

ATOC Response to the ORR Consultation on the Transposition of the Safety Directive 2008/110/EC into the Railways and Guided Transport (Miscellaneous Amendment) Regulations 2010

Q1. ATOC is content with this.

Q2. ATOC is not aware of any circumstances in which vehicles registered and maintained according to the laws of a non-EU Member State enter Great Britain.

Q3. ATOC is not aware of any non-standard gauge vehicles entering Great Britain on the mainline network. We are aware that vehicles in Northern Ireland operate on non standard track gauge (1600mm) and that new vehicles are currently being procured in Northern Ireland.

Q4. We are not aware of any such circumstances.

Q5. This question does not concern licensed mainline passenger operators; ATOC is not aware of any such circumstances.

Q6. ATOC does not have an opinion on who should investigate tramway accidents in Scotland as it does not affect our members.

Q7. ATOC disagrees with the ORR's proposal on "entity in charge of maintenance" in that the Directive definition does not provide such flexibility. Article 14a in the Interoperability Directive specifically states that only an RU, IM or Keeper can be an Entity in Charge of Maintenance. This therefore excludes parties in the UK such as third party maintainers like Bombardier, Siemens, Alstom, etc. (unless they are the Keeper). The recently developed draft of the declaration to type (due to go before RISC in June) is clear that manufacturers are not contracting entities.

ATOC believe that the definition of "keeper" should be by reference to the Interoperability Regulations or the Interoperability Directive.

ATOC believe that the term "Maintenance Rules" can be deleted. This is based on the assertion that Regulation 18A. -(4)(b) "applicable maintenance rules" is replaced with "National Safety Rules" concerning maintenance.

ATOC believe that "all" should be removed from the definition of "maintenance files" as it is not technically possible to document tacit knowledge. The inclusion of "all" produces an unending search for information.

Q8. ATOC believe that it is appropriate to have a date by which vehicles used domestically have to be registered in the National Vehicle Register. With 21 franchises, this information can be useful across the industry and should not be a significant burden on the sector. However, this is a responsibility on the Member State and not the Railway Undertakings or Keepers or Entities in Charge of Maintenance. For new vehicles, this is a relatively simple declaration to be included with a Technical File, but for the retrospective application, it will involve a deal of work and discussion. Regulation 18A-(2) does not state who is responsible for registering the ECM on the NVR. However commission decision 2007/756/EC places the

responsibility on the Member State. We are interested to know what the plans for populating the National Vehicle Register are. We would appreciate understanding just how the Member State intends to implement this requirement by the due date.

Q9. ATOC does not have an opinion on these proposals.

Q10. Further Comments: Whilst the Entities in Charge of Maintenance 'system of certification' still has to be established, ATOC would welcome discussions on this subject with the National Safety Authority. We note that ORR has recently invited our input to the ERA consultation.

Given that the use of Common Safety Methods is mandatory, and it has a larger scope than SV alone, ATOC proposes that for the mainline railway, Safety Verification is either replaced in the regulations by references to Common Safety Methods on Risk Assessment or deleted completely. As EU Regulations which come into force directly, the Common Safety Methods need no transposition.

The scope of the Railway Interoperability Regulations only covers the elements of the life cycle associated with the "placing into service" of a vehicle/infrastructure, bringing it to its design operating state. ROGS and RIR should cover different life cycle phases in order to avoid duplication of effort and confusion. Therefore ROGS should only focus on the "use of a vehicle/infrastructure". The two terms address specific phases in the life cycle of a railway system and so ATOC propose that the terminology used in ROGS is separate and distinct from that used in the Interoperability Regulations. ROGS should only use the term "placing into service", in reference to RIRs, where appropriate.

The use of the word "ensure" in regulation 18A(3) is not appropriate, and is recommended against in a TSI drafting guide endorsed by the ORR. It would be appropriate to require the ECM to have a system of maintenance for the purpose of maintaining vehicles in a safe state.

We recommend the reinstatement of the words "other" and "systems" in the title of the regulations, in order to ensure continuity.

The common terms between the Interoperability and ROGS Regs must have common definitions. There must be no further new definition of the word vehicle: there are already too many in circulation. Nor must any definitions swap the term vehicle for rolling stock or vice versa; there are too much interdependencies which are not in our control to make this a sensible course of action.

We suggest that the definition of National Safety Rule is amended to ensure that it is clear that NSRs apply to parties other just RUs, i.e. IMs and ECMs. This will have the effect of making clear that NSRs for maintenance in particular are the responsibility of the ECM, especially in "hook & haul" operations.

CSIs - Please clarify the scope of reporting of the economic accidents to be reported – all accidents or only serious ones?