costs) taking three days (24 hours) to familiarise themselves with the legislation. These are one-off costs in the first year. In addition there are costs for the statutory review of the Regulations of £24,000 in year five. As the Regulations do not contain requirements for ECM certification, the costs of certification will be in another impact assessment once these requirements are implemented.

**Other key non-monetised costs by 'main affected groups'**

BENEFITS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Benefit (Present Value)
Low			
High			
Best Estimate			

**Description and scale of key monetised benefits by 'main affected groups'**

Since the impacts created by these Regulations are materially very small, quantification of the benefits is not practicable. The benefits of the ECM certification regime itself will be quantified in a separate impact assessment on the related implementing instrument.

**Other key non-monetised benefits by 'main affected groups'**

The benefits of the Regulations are that (a) they will help to achieve consistency of approach to rail vehicle maintenance across the EU; and (b) they help the railway undertaking to better control safety risks and costs. The benefits in relation to the ECM certification requirements will be realised once a second statutory instrument implement these. For the keeper of vehicles, it will reduce the need to meet different maintenance requirements of different railway undertakings. For the railway undertaking it provides assurance about how maintenance is carried out.

**Key assumptions/sensitivities/risks**

Discount rate (%) 3.5

This option creates a legal risk since it would not be in accordance with UK lawmaking practice to make provisions in the Regulations amending ROGS for the European Commission to provide details of the certification scheme in due course. Doing so would, in effect, sub-delegate the relevant part of the Regulations to the European Commission. This would mean that the requirements of the scheme would not be set out on the face of the Regulations.

<b>Direct impact on business (Equivalent Annual) £m):</b>			<b>In scope of OIOO?</b>	<b>Measure qualifies as</b>
Costs:	Benefits:	Net:	No	NA

## Summary: Analysis and Evidence

## Policy Option 2

**Description:** This option is to: (a) implement the whole of the CSI Directive; and (b) implement immediately only that part of the Directive on vehicle maintenance which relates to the identification of the ECM on the national vehicle register (NVR) and the ECM setting up a maintenance system; and (c) implement, once the European Commission has adopted a measure setting out a system of certification, that part of the Directive on vehicle maintenance which requires an ECM for freight wagons to obtain an ECM certificate from a certification body.

Price Base Year 2011	PV Base Year 2011	Time Period Years 5	Net Benefit (Present Value (PV)) (£m)		
			Low:	High:	Best Estimate:

COSTS (£m)	Total Transition (Constant Price) Years		Average Annual (excl. Transition) (Constant Price)	Total Cost (Present Value)
	5			
Low				
High				
Best Estimate	0.0816			0.0778

### Description and scale of key monetised costs by 'main affected groups'

The costs of Option 2 are the same as the costs in Option 1 except for a slight difference in timing of some small costs which affect the NPV but only to a very minor extent. The difference in timing is because the implementation of the requirement for an ECM for freight wagons to obtain an ECM certificate from a certification body has been delayed pending the adoption of system of certification by the European Commission. This has now been published as Commission Regulation 445/2011. It would not have been in accordance with UK lawmaking practice to make provisions in these implementing Regulations for the Commission to provide details of the certification regime in due course as doing so would, in effect, delegate the relevant part of the Regulations to the Commission.

### Other key non-monetised costs by 'main affected groups'

BENEFITS (£m)	Total Transition (Constant Price) Years		Average Annual (excl. Transition) (Constant Price)	Total Benefit (Present Value)
	5			
Low				
High				
Best Estimate				

### Description and scale of key monetised benefits by 'main affected groups'

Since the impacts created by these Regulations are materially very small, quantification of the benefits is not practicable. The benefits of the ECM certification regime itself will be quantified in a separate impact assessment on the related implementing instrument.

### Other key non-monetised benefits by 'main affected groups'

The benefits are the same as in Option 1.

### Key assumptions/sensitivities/risks

Discount rate (%) 3.5

There is a risk of infraction for late implementation of the requirements for certification of entities in charge of the maintenance of freight wagons. But in terms of legal risk, this option is less risky since the certification requirements were not fully known until the Commission measure was adopted. The likely level of infraction fines might be significant with a minimum lump sum of about €9.666m (based on the UK's GDP) and a possible substantial daily fine of thousands of pounds for continuing non-compliance.

Direct impact on business (Equivalent Annual) £m):			In scope of OIOO?	Measure qualifies as
Costs:	Benefits:	Net:		
			N/A	NA

# Summary: Analysis and Evidence

# Policy Option 3

**Description:** This option is the same as Option 2 except that in addition ORR wishes to: (a) clarify that volunteers are within the scope of Part 4 of ROGS; and (b) update the appeals provisions in ROGS.

Price Base Year 2011	PV Base Year 2011	Time Period Years 5	Net Benefit (Present Value (PV)) (£m)		
			Low:	High:	Best Estimate:

COSTS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Cost (Present Value)
Low	5		
High			
Best Estimate		0.0816	

### Description and scale of key monetised costs by 'main affected groups'

The costs of Option 3 are the same as the costs in Option 1 except for the slight difference in timing of some small costs which affect the NPV but only to a very minor degree. The difference in timing is because the implementation of the requirement for an ECM for freight wagons to obtain an ECM certificate from a certification body has been delayed pending the adoption of system of certification by the European Commission. This has now been published as Commission Regulation 445/2011. It would not have been in accordance with UK lawmaking practice to make provisions in these implementing Regulations for the Commission to provide details of the certification regime in due course as doing so would, in effect, delegate the relevant part of the Regulations to the Commission.

### Other key non-monetised costs by 'main affected groups'

BENEFITS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Benefit (Present Value)
Low			
High			
Best Estimate			

### Description and scale of key monetised benefits by 'main affected groups'

Since the impacts created by these Regulations are materially very small, quantification of the benefits is not practicable. The benefits of the ECM certification regime itself will be quantified in a separate impact assessment on the related implementing instrument.

### Other key non-monetised benefits by 'main affected groups'

The benefits are the same as in Option 1. In addition, making the additional changes to ROGS rather than doing them separately benefits industry by not having to give consideration to two consultation documents and two sets of Regulations.

### Key assumptions/sensitivities/risks

The risks are the same as in Option 2.

Discount rate (%)

3.5

Direct impact on business (Equivalent Annual) £m):			In scope of OIOO?	Measure qualifies as
Costs:	Benefits:	Net:	N/A	NA

## Enforcement, Implementation and Wider Impacts

What is the geographic coverage of the policy/option?	Great Britain				
From what date will the policy be implemented?	July 2011				
Which organisation(s) will enforce the policy?	Office of Rail Regulation				
What is the annual change in enforcement cost (£m)?	0				
Does enforcement comply with Hampton principles?	Yes				
Does implementation go beyond minimum EU requirements?	No				
What is the CO <sub>2</sub> equivalent change in greenhouse gas emissions? (Million tonnes CO <sub>2</sub> equivalent)	<b>Traded:</b> 0		<b>Non-traded:</b> 0		
Does the proposal have an impact on competition?	No				
What proportion (%) of Total PV costs/benefits is directly attributable to primary legislation, if applicable?	<b>Costs:</b> N/A		<b>Benefits:</b> N/A		
Distribution of annual cost (%) by organisation size (excl. Transition) (Constant Price)	<b>Micro</b>	<b>&lt; 20</b>	<b>Small</b>	<b>Medium</b>	<b>Large</b>
Are any of these organisations exempt?	No	No	No	No	No

## Specific Impact Tests: Checklist

Set out in the table below where information on any SITs undertaken as part of the analysis of the policy options can be found in the evidence base. For guidance on how to complete each test, double-click on the link for the guidance provided by the relevant department.

Please note this checklist is not intended to list each and every statutory consideration that departments should take into account when deciding which policy option to follow. It is the responsibility of departments to make sure that their duties are complied with.

Does your policy option/proposal have an impact on...?	Impact	Page ref within IA
<b>Statutory equality duties<sup>1</sup></b> <a href="#">Statutory Equality Duties Impact Test guidance</a>	No	Page 14
<b>Economic impacts</b>		
Competition <a href="#">Competition Assessment Impact Test guidance</a>	No	Page 14
Small firms <a href="#">Small Firms Impact Test guidance</a>	No	Page 15
<b>Environmental impacts</b>		
Greenhouse gas assessment <a href="#">Greenhouse Gas Assessment Impact Test guidance</a>	No	Page 15
Wider environmental issues <a href="#">Wider Environmental Issues Impact Test guidance</a>	No	Page 15
<b>Social impacts</b>		
Health and well-being <a href="#">Health and Well-being Impact Test guidance</a>	No	Page 15
Human rights <a href="#">Human Rights Impact Test guidance</a>	No	Page 15
Justice system <a href="#">Justice Impact Test guidance</a>	No	Page 15
Rural proofing <a href="#">Rural Proofing Impact Test guidance</a>	No	Page 15
<b>Sustainable development</b> <a href="#">Sustainable Development Impact Test guidance</a>	No	Page 15

<sup>1</sup> Public bodies including Whitehall departments are required to consider the impact of their policies and measures on race, disability and gender. It is intended to extend this consideration requirement under the Equality Act 2010 to cover age, sexual orientation, religion or belief and gender reassignment from April 2011 (to Great Britain only). The Toolkit provides advice on statutory equality duties for public authorities with a remit in Northern Ireland.

## Evidence Base (for summary sheets) – Notes

Use this space to set out the relevant references, evidence, analysis and detailed narrative from which you have generated your policy options or proposal. Please fill in **References** section.

### References

Include the links to relevant legislation and publications, such as public impact assessments of earlier stages (e.g. Consultation, Final, Enactment) and those of the matching IN or OUTs measures.

No.	Legislation or publication
1	<b>ROGS</b> ( <a href="http://www.legislation.gov.uk/ukxi/2006/599/contents/made">http://www.legislation.gov.uk/ukxi/2006/599/contents/made</a> )
2	<b>European Commission explanatory memorandum</b> ( <a href="http://eur-lex.europa.eu/smartapi/cgi/sga_doc?smartapi!celexplus!prod!DocNumber&amp;lg=EN&amp;type_doc=COMfinal&amp;an_doc=2006&amp;nu_doc=0784">http://eur-lex.europa.eu/smartapi/cgi/sga_doc?smartapi!celexplus!prod!DocNumber&amp;lg=EN&amp;type_doc=COMfinal&amp;an_doc=2006&amp;nu_doc=0784</a> )
3	<b>European Commission impact assessment</b> ( <a href="http://www.europarl.europa.eu/registre/docs_autres_institutions/commission_europeenne/sec/2006/1641/COM_SEC(2006)1641_EN.pdf">http://www.europarl.europa.eu/registre/docs_autres_institutions/commission_europeenne/sec/2006/1641/COM_SEC(2006)1641_EN.pdf</a> )
4	<b>Working Group Final Report</b> ( <a href="http://www.otif.ch/otif/epdf/dir_tech_adm_2007/2007-10_WG_Keeper_final_report.pdf">http://www.otif.ch/otif/epdf/dir_tech_adm_2007/2007-10_WG_Keeper_final_report.pdf</a> )
5	<b>ORR consultation document</b> ( <a href="http://www.rail-reg.gov.uk/upload/pdf/regulations-2010-consultation-mar10.pdf">http://www.rail-reg.gov.uk/upload/pdf/regulations-2010-consultation-mar10.pdf</a> )
6	<b>Impact assessment for Localism Bill</b> ( <a href="http://www.communities.gov.uk/publications/localgovernment/localismeufines">http://www.communities.gov.uk/publications/localgovernment/localismeufines</a> )
7	<b>Commission Regulation 445/2011 (Certification of Freight Wagon ECMs)</b> ( <a href="http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2011:122:0022:0046:EN:PDF">http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2011:122:0022:0046:EN:PDF</a> )

### Evidence Base

Ensure that the information in this section provides clear evidence of the information provided in the summary pages of this form (recommended maximum of 30 pages). Complete the **Annual profile of monetised costs and benefits** (transition and recurring) below over the life of the preferred policy (use the spreadsheet attached if the period is longer than 10 years).

The spreadsheet also contains an emission changes table that you will need to fill in if your measure has an impact on greenhouse gas emissions.

#### Annual profile of monetised costs and benefits\* - (£m) constant prices

	Y <sub>0</sub>	Y <sub>1</sub>	Y <sub>2</sub>	Y <sub>3</sub>	Y <sub>4</sub>	Y <sub>5</sub>	Y <sub>6</sub>	Y <sub>7</sub>	Y <sub>8</sub>	Y <sub>9</sub>
<b>Transition costs</b>	0.0576					0.024				
<b>Annual recurring cost</b>										
<b>Total annual costs</b>	0.0576					0.024				
<b>Transition benefits</b>										
<b>Annual recurring benefits</b>										
<b>Total annual benefits</b>										

\* For non-monetised benefits please see summary pages and main evidence base section

# Evidence Base (for summary sheets)

## 1. Title of Proposal

- 1.1. How best to implement European Directives on the maintenance of railway vehicles and the improvement of data quality of accidents, which make amendments to the Railway Safety Directive.

## 2. Purpose and intended effect

### Problem addressed

- 2.1 The Railways and Other Guided Transport Systems (Safety) (Amendment) Regulations 2011 (“the ROGS (Amendment) Regulations”) are being proposed to implement Directive 2009/149/EC on common safety indicators (“the CSI Directive”) and the part of Directive 2008/110/EC (“the Directive on vehicle maintenance”) which requires an entity in charge of maintenance (“ECM”) to be identified in the National Vehicle Register (“NVR”) and the ECM to set up a maintenance system. A glossary of terms can be found at **Annex 3**.
- 2.2 As well as transposing the Directives, the ROGS (Amendment) Regulations make two additional amendments to the Railways and Other Guided Transport Systems (Safety) Regulations 2006 (“ROGS”) (S.I. 2006/599), which transposed the original Railway Safety Directive (2204/49/EC). Whilst these are not part of the transposition process, they have been included in light of experience of operating under the current regime and are designed with better regulation principles in mind to ensure regulatory clarity and maintain consistency with a related regulatory regime which has been updated since ROGS came into force. More information about these measures can be found in **Section 4**.
- 2.3 The Convention concerning International Carriage by Rail (“COTIF”) stated in 2006 that the keepers<sup>1</sup> of wagons were no longer obliged to register their wagons with a railway undertaking. This created the present situation where different maintenance regimes exist within the UK and across the European Union (“EU”) in which vehicle keepers have to meet the requirements of individual railway undertakings (freight operators) to gain access to the railway network.
- 2.4 The nature of rail freight operations means that it is common for freight vehicles to traverse Europe in an irregular and random manner and for freight vehicles to be regularly used by numerous railway undertakings which may all have different maintenance regimes with which the keeper must comply. Keepers have asserted that the presence of these multiple maintenance regimes at both a national and EU-wide level imposes significant cost burdens on them in demonstrating compliance, a situation which is more prevalent in mainland Europe than the UK. This is inconsistent with the broader UK and EU aspirations of improving access to rail markets through harmonisation of requirements, increasing the competitive position of rail freight in relation to other modes of transport and improving safety on the rail network.
- 2.5 Adopting a consistent approach to vehicle maintenance across the UK and the EU is likely to lead to significant benefits to consumers, as it will contribute to greater certainty within the rail industry and reduced whole industry costs. The impact of a consistent approach to establishing vehicle maintenance standards and safety will particularly benefit international traffic, although it is envisaged that benefits will also be realised at a UK level. The Regulations are designed to address these industry concerns by providing the foundations for an EU-wide freight wagon maintenance certification scheme.
- 2.6 This impact assessment focuses mainly on the implementation of the Directive on vehicle maintenance since it addresses a bigger problem. The CSI Directive addresses a

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<sup>1</sup> The “keeper” of a vehicle is defined as the person who owns it, or has a right to use it, and operates it as a means of transport.

requirement of the Railway Safety Directive and is dealt with in **Section 3**. The additional amendments to increase the transparency of ROGS are dealt with in **Section 4**.

- 2.7 As the measures transpose European requirements which the UK is obliged to implement as part of its treaty obligations as a Member State of the European Union, the transposition measures included in the ROGS (Amendment) Regulations do not fall within the scope of the Government's "One In, One Out" requirement. However, the Regulations also include two other amendments which are not part of the European transposition process. These, which are explained in more detail in **paragraphs 4.16 to 4.19**, are being made in light of lesson learned from operating under the existing ROGS regime. They are unrelated to the changes being introduced to transpose the CSI Directive or the Directive on vehicle maintenance and do not expand or gold plate any of the Directives' requirements. Although they represent a purely domestic change, it is not considered that they are within scope of "One In, One Out" since neither amendment creates any impacts on business.

### **Purpose**

- 2.8 In relation to the Directive on vehicle maintenance, the purpose of the ROGS (Amendment) Regulations is largely preparatory: that is, it creates the administrative foundation on which a subsequent EU-wide certification scheme can be constructed. More specifically, the purpose of the ROGS (Amendment) Regulations assessed in this impact assessment is to:
- clarify and make transparent who is responsible for the maintenance of a railway vehicle by introducing the concept of an 'entity in charge of maintenance' ("ECM"); and
  - pave the way for a scheme for the certification of ECMs for freight wagons.
- 2.9 Until the certification scheme takes effect in May 2012, after a year's transition period, the effect of the ROGS (Amendment) Regulations is likely to be minimal for all concerned. The effect of the Regulations will be fully realised once a second statutory instrument implements a scheme for the certification of ECMs for freight wagons. A second impact assessment will be carried out for this.

### **Intended effect**

- 2.10 The intended effect is to ensure that each ECM is registered on the National Vehicle Register ("NVR"), a database of rail vehicles operated in each Member State whose establishment is required under Directive 2008/57/EC, and has a system in place for maintaining vehicles it is responsible for.
- 2.11 This will provide assurance to the railway undertaking and the national safety authority<sup>2</sup> that the ECM is able to safely maintain the railway vehicle it is responsible for. Having this assurance will enable the railway undertaking to better control safety risks and costs. An ECM certificate will mean that it will no longer be necessary for the railway undertaking to carry out rigorous checking of wagons every time they are hauled as only simple visual checking will subsequently be necessary.
- 2.12 It is hoped that the combined effect of the ROGS (Amendment) Regulations (including the second instrument) will help to make rail transport more competitive. It will improve the competitiveness of the freight sector in the UK and across the EU by reducing the administrative costs associated with establishing vehicle safety.

## **3. Background**

### **Problem**

- 3.1 There are different national procedures in the EU for the approval of railway vehicles, which hinder the free movement of trains. Railway undertakings assert that these procedures are

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<sup>2</sup> For Great Britain, the national safety authority is the Office of Rail Regulation ("ORR"). "Safety authority" is defined in the Railway Safety Directive as meaning the national body entrusted with the tasks regarding railway safety in accordance with that Directive or any bi-national body entrusted by Member States with these tasks to ensure a unified safety regime for specialised cross-border infrastructures.



bureaucratic and expensive when vehicles are placed in service. Keepers of vehicles have identified that meeting multiple maintenance regimes of different railway undertakings is onerous and expensive. This is a barrier to the creation of new railway undertakings in the freight sector and a stumbling block affecting the interoperability of the European rail system. As no Member State has the power to determine unilaterally that the operating authorisation it has issued will be valid in another Member State, an EU-wide initiative is being taken to harmonise and simplify existing national procedures. The ROGS (Amendment) Regulations implement European provisions that are part of the solution to this problem.

### ***The position in the United Kingdom***

- 3.2 In the UK, the Private Wagon Registration Agreement (“PWRA”) was created after railway privatisation. It places responsibility for safety assurance of private wagons running on the infrastructure with the infrastructure manager. Currently this is Network Rail Infrastructure Ltd.
- 3.3 PWRA members are rail freight industry members of the Private Wagon Federation (“PWF”) and other private wagon owners. The PWF is a trade association comprising members with interests in freight wagons.
- 3.4 The UK rail freight sector, mainly through the PWF, has expressed a desire to move away from the current regime. They have expressed a desire for a scheme to be established that recognises them (private wagon owners) as a player under the Railway Safety Directive and allows them the choice of breaking away from the PWRA. The ECM certification scheme will allow them to have this choice.
- 3.5 In the UK, the problem involves<sup>3</sup>:
- 19,319 UK-registered domestic wagons (i.e. registered in the UK for travel in the UK), of which 5,130 are privately owned;
  - 1,732 UK-registered international wagons (i.e. registered in the UK to travel through the Channel Tunnel); and
  - 6,477 foreign registered international wagons (i.e. registered outside the UK for travel through the Channel Tunnel).

According to figures from the Railway Industry Monitor there were 21 billion tonne/km of rail freight traffic in the UK in 2008.

There are 26 private wagon owners (of which 17 are part of the PWRA) and nine railway undertakings. Using Direct Rail Services (“DRS”), a typical railway undertaking, as an example, for their long-term hire vehicles not registered in the PWRA, currently it has to carry out four types of checks on wagons including:

- supplier assurance (in accordance with Railway Group Standard GT/RT2450);
  - documentation review of certification and a detailed examination of the maintenance records/arrangements;
  - fitness-to-run examination, which is a detailed examination of the vehicle; and
  - Level 1 traffic examination, which involves a visual check of the vehicle to ensure that it is safe to operate.
- 3.6 A supplier assurance audit could take two person-days to conduct; a documentation review could take between half to two person-days; a fitness-to-run examination could take between 10 and 50 person-days depending on the level of intervention, which would be determined by the supplier assurance and documentation review. The introduction of an ECM certification regime would mean that DRS could benefit by not having to conduct the supplier assurance audit, documentation review or the fitness-to-run examination. If the keeper leasing or hiring out a non-PWRA wagon to DRS presented them with an ECM Certificate, DRS would only need to carry out a Level 1 traffic examination prior to operating the vehicle. This could mean

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<sup>3</sup> Source: Rolling Stock Library.

significant cost savings for DRS (DRS would only consider it necessary to carry out a Level 1 traffic examination on a PWRA vehicle because of the assurance carried out by Network Rail under the agreement).

- 3.7 For a non-PWRA keeper (private wagon owner), it would benefit if all railway undertakings only carry out a Level 1 traffic examination for all of the wagons it owns.

### ***The position in Europe***

- 3.8 COTIF stated in 2006 that keepers of wagons were no longer obliged to register their wagons with a railway undertaking. This led to representatives of the freight wagon community lobbying the EU institutions to change the Railway Safety Directive. They wanted a system that would help provide assurance of the safety of freight wagons across EU Member States. In October 2006 a working group<sup>4</sup> was set up by the European Commission (“the Commission”) to look at ways to clarify the role of the keeper of wagons and the maintenance of wagons. It consisted of representatives from the freight community, national safety authorities, Member States and the European Railway Agency (“ERA”)<sup>5</sup>. The UK (represented by the Office of Rail Regulation (“ORR”)) was active in the group and strongly expressed a desire for the person or body responsible for maintenance to be defined in the same way ‘contracting entity’ is defined in the Railways (Interoperability) Regulations 2006.

- 3.9 Across the EU, the problem concerns<sup>6</sup>:

- a total of 536 contracting parties, which include 83 railway undertakings, 354 private wagon keepers and 99 railway undertakings who are also wagon keepers; and
- a total of 705,168 declared wagons of which 201,698 are owned by private wagon keepers.

### **Objectives**

- 3.10 The following objectives have been set by ORR to address the problem in relation to vehicle maintenance:
- Establish a common maintenance regime applicable to the UK, which is consistent with (and complies with) the EU Directives.
  - The maintenance regime must be consistent (and be able to be integrated) with the Railways and Other Guided Transport Systems (Safety) Regulations 2006 (“ROGS”).
  - Have regulations in place which lay the preparatory ground work for a well-designed certification system for freight wagons.

### **Directive on vehicle maintenance (2008/110/EC)**

- 3.11 The nature of the problem identified above, and the objectives set suggested that an EU-wide approach was more appropriate.
- 3.12 The outcome of the lobbying mentioned earlier was a consultation by the Commission in early 2006. Responses to the consultation favoured a Commission initiative. Non-legislative options considered included:
- close monitoring of the use of the mutual recognition principle and, where appropriate, launch of infringement procedures; and
  - assigning ERA the role of coordinating parallel acceptance procedures.
- 3.13 In December 2006, the Commission<sup>7</sup> tabled a package of revisions to the Common Transport Policy. The driving force behind these revisions was to improve cross-acceptance for freight

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<sup>4</sup> Working Group Final Report – See ‘References’ section above for web link.

<sup>5</sup> ERA has been established to provide EU Member States and the Commission with technical assistance in the fields of railway safety and interoperability.

<sup>6</sup> 2007 figures from Working Group Final Report – See ‘References’ section above for web link.

wagons. This is to allow free movement of rail services in an integrated common railway area. The legislative package included amendments to the Railway Safety Directive, in the form of the Directive on vehicle maintenance (and also a recast Railway Interoperability Directive (2008/57/EC)).

- 3.14 The Directive on vehicle maintenance establishes a common system for maintenance arrangements across EU Member States. Under its requirements, all vehicles need to be assigned an ECM before they are placed in service or used on the network. The ECM must be registered on the NVR of the Member State in which it is first placed in service. The ECM must also establish a system of maintenance, which ensures that the vehicles for which it is responsible are safe to run on the network.
- 3.15 In respect of the maintenance of freight wagons only, the ECM will need to hold an ECM certificate. The ECM certificate will provide assurance that the maintenance requirements of the Directive on vehicle maintenance are being met for any freight wagon for which the ECM has responsibility.

### **The CSI Directive**

- 3.16 Article 5(2) of the Railway Safety Directive (as amended) requires the revision of Annex I to include common definitions of the CSIs and methods to calculate costs of accidents. CSIs are collected to help assess the achievement of common safety targets ("CSTs"). CSTs will, in future, define the minimum safety levels and safety performance that must at least be reached by the railway system in each Member State.
- 3.17 ERA has been working with national safety authorities to define the CSIs listed in Annex I and the CSI Directive reflects the outcome of these discussions.
- 3.18 The CSI Directive contains the amended Annex I to the Railway Safety Directive. The amended Annex I will replace the original version of Schedule 3 of ROGS. It aims to improve reporting and data quality and consistency in Eurostat (the statistical office of the European Union situated in Luxembourg) data. It provides the Commission with statistics at a European level to enable a comparison of safety performance between individual Member States and geographic regions).
- 3.19 The old Schedule 3 of ROGS contained CSIs that related to the costs of accidents borne by the railway. The new Schedule 3 changes the emphasis of CSIs from the impact of accidents on the railway to the impact of accidents on society. The aim of this amendment is to assist measurement of safety performance and make the economic impact assessment of CSTs more effective.
- 3.20 Since the CSI Directive simply amends the methodology and format of calculation for statistics which are already collected in Great Britain by the Railway Safety and Standards Board, its implementation does not represent any additional resource or cost impact (indeed, administrative provisions have already been put in place to ensure data is recorded in the new format in advance of transposition), but it benefits duty holders and ORR by providing data collected on a consistent basis across the EU which can then be used to inform policy development.

## **4. Options**

### **Option 1: Implement the whole of the CSI Directive and the whole of the Directive on vehicle maintenance**

- 4.1 The EU scheme for the certification of ECMs for freight wagons was published on 11 May 2011 as Commission Regulation 445/2011 (see 'References'). Until this was published by the Commission ORR was not able to indicate in the ROGS (Amendment) Regulations what its requirements will be.

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<sup>7</sup> European Commission explanatory memorandum and impact assessment – See 'References' section above for web link.

- 4.2 It would not have been in accordance with UK lawmaking practice to make provisions in the ROGS (Amendment) Regulations for the Commission to provide details of the certification scheme in due course. Doing so would, in effect, sub-delegate the relevant part of the ROGS (Amendment) Regulations to the Commission. This would mean that the requirements of the scheme would not have been set out on the face of the ROGS (Amendment) Regulations if the Directive on vehicle maintenance was transposed in one stage.
- 4.3 This option meets the UK Government's obligations under EU law. However, this is not the preferred option because it would be premature with regard to the proposed certification scheme for ECMs for freight wagons.

### **Costs**

- 4.4 The costs envisaged are the costs with familiarisation of the Regulations implementing both Directives. As these costs are materially very small they have been classed as negligible (£57,600 assuming there are 100 ECMs each with a middle manager earning £15.01 per hour<sup>8</sup> (multiplied by 1.60 for on costs) taking three days (24hours) to get familiarised with the legislation. These are one-off costs in the first. As the ROGS (Amendment) Regulations do not contain requirements for ECM certification, the costs of certification will be in another impact assessment once these requirements are implemented.
- 4.5 There is no material impact on cost for an ECM to be identified in the NVR and for an ECM to establish a maintenance system as the ROGS (Amendment) Regulations build on existing arrangements.

### *Existing arrangements for the NVR*

- 4.6 The requirement to assign an ECM to a vehicle and register it as such in the NVR complements mandatory provisions already in force under European Commission Decision 2007/756/EC (as amended by Decision 2011/107/EU). Decision 2007/756/EC adopts a common specification for NVRs in which this information will be recorded.
- 4.7 Great Britain already has a comprehensive rolling stock library which plays an integral role in the management of access to, and operations on, the rail network and is overseen by ORR. Train and freight operating companies are therefore already accustomed to providing detailed information about their vehicles since failure to do so generally means that these cannot be granted operational status.
- 4.8 The information that must be provided for ECMs is basic and concerns only contact details and covers name, postal and e-mail addresses and registered business number. These requirements have been added to the list of other pieces of information already requested and ECM details for all existing trains and freight wagons has already been recorded in the NVR. Since a statutory obligation to provide this data already exists in other legislation, and the ECM for rail vehicles operated solely in domestic territory – which is the case for the vast majority of rolling stock in use in the UK given the unique nature of our infrastructure – is unlikely to change more than small number of times throughout the vehicle's lifetime, it is envisaged that the regulatory burden created through the supply and updating of this information is negligible and no additional impact on business costs is created by mandating the supply of this information.

### *Existing arrangements for a system of maintenance*

- 4.9 The requirement for an ECM to ensure that, by means of a system of maintenance, any vehicle for which it has responsibility is safe to run formalises measures already in place either through legislation or administratively. These are as follows:

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<sup>8</sup> Annual Survey of Hours and Earnings

- a) Sections 2 and 3 of the Health and Safety Act Work etc Act 1974 require duty holders to do all that is reasonably practicable to conduct their undertaking safely. Implicit in this will be the requirement to maintain railway vehicles.
  - b) Regulation 5(1)(d)(i) of ROGS requires that a duty holder has a safety management system that ensures the control of risks relating to the supply of maintenance and material. The safety management system is established to ensure that it conforms to relevant national safety rules and relevant safety requirements laid down in Technical Specifications for Interoperability (“TSIs”).
  - c) The Railway Group Standard GM/RT2004 has been used by the railway industry to demonstrate that they comply with the requirement to keep vehicles for which they are responsible safely maintained.
  - d) It is a condition of an operator’s licence issued under section 8 of the Railways Act 1993 (as amended) to comply with Railway Group Standards that are applicable to its licensed activities.
  - e) Under section 4.2.8 of the TSI for freight wagons (Commission Decision 2006/861/EC, as amended) all maintenance activities undertaken on freight wagons must be performed in accordance with the provisions of the TSI.
- 4.10 ORR envisages that the regulatory burden created ‘system of maintenance’ requirements in the ROGS (Amendment) Regulations is negligible. The ROGS (Amendment) Regulations have a negligible impact on cost.

***Benefits***

- 4.11 The benefit of introducing the ROGS (Amendment) Regulations is that it will help to achieve consistency of approach to rail vehicle maintenance across the EU. It helps the railway undertaking to better control safety risks and costs. The benefits in relation to the ECM certification requirements will be realised once the second statutory instrument implements these. For the keeper of wagons, it will reduce the need to meet different maintenance requirements of different railway undertakings. For the railway undertaking it provides assurance about how maintenance is carried out. It will also help to increase competition and the flow of rail traffic.
- 4.12 Implementing the CSI Directive benefits duty holders and ORR by helping to collect more accurate data on safety performance, which can then be used to inform policy development.

**Option 2: Implement the whole of the CSI Directive and the Directive on vehicle maintenance in two stages with the second stage implementing the requirement to certify ECMs for freight wagons once the European Commission adopts a system of certification**

***Costs***

- 4.13 The costs of Option 2 are the same as the costs in Option 1 except for a slight difference in timing of some small costs which affect the NPV but only to a very minor extent. The difference in timing is because the implementation of the requirement for an ECM for freight wagons to obtain an ECM certificate from a certification body has been delayed pending the adoption of system of certification by the European Commission. This has now been published as Commission Regulation 445/2011.
- 4.14 The implementation of the certification regime requirements for freight wagon ECMs was delayed because it would not have been in accordance with UK lawmaking practice to make provisions in the ROGS (Amendment) Regulations for the Commission to provide details of the certification scheme in due course. Doing so would, in fact sub-delegate the relevant parts of the ROGS (Amendment) Regulations to the Commission. As a result, the requirements of the scheme would not have been set out on the fact of the ROGS (Amendment) Regulations if the Directive on vehicle maintenance was transposed in one stage.

***Benefits***

- 4.15 The benefits are the same as in Option 1.

**Option 3: As Option 2 except that in addition ORR wishes to: (a) clarify that volunteers are within the scope of Part 4 of ROGS; and (b) update the appeals provisions in ROGS.**

**Safety critical work**

- 4.16 In reviewing ROGS to transpose the CSI Directive and the Directive on vehicle maintenance, ORR has also taken the opportunity to consider the railway safety framework in the light of lessons learned from operating under the current regime. It has concluded, following consultation and with broad support from all stakeholders, that it would be useful to clarify in Part 4 of ROGS that “safety critical” work applies to voluntary workers as well as to employees and contractors. “Safety critical” work is defined as those tasks which could significantly affect health or safety that are carried out by various people on the railway and other guided transport systems. ROGS defines these tasks (in regulation 23), including driving a train and operating signals, and imposes specific duties to make sure employees who perform them are competent and fit enough to do so.
- 4.17 ORR consulted on the basis that anyone who carries out a safety critical task should have the necessary competence and fitness to perform that work based on risk factors and not employment status. With broad support from all stakeholders, the amendment clarifies to volunteer-run organisations, such as many heritage railways, that they are within scope of Part 4 of ROGS.

**The Administrative Justice and Tribunals Council**

- 4.18 Regulation 27(4) of ROGS states that if the Secretary of State appoints someone to determine an appeal on his behalf, that hearing shall be a statutory inquiry for the purposes of the Tribunals and Inquiries Act 1992. The Tribunals and Inquiries Act 1992 allows regulations to be made by the Lord Chancellor, following consultation with the Administrative Justice and Tribunals Council, which govern the procedure followed in statutory inquiries or classes of such inquiries.
- 4.19 The ROGS (Amendment) Regulations insert a new regulation 27(4A) in ROGS, which incorporates the duty of the Administrative Justice and Tribunals Council to review and report on statutory inquiries. This duty was introduced in Schedule 7 of the Tribunals Courts and Enforcement Act 2007, which came into force after ROGS. ORR is therefore incorporating this duty now, as it assists the Lord Chancellor when exercising his power under Regulation 27(4) of ROGS.

**Costs and benefits**

- 4.20 The provisions of Part 4 already apply to voluntary workers, for example, the majority of those who work on heritage railway systems. So this textual change will have no material impact on cost. However, it will meet the concerns of representatives of the heritage industry by removing confusion on who the requirements apply. ORR considers that anyone who carries out a “safety critical” task should have the necessary competence and fitness to perform that work. Two-thirds of respondents to the consultation agreed with ORR’s proposal to clarify the meaning of “work” as including “voluntary work”.
- 4.21 The change in relation to the Administrative and Justice Tribunals Council does not create any material impact.
- 4.22 The costs and benefits of Option 3 will be the same as Option 1. In addition, making the additional changes to ROGS rather than doing them separately benefits industry by not having to give attention to two consultation documents and two sets of Regulations.

**5. Summary of preferred option**

- 5.1 The preferred option is Option 3 because it ensures that Regulations are made in accordance with UK lawmaking practices and it provides an opportunity to make further changes to ROGS. This choice is based on legal reasons and not on monetary costs and benefits. ORR

published a consultation document in March 2010 to gather views on the proposed changes to ROGS. The consultation document can be found on ORR's website, which contains the draft Regulations and a consultation stage impact assessment. (See 'References' section for web link).

## 6. Statutory review of ROGS

- 6.1 It is the UK Government's policy that for regulations implementing EU obligations, a statutory obligation on the Secretary of State to review them every five years will apply. The ROGS (Amendment) Regulations therefore insert new regulation 34A into ROGS. This requires that within a maximum of five years of the ROGS (Amendment) Regulations coming into force, the Secretary of State must review the whole of ROGS and publish the review's conclusions.
- 6.2 The Post Implementation Review Plan (Annex 1) sets out the plan to review ROGS. ROGS came into force on 6 October 2006. A report on the monitoring and evaluation of ROGS<sup>9</sup> was published by GL Nobel Denton in June 2010. In view of the scale of resources involved in carrying out such a review, ORR does not envisage a second review of ROGS on the same scale within a five-year timeframe. The 2010 report concluded that the majority of the objectives of ROGS had either been met or were on their way to being met. On that basis, and the fact that the impact of new regulation 18A (maintenance of vehicles) is negligible, ORR feels that a desktop review of ROGS will be appropriate. This will involve collating and updating existing evidence from the 2010 report and seeking new evidence from inspectors and evidence from stakeholders via workshops and questionnaires. Stakeholders are all those affected by ROGS, such as Network Rail, Train Operating Companies, Freight Operating Companies, heritage organisations, metros and tramways.
- 6.3 ORR expects that it will take 0.33 person-years to review ROGS, including the measures introduced in relation to ECMs. The estimated completion cost, including publication as a Command Paper, will be around £24,000<sup>10</sup>.
- 6.4 The benefits of a Ministerial duty to review ROGS are that:
- it helps to prevent over-regulation;
  - it helps to ensure that the Regulations are working as intended; and
  - it helps to assess whether any burdens on business and others can be reduced.

## 7. Specific impact tests

- 7.1 ORR has considered the potential impact of this policy on the following areas, in line with relevant guidance. No specific impacts have been identified given the nature of the proposed measure.

### ***Equality***

- 7.2 ORR envisages no impact on the protected characteristics under the Equality Act 2010.

### ***Competition***

- 7.3 At this stage, the ROGS (Amendment) Regulations are unlikely to have a material impact on competition on the UK rail industry. However, the ROGS (Amendment) Regulations are a precursor to a certification regime for ECMs for freight wagons, which is likely to have a positive impact on competition in the UK and European rail freight markets. It will reduce barriers to entry for firms wishing to operate across national borders by increasing confidence in an ECM's ability to control the process of freight wagon maintenance.

### ***Impact on Small Firms***

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<sup>9</sup> See [www.rail-reg.gov.uk/server/show/nav.2075](http://www.rail-reg.gov.uk/server/show/nav.2075).

<sup>10</sup> This assumes: salary is £42,491; on costs multiplied by 1.58; full time equivalent required is 0.33; an additional £2,000 for publication of the Command Paper.

- 7.4 As the ROGS (Amendment) Regulations require only basic information and essentially formalises existing UK regulatory and administrative arrangements for maintenance, they do not adversely impact small firms. Because the new regulations formalise existing requirements, ORR does not believe the regulatory burden will increase for any size of firm. The most likely source of costs is likely to be associated with the familiarisation of the ROGS (Amendment) Regulations rather than compliance itself. These have been addressed for the industry as a whole as £57,600.

### ***Greenhouse Gas***

- 7.5 The ROGS (Amendment) Regulations are unlikely to have a material impact on greenhouse gas emissions. However, a consistent approach to rail vehicle maintenance across Europe should allow for easier cross-boarder rail traffic, which may encourage the movement of traffic from the roads onto the rail network resulting in environmental benefits from lower carbon emissions.

### ***Wider Environmental Impact***

- 7.6 The ROGS (Amendment) Regulations do not have a material impact on the wider environment.

### ***Health & Well Being***

- 7.7 Major incidents on the railway and other guided transport systems are rare, but when they occur, they have the potential to cause a large impact on the confidence of users. They can also lead to injuries and fatalities as well as physical disruption of the railway. Indirectly, these incidents can undermine public confidence in the operation of the railways. Implementing the measures in the ROGS (Amendment) Regulations is likely to provide further assurance that safety risks are being managed appropriately.

### ***Human Rights***

- 7.8 The proposal has no human rights implications.

### ***Justice Impact***

- 7.9 No new impacts are created on the justice system. Please see the full Justice Impact Test in **Annex 2** which is published alongside this Impact Assessment at [www.legislation.gov.uk](http://www.legislation.gov.uk).

### ***Rural Proofing***

- 7.10 The ROGS (Amendment) Regulations do not have any material impact on rural communities.

### ***Sustainable Development Impact***

- 7.11 The ROGS (Amendment) Regulations do not have a material impact on sustainable development. However, the ROGS (Amendment) Regulations are a precursor to a certification regime for ECMs for freight wagons, which is likely to have a positive impact on competition in the UK and European rail freight markets. A more competitive rail transport sector will also help the EU to fulfil its basic commitments with regard to sustainable development and the struggle against climate change<sup>11</sup>. A consistent approach to rail vehicle maintenance across Europe should allow for easier cross-border rail traffic, which may encourage the movement of traffic from the roads onto the rail network resulting in environmental benefits from lower carbon emissions.

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<sup>11</sup> European Commission explanatory memorandum – see ‘References’ section above for web link



# Annexes

Annex 1 should be used to set out the Post Implementation Review Plan as detailed below. Further annexes may be added where the Specific Impact Tests yield information relevant to an overall understanding of policy options.

## Annex 1: Post Implementation Review (PIR) Plan

A PIR should be undertaken, usually three to five years after implementation of the policy, but exceptionally a longer period may be more appropriate. If the policy is subject to a sunset clause, the review should be carried out sufficiently early that any renewal or amendment to legislation can be enacted before the expiry date. A PIR should examine the extent to which the implemented regulations have achieved their objectives, assess their costs and benefits and identify whether they are having any unintended consequences. Please set out the PIR Plan as detailed below. If there is no plan to do a PIR please provide reasons below.

<p><b>Basis of the review:</b> [The basis of the review could be statutory (forming part of the legislation), i.e. a sunset clause or a duty to review, or there could be a political commitment to review (PIR)];</p> <p>The basis of the review is a statutory review of the whole of ROGS five year from when the ROGS (Amendment) Regulations enter into force. See 'Statutory review of ROGS' in <b>Section 6</b> of the evidence base.</p>
<p><b>Review objective:</b> [Is it intended as a proportionate check that regulation is operating as expected to tackle the problem of concern?; or as a wider exploration of the policy approach taken?; or as a link from policy objective to outcome?]</p> <p>A proportionate check that ROGS are operating as intended.</p>
<p><b>Review approach and rationale:</b> [e.g. describe here the review approach (in-depth evaluation, scope review of monitoring data, scan of stakeholder views, etc.) and the rationale that made choosing such an approach]</p> <p>ROGS came into force on 6 October 2006. A report on the monitoring and evaluation of ROGS was published by GL Nobel Denton in June 2010. In view of the scale of resources involved in carrying out such a review, ORR does not envisage a second review of ROGS on the same scale with a five-year timeframe. The 2010 report concluded that the majority of objectives of ROGS had either been met or were on their way to being met. On that basis, and the fact that the impact of new regulation 18A is likely to be small, ORR feels that a desktop review of ROGS will be appropriate. This will involve collating and updating existing evidence from the 2010 report and seeking new evidence from inspectors and evidence from stakeholders via workshops and questionnaires. Stakeholders are all those affected by ROGS, such as Network Rail, Train Operating Companies, Freight Operating Companies, heritage organisations, metros and tramways.</p>
<p><b>Baseline:</b> [The current (baseline) position against which the change introduced by the legislation can be measured]</p> <p>The baseline position is:</p> <ul style="list-style-type: none"><li>(a) replacing (in 2006) a system of 'permissioning' safety cases with system of: minimum requirements for a safety management system, safety certification, safety authorisation, and co-operation to ensure system safety;</li><li>(b) replacing (in 2006 and 2008) a system of formal approval by ORR before new or altered works, plant or equipment are introduced with a system of safety verification from an independent competent person;</li><li>(c) changing (in 2006) the approach of controlling the number of hours for preventing fatigue to one requiring arrangements to be implemented that controls risks such as patten of working hours and roster design;</li><li>(d) changing (in 2006) the focus on the management of hours of work of safety critical workers to include other factors, rather than just hours of work;</li><li>(e) introducing (in 2006) the requirement for controllers of safety critical workers to ensure that safety critical workers are competent, fit and risks arising from fatigue are adequately managed</li><li>(f) introducing (in 2011) the requirement to assign an entity in charge of maintenance ("ECM") to a railway vehicle and ensure that the ECM is registered on the National Vehicle Register; and for the ECM to ensure that the rail vehicles for which it is responsible are safely maintained through a system of maintenance.</li></ul>

<p><b>Success criteria:</b> [Criteria showing achievement of the policy objectives as set out in the final impact assessment; criteria for modifying or replacing the policy if it does not achieve its objectives]</p> <ul style="list-style-type: none"><li>(a) ROGS and any changes made to it have a positive or neutral impact on business</li><li>(b) Standards of safety do not reduce</li><li>(c) The administrative burden of ROGs and changes made to it reduce over time</li></ul>
<p><b>Monitoring information arrangements:</b> [Provide further details of the planned/existing arrangements in place that will allow a systematic collection systematic collection of monitoring information for future policy review]</p> <p>ORR’s approach to maintaining health and safety on Britain’s railways is to ensure that the industry manages risks satisfactorily, and continuously improves its health and safety performance as far as is reasonably practicable. ORR monitors the safety performance of duty holders and investigates incidents and complaints to find out why failures have occurred and if the law has been broken.</p> <p>This statutory instrument paves the way for a second statutory instrument, which transposes the rest of the Directive on vehicle maintenance. The ROGS (Amendment) Regulations will be reviewed and monitored within five years of coming into force along with those in the second statutory instrument.</p>
<p><b>Reasons for not planning a review:</b> [If there is no plan to do a PIR please provide reasons here]</p>

## Annex 2: Justice Impact Test

A Justice Impact Test is published alongside this Impact Assessment on [www.legislation.gov.uk](http://www.legislation.gov.uk).

## Annex 3: Glossary of Terms

<b>Commission</b>	-	European Commission
<b>COTIF</b>	-	Convention on International Carriage by Rail
<b>CSIs</b>	-	Common Safety Indicators
<b>CSI Directive</b>	-	Directive 2009/149/EC
<b>CSTs</b>	-	Common Safety Targets
<b>Directive on Vehicle Maintenance</b>	-	Directive 2008/110/EC
<b>ECM</b>	-	Entity in Charge of Maintenance
<b>ERA</b>	-	European Railway Agency
<b>EU</b>	-	European Union
<b>NVR</b>	-	National Vehicle Register
<b>ORR</b>	-	Office of Rail Regulation
<b>PWF</b>	-	Private Wagon Federation
<b>PWRA</b>	-	Private Wagon Registration Agreement
<b>Railway Safety Directive</b>	-	Directive 2004/49/EC
<b>Regulation 445/2011</b>	-	Certification system for freight wagon ECMs
<b>ROGS</b>	-	Railways and Other Guided Transport Systems (Safety) Regulations 2006 (S.I. 2006/599)
<b>ROGS (Amendment) Regulations</b>	-	Railways and Other Guided Transport Systems (Safety) (Amendment) Regulations
<b>TSIs</b>	-	Technical Specifications for Interoperability