

From: John Collins [mailto:John.Collins@angeltrains.co.uk]
Sent: 04 June 2010 12:55
To: Valentino, Stefano
Cc: Tim Dugher; Adeline Ginn; Emer Foley; Laurence Gregory; Mark Hicks
Subject: FW: Consultation on the Railways and Guided Transport (Miscellaneous Amendments) Regulations 2010

Stefano,

Please find below consultation comments from Angel Trains.

Regards,

John

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ORR - The Railways and Guided Transport - Miscellaneous Amendments
- Regulations 2010
Angel Trains Consultation responses

Q1 - Do you agree that we should not change the current position on the exclusions from ROGS?

Yes - Agreed that there should be no change in the current position relating to exclusions from ROGS.

Q2 - Do you know of any circumstances in which vehicles registered and maintained according to the laws of a non-EU Member State enter Great Britain?

No.

Q3 - Do you know of any circumstances in which vehicles with track gauges other than standard gauge enter Great Britain?

No.

Q4 - Do you know of any circumstances in which military equipment or special transport may require an ad hoc permit to be delivered prior to being placed in service in Great Britain?

No.

Q5 - Do you know of any circumstances in which those vehicles that are excluded from the mainline railway, as defined in ROGS, may require an ad hoc permit to be delivered prior to being placed in service in Great Britain?

No.

Q6 - Do you agree that RAIB should be the investigating body for accidents on tramways in Scotland?

Yes, it makes clear sense to have this one already existing body responsible for investigating accidents under this Regulation this would be cost-effective and promote a consistent approach from experience with accidents on similar networks.

Q7 - Do you have any comments on the new definitions?

Paragraph 4.7(Regulation 4(2)(a)) – proposes a new definition of “entity in charge of maintenance” (“ECM”): It needs to be clear what “in charge of maintenance” means e.g. is it the entity contractually or legally responsible or the entity actually carrying out the maintenance? It’s not clear from the definition who this is supposed to be. Note that the Regulation 18A(3) imposes a statutory obligation on the ECM to ensure that, through a system of maintenance, vehicles are safe to run.

Noted also that it is planned to produce guidance on who may become an ECM, we suggest this guidance is circulated at draft stage for consultation. The following notes may help; -

- There are many cases depending on lease type where the responsibility for maintenance is a split responsibility between the Owner and the Operator (Railway Undertaking). For example, the Owner has responsibility for Heavy Maintenance execution and the documentation that supports this whereas the Operator has the responsibility for Light Maintenance execution and the documentation that supports this. Therefore the ECM has to recognise the split of responsibilities and will need to take account of different leasing arrangements. That said, the only entity that can truly manage the risk associated with operating railway vehicles on a real-time basis is the operator.

- There are also many cases where Original Equipment Manufacturers (OEMs) fulfil all maintenance requirements on passenger rolling stock. In such cases, logically the Entity in Charge of Maintenance (ECM) is the OEM. However, again, the Duty Holder and day to day overseer is the Operator (Railway Undertaking), hence it is logical for the Operator to be the ECM.

- Having the Operator as ECM will however mean that the NVR will need to change each time there is a change of Franchisee

The above examples serve to illustrate why it is necessary to clearly define the responsibilities of the ECM.

Paragraph 4.8 (Regulation 4(2)(c)) – proposed new definition of “keeper”; - This follows the definition in the directive, however please clarify whether “exploits the vehicle as a means of transport” would include an operating lease.

Q8 - Do you agree that these regulations should contain the date by which vehicles used domestically have to be registered in the NVR?

Agreed that a date should be contained in the Regulations by which vehicles used domestically have to be registered in the NVR however November 2010 may be unrealistic, unless the responsibilities of the ECM are clearly defined and agreed at industry level. Furthermore, we as a company will need to have agreed who our ECMs will be and have agreement with them – see comments on definition of ECM in answer to Q7.

Q9 - Do you have any comments on the proposal to extend the meaning of work to include voluntary work?

The proposals clarify the term 'work' to include work carried out by volunteers, therefore given the safety critical nature of what is covered under these Regulations this is supported.

Q10 - Do you have any other comments to make in relation to this consultation document?

No.