

This is the Heritage Railway Association's response to the consultation document:

The Railways and Guided Transport (Miscellaneous Amendments) Regulations 2010

Background

The Heritage Railway Association (HRA) is the trade association of the 117 Heritage Railways and Tramways in Great Britain.

We would like to take this opportunity to thank the Office of Rail Regulation for giving us this opportunity to comment on the consultation document.

The HRA membership comprises organisations with a total of 20,000 staff who are a mixture of paid and volunteer staff where average ratio is 1:10. The turnover varies from very small to over £5,000,000 per annum with an average of around £500,000.

The sector has a combined turnover of around £79 million. It operates in the transport, heritage and tourism fields which directly affect local businesses and local employment with total turnover of around £320 million.

The management of these organisations is often in the hands of persons who are volunteers.

Our members have broad business, safety and public interests covering the whole of the UK as well as strong interactions with colleagues in Europe.

Our members' operations are monitored by Her Majesty's Railway Inspectorate on behalf of the Office of Rail Regulation and other bodies.

The HRA meets regularly with representatives of our members and communicate using a bi-monthly newsletter as well as electronic communication.

The HRA therefore represents a group of small companies and provides guidance on a wide range of issues to our members.

HRA Detailed Response to consultation

We have used the questions set out in Annex A of the consultative document as our basis for responding:

Question 1:

Do you agree that we should not change the current position on the exclusions from ROGS? If you do not agree, please explain why.

Although the issue relates to ROGS as currently drafted rather than being a feature of the proposed amending Regulations, we submit that the exception from the general exclusions from ROGS should be reviewed in respect of the few heritage lines which on occasion operate at speeds greater than 40 kph.

This exception has no basis in the relevant EU Directive or in domestic legislation.

We therefore think that it should be omitted.

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Question 2:

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? If so, please explain.

The occasional importation and exchange of heritage stock has occurred where the imported vehicles have operated on heritage railways and tramways.

Question 3:

Do you know of any circumstances in which vehicles with track gauges other than standard gauge enters Great Britain? If so, please explain.

Yes; as an example a 15" (381mm) gauge locomotive was imported to the UK from Tasmania in 2005.

Question 4:

Do you know of any circumstances in which military equipment or special transport will require an ad hoc permit to be delivered prior to being in service? If so, please explain.

These issues are outside our capability to comment.

Question 5:

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? If so, please explain.

These issues are outside our capability to comment.

Question 6:

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

We agree with this proposal having pressed for it at the time that the Railways and Transport Safety Act 2003 was before Parliament.

Question 7:

Do you have any comments on the new definitions? If you have any objections, please could you explain why and suggest an alternative.

If the term "mobile traction unit" is intended to include tramcars (see paragraph 4.12 of the paper), we question whether it would be wide enough to include tramcar trailers as employed, for example, on the Blackpool system. We suggest (a) should read "includes a mobile traction unit and rolling stock".

Question 8:

Do you agree that these regulations should contain the date by which domestic vehicles should have been registered in the NVR?

We have no views on this question.

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Question 9:

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

We agree with this proposal, for which we have pressed since 2005, but the clarification should be applied consistently throughout the Regulations and not be limited to Part 4 of the Regulations. For example, it should apply to regulation 22 and to Schedule 1.

Question 10:

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

Trolleybuses

Approval was recently given to the reintroduction of a trolleybus system in Leeds. Heritage trolleybuses are already in operation at three British museums. This prompts us once again to draw attention to the lack of an adequate safety regime to govern the installation, maintenance or operation of trolleybus systems in Great Britain. Prior to the coming into force of ROGS there had been such a regime: latterly this had been provided by the ROTS Regulations. Unfortunately these Regulations were revoked by ROGS (see regulation 34 and Schedule 7) and nothing was put in their place for trolleybuses. This is particularly surprising since trolleybus operation has the potential to be more lethal than tramway operation from an electrical point of view: not only are there twin overhead wires in close proximity at different potentials, but also the vehicles have reduced earthing capabilities because of their use of rubber tyres. We would therefore press very strongly for trolleybuses to resume their place alongside tramcars, by extending the ambit of ROGS to them.

Timeframe

We note from paragraph 1(4) of the consultation document that the new Regulations "must be in force by 19 July 2010". Presumably the period is further limited by the need to make the Regulations at least 21 days before that date. This leaves little time for proper consideration of comments received in response to the consultation. We would be seriously concerned if the consultation proved to be simply an empty ritual and that serious consideration was not given to the major issues raised by us (and no doubt others). We should be glad to receive your assurance that this will not be the case.

Minor issues

(a) New regulation 1. We note the title adopted uses the phrase "Railways and Guided Transport", whereas the corresponding ROGS' version is "Railways and Other Guided Transport". Apart from the desirability of consistency, the implication is given that railways are not guided transport, which is of course not true. Also the "(1)" is otiose.

(b) New regulation 4(2)(g)(b). Should not the word "circulation" in the first line be changed to "operation"?

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(c) Existing regulation 23(1)(b)(i) . Is there a case for inserting in the first line after "part of if" the words "or of the permanent way relating to it or used in connection with it"? This general reference, apart from being in accord with communications and electrical supply, would also overcome the gaps in (b)(iv), which exclude reference to safety of the public and is limited to track and so does not cover other aspects such as foundations.

(d) Existing regulation 23(1) after (c). The concluding line is limited to "safety of persons on a transport system", so that a pedestrian killed by a train at a level crossing outside the vehicle would not be protected by any of the foregoing fundamental safeguards. May we suggest that the scope be widened by referring to the "safety of persons on or in relation to a transport system", the phraseology used in 23(4)(a)?

(e) Existing regulation 23(4)(a). The term "fire service" should be replaced by "fire and rescue service". Apart from being the term currently in use, the service is most likely to be involved (in a transport context) in extricating persons trapped in collisions.

(f) Existing regulation 24(3). A corresponding point to that raised in (d) above also applies here.

(g) Existing regulation 25(1). A corresponding point to that raised in (d) above also applies here.

(h) Existing Schedule 1. The references to "voluntary work" in paragraphs 1 (c), 2(a) and (e) should be omitted as redundant if the definition of "work" is extended to Schedule 1.

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