

PWF (Private Wagon Federation)

Response to the draft Railways and Other Guided Transport Systems (Miscellaneous Amendments) Regulations.

October 2012

The PWF (Private Wagon Federation) is a UK trade association representing member companies with a variety of interests in railway freight wagons. A number of our Members have applied, or will be applying for, certification as wagon ECMs. Our response to the ORR consultation document published in July 2012 is as follows:

Question 1: Do you have any comments on ORR's role as certification body? If so, please state.

We fully support the ORR taking on this role and the approach they have adopted.

As industry National Safety Authority with their consequent knowledge of the applicable national established industry processes and prevailing levels of risk we believe that it is natural and appropriate for them to undertake this role. Also we believe that arguably the process is equivalent to their certification and authorisation of main line railway train operators and infrastructure controllers.

We would also comment that we would wish the ORR to continue to offer their service for the certification of wagon ECMs based in Great Britain for longer than the two years initially proposed. We believe this to be particularly important to facilitate a continuity of approach in surveillance and recertification with the issue of certificates valid for five years.

It is important that the approach adopted is, and continues to be, proportionate to the prevailing level of risk.

Question 2: Do you have any comments on the proposed new regulation 4(4A) of EARR? If so, please state.

No Comment to make.

Question 3: Do you agree with the proposed approach for carving out specific railway systems from the mainline railway requirements in ROGS through the use of an Approved List? Please explain your answer.

Yes, we agree that the proposed approach is helpful to avoid ambiguity.

Question 4: Are there any systems that should not be on the Approved List? Please identify them if so and explain why they should not be exempted.

We currently have no deletions to propose.

Question 5: Are there any systems that are not on the Approved List that should be? Please identify them if so and explain why they should be included.

We currently have no additions to propose.

Question 6: Do you agree with the proposal to issue one safety certificate instead of two? If not, please explain why.

No Comment to make.

Question 7: Do you agree with the proposal to remove from ROGS the requirement for mainline operators to carry out safety verification? Please explain your answer.

Yes we agree. We believe that the ROGS requirement to be superfluous in the light of the requirements of Commission Regulation 352/2009 on risk assessment and therefore welcome this proposal.

Question 8: Do you agree with the proposal to make the 28-day consultation period run concurrently with ORR's four month processing time? Please explain your answer.

No Comment.

Question 9: Do you agree with the proposal to remove the requirement for non-mainline operators to submit annual safety reports to ORR? Please explain your answer.

No Comment to make.

Question 10: Do you agree with the proposal to clarify that the monitoring arrangements of the controller of 'safety-critical work' have to be suitable and sufficient? Please explain your answer.

No Comment to make.

Question 11: Do you have any other comments in relation to the issues raised in this consultation document (and annexes)?

1. The proposed wording for Regulation 18A (b) does not appear to allow for the transitional provisions included of Article 12 of Commission Regulation (EU) No. 445/2011. In particular we believe that clauses 3, 5 and 7 of this Article could be applicable within the United Kingdom and therefore require recognition within the proposed UK regulations. It is our understanding that:

a. Several freight train operating companies will be covered by clause 7.

b. Some wagons operating within Great Britain are covered by Memorandum of Understanding ECM certification.

c. It is conceivable that a UK-certificated wagon ECM could wish to use the services of a maintenance workshop certificated on the basis of the national laws of another country.

2. The proposed wording for Regulation 18A (b) does not indicate that this requirement applies only after 31st May 2013 and does not therefore reflect correctly the content of clause 6 of Article 12 of Commission Regulation (EU) No 445/2011.

3. We believe that the Impact Assessment seriously overstates the benefits likely to arise from wagon ECM certification because:

a. Clause 12 on page 25 of this assessment defines assumptions regarding a reduction of duplicate supplier assurance audits, documentation reviews and the fitness-to-run examinations by train operators using wagons belonging to one owner. It would appear that Information relating to the operation of privately-owned passenger vehicles or locomotives has been extrapolated to generate a cost saving in this area. In practice most domestic non-railway owned freight wagons are currently covered by Private Wagon Registration Agreements (PWRA's) and the Freight Train operators operating these vehicles **DO NOT** carry out their own supplier audits, document review and fitness to run examinations on these vehicles in the current regime. In our view, therefore, these costs (shown as between £74,000 and £317,000 per year) will not be saved as a result of the freight wagon ECM certification proposals.

b. Clause 13 on page 25 of the Impact Assessment suggests a saving of £199k per annum due to a reduction of the requirement to supply 'professional head' services to certificated wagon ECMs. As you will be aware the potential certificated wagon ECMs have negotiated an ESPA agreement with Network Rail for continuation of supply of the expert services historically provided to support and administer the PWRA arrangements, albeit on an advisory basis.

As far as we are aware there is no intention for the level of Network Rail sponsored resource to be significantly reduced as a result of this change, indeed we would be most alarmed if this were the case. We see the provision of increased technical and 'professional head' resource within wagon ECMs to be an inevitable consequence of the fragmentation of responsibility from one focus under the PWRA arrangements to a number of independent, legally accountable and responsible ECMs.

3. In Annex 7 of the Consultation Document 'Professional Head' is defined as:

'A chartered engineer with at least 10 years experience in the rail industry.'

We believe a more appropriate definition would be:

'A chartered engineer or equivalent with at least 10 years appropriate experience in the rail industry'.

Thank you

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