Survey: Post-Implementation Review of The Railways (Interoperability) Regulations 2011

The Department for Transport is carrying out this survey as part of the post-implementation review (PIR) process for The Railways (Interoperability) Regulations 2011 (RIR 2011). RIR 2011 provides the regulatory framework for the application of rail technical standards for rolling stock and infrastructure in the UK. The PIR of these regulations must happen every five years and seeks to:

1. assess the effectiveness of the regulations
2. determine if they are achieving their intended objectives and whether there are any unintended effects
3. identify the type of interoperability regime that would work in the UK's best interests

The survey seeks to gather the views of individuals and organisations with an interest in the regulations. The survey on the following pages is split into three sections. The first section contains questions tailored towards individuals with an interest in the regulations (on pages 4 and 5). The final two sections are tailored towards organisations responding to the survey (on pages 6 to 24). More information can be found at the start of each section.

We will use the responses gathered to contribute towards a PIR report that we hope to publish in 2022. This PIR report may contribute to further discussions around rail reform, particularly given the new flexibilities that EU exit offers.

Please provide your response to the survey to interoperability@dft.gov.uk, or post them to:

The Rail Safety and Interoperability Team
Department for Transport
Great Minster House
London
SW1P 4DR

The survey will close to responses from Monday 12th July 2021.

Questions for Individuals

We welcome your views on the questions set out below. There are 5 questions in this section for you to consider. Please do not feel limited to these questions, we would welcome your contributions in the other sections which are more tailored for organisations.

Except where the question indicates otherwise, please try to frame your answers in relation to the content of the regulations themselves, rather than about the content of individual technical standards contained within specific NTSNs and NTRs.

General Information

Question 1: Are you responding to this survey as an individual?
- ☐ *Yes*
- ☐ ***No***

If you answered 'No', please proceed to the next section.

Question 2: What is your view of RIR 2011?
- ☐ *Positive*
- ☐ *Negative*
- ☐ *Neutral*
- ☐ *Mixed*
- ☐ *Other*

Please could you provide the reasons for your response here:

Response:

Question 3: *Are there any potential changes that could be made to RIR 2011? Please do set these out clearly by reference to particular parts of the RIR 2011, with supporting information, to enable us to fully understand the risks, opportunities, and costs.*

Response:

Question 4: *What would your recommendations be for the next steps for RIR 2011?*
- ☐ *Keep RIR 2011 as they are*
- ☐ *Make changes to RIR 2011*
- ☐ *Remove RIR 2011 and do not replace*
- ☐ *Remove RIR 2011 and replace with something else*
- ☐ *Don't know*

If you have suggested changes, removal or replacement, please could you provide the reasons for your response here, setting out as far as possible the costs and the benefits:

Response:

Question 5: *Do you have any other general comments?*

Response:

Survey continues on next page

General Questions for Organisations

We welcome your views on the questions set out below. There are 17 general questions in this section for you to consider. These questions are designed with organisations in mind, but individuals with an interest are welcome to respond. If you have a deeper interest or involvement in RIR 2011, we have also included 16 more specific questions which you may wish to consider in the next section.

Except where the question indicates otherwise, please try to frame your answers in relation to the content of the regulations themselves, rather than about the content of individual technical standards contained within specific NTSNs and NTRs.

Question 1: Are you responding to this survey on behalf of an organisation?
- ☐ ***Yes***
- ☐ *No*

If you answered 'No', you might wish to ensure you have filled in the first section (on pages 4 and 5). But you are welcome to answer the other sections too, indicating 'N/A' where appropriate.

Question 2: *What best describes the role of your organisation?*
- ☐ *Train operating company*
- ☐ *Infrastructure Manager*
- ☐ *Freight operating company*
- ☐ *On-track machine operator*
- ☐ *Possession-only operator*
- ☐ *Maintainer of vehicles or infrastructure*
- ☐ *Entity in charge of maintenance*
- ☐ *Rolling stock manufacturer or company*
- ☐ *Leasing company*
- ☐ *Metro system (e.g. London Underground, Tyne & Wear Metro)*
- ☐ *Light railway*
- ☐ *Tramway*
- ☐ *Railway (or other transport system) operating under 40 km/h*
- ☐ *Trade Union*
- ☐ ***Passenger Group***
- ☐ *Rail industry body*
- ☐ *Local government body*
- ☐ *Heritage Railway Association*
- ☐ *Assessment body*
- ☐ *Independent safety assessor*
- ☐ *Consultancy*
- ☐ *Other*

Question 3: *Please indicate the size of your organisation (employees in this case includes voluntary workers) (Select one box only)*
- ☐ *Less than 10 employees*
- ☐ *Between 11 and 50 employees*
- ☐ *Between 51 and 250 employees*
- ☐ ***More than 250 employees***

Question 4: What is your view of RIR 2011?

- ☑ ***Positive***
- ☐ *Negative*
- ☐ *Neutral*
- ☐ *Mixed*
- ☐ *Other*

Please could you provide the reasons for your response here:

Response: We strongly support the maintenance of standards across the rail industry in order to simplify procedures, contracts and operations. These will help rail passengers (especially those with disabilities) and keep costs down.

Question 5: *Since the last Post Implementation Review was carried out in 2017, has there been a change in the impact of RIR 2011 on your organisation?*

- ☐ *Yes*
- ☐ *No*
- ☑ ***Not Applicable***
- ☐ *Don't know*

Please could you provide the reasons for your response here:

Response: We are not a rail company or supplier

Understanding if RIR 2011 have achieved their objectives

Objectives

Interoperability was developed as a European initiative, designed to help create a harmonised European railway system that allows for the safe and uninterrupted movement of trains. It has three primary objectives:

- deliver benefits of standardisation through economies of scale for railway components, improving the economic performance of European railways and the environmental performance of the whole European transport system;
- harmonise Member State design assessment, acceptance and approval processes to prevent barriers to trade and to promote a single European market for railway products and services: and
- ensure compatibility between European railways to allow for through running of trains between Member States.

Question 6: *What are your views on the appropriate objectives for the UK's interoperability regulations in the context of the UK's exit from the EU?*

- ☑ ***Objectives should stay the same***
- ☐ *Objectives should change*
- ☐ *Other*

Please could you provide the reasons for your response here:

Response: The existing objectives provide assurance that common standards are followed.

Question 7: *How does RIR 2011 impact upon the process for developing, designing and delivering infrastructure? Are there opportunities for change or challenges you consider the regulations need to address?*

- ☑ ***Positive Impact***
- ☐ *Negative Impact*
- ☐ *Neutral Impact*
- ☐ *Mixed Impact*
- ☐ *Other*

Please could you provide the reasons for your response here:

Response: RIR 2011, in general, has a positive benefit but there is an urgent need to ensure that accessibility is taken fully into account in the design of trains and stations

Question 8: *To what extent has RIR 2011 allowed for through running of trains between EU states and the UK?*

Response: Through running is currently limited by the need to meet safety and other requirements in the Channel Tunnel. The hurdles to overcome to meet these requirements are significant and this has prevented competition in providing services through the Tunnel.

Question 9: *How has RIR 2011 affected the economic performance of the railways, your business or any other activities you are involved in?*

- ☐ *Positive Impact*
- ☑ ***Negative Impact***
- ☐ *Neutral Impact*
- ☐ *Mixed Impact*
- ☐ *Other*

Please could you provide the reasons for your response here:

Response: Standardised requirements for overhead electrification have significantly impacted on costs and timescales for projects in England.

Question 10: *In your view, how has RIR 2011 affected the environmental performance of the UK rail network?*

- ☐ *Positive Impact*
- ☐ *Negative Impact*
- ☑ ***Neutral Impact***
- ☐ *Mixed Impact*
- ☐ *Other*

Please could you provide the reasons for your response here:

Response: Insufficient information to assess this

Question 11: *In your experience, have there been any unanticipated effects that have occurred as a result of RIR 2011?*

Response: See answer to question 9 above.

Understanding business impacts

Question 12: *Based upon your experience, are you able to provide any information about the impact of RIR 2011 on UK business, including comparisons with EU competitors?*
☐ *Positive Impact*
☐ *Negative Impact*
☐ ***Neutral Impact***
☐ *Mixed Impact*
☐ *Other*
Please could you provide the reasons for your response here:
Response: Insufficient information to assess this.

Question 13: *What are your views about the estimated costs and benefits that may be attributable to RIR 2011 in the future?*
Response: Without flexibility on some issues, costs and timescales are likely to increase

Question 14: *Do you think that RIR 2011 has been more burdensome to micro (0-10 employees) and small businesses (10-50 employees) than larger businesses (over 250 employees)?*
☐ ***Yes***
☐ *No*
☐ *Don't Know*
☐ *Other*
Please could you provide the reasons for your response here:
Response: Smaller businesses are unlikely to be able to allocate sufficient resources to ensure they meet RIR2011.

Identifying possible opportunities for improvement

Question 15: *Are there any potential changes that could be made to RIR 2011? Please do set these out clearly by reference to particular parts of the RIR 2011, with supporting information, to enable us to fully understand the opportunities, benefits and costs.*
☐ ***Yes***
☐ *No*
☐ *Don't Know*
Please could you provide the reasons for your response here:
Response: The PRM requirements need to be extended to existing rolling stock and stations on a rolling programme and enforced across the industry, in line with the Shapps / Williams Review.

Question 16: *What would your recommendations be for the next steps for RIR 2011?*
☐ *Keep RIR 2011 as they are*
☐ ***Make changes to RIR 2011***
☐ *Remove RIR 2011 and do not replace*
☐ *Remove RIR 2011 and replace with something else*
☐ *Don't know*
If you have suggested changes, removal or replacement, please could you provide the reasons for your response here, setting out as far as possible the costs and the benefits:
Response: Extension of PRM requirements – see answer to question 15 above.

Question 17: *Do you have any other general comments?*
Response: This is a very complex area and training of rail companies and suppliers staff to ensure they understand what is needed is essential.

Technical Questions for Organisations

If you have a deeper interest or involvement in the regulations, we would also be grateful for your views on the more technical questions listed below. There are 16 questions. You may decide to answer all or only some of these. These questions are designed with organisations in mind, but individuals with an interest are welcome to respond.

Except where the question indicates otherwise, please try to frame your answers in relation to the content of the regulations themselves, rather than about the content of individual technical standards contained within specific NTSN's and NTR's.

Rail Safety and Interoperability Legislation

Rail safety and interoperability requirements are applied in two overlapping yet separate legislative regimes. Safety requirements are mainly contained within The Railways and Other Guided Transport Systems (Safety) Regulations 2006 (ROGS). Northern Ireland has its own safety regulations, The Railway (Safety Management) Regulations (Northern Ireland) 2006. A review of ROGS was conducted at the start of 2021, and the results will be published later this year. Any changes to ROGS could impact upon interoperability, and vice versa. Therefore, future changes to both ROGS and RIR will be considered holistically.

In comparison to RIR, ROGS is a less prescriptive regime. The role of ROGS is to provide a general framework for safety requirements including the identification and management of risks, but the application of appropriate standards is largely determined by the infrastructure managers or operators themselves, with some third-party checks. This offers a different approach to the more prescriptive RIR legislation, which provides for an authorisation process by reference to mandatory standards that the project entity must meet and requires third-party verification of compliance to obtain authorisation from the Safety Authority.

Question 1: *Thinking about any possible changes you may have proposed to RIR 2011, are there requirements in the safety or interoperability regimes that you think should remain to ensure the continuing safe operation of the railway?*
☐ ***Yes***
☐ *No*

Please could you provide the reasons for your response here:

Response: Extension of PRM Requirements – see response to General Question 15 above.

Question 2: *What are your views on how the safety regimes in the UK and RIR 2011 interact? Is it clear how the two regimes work?*
☐ *Positive*
☐ ***Negative***
☐ *Neutral*
☐ *Mixed*
☐ *Other*

Please could you provide the reasons for your response here:

Response: It is unclear to us how the two regimes interact.

Exclusions

RIR 2011 contains a provision for the Department to publish a list of lines that are excluded from the regulations, e.g. metros, trams, light rail, local lines separate from the rest of the rail system, historic and touristic lines etc. The original approach when transposing the directive was to not apply the regulations to those parts of the network that the directive allowed to be excluded. This was consistent with the better regulation principle of minimising regulatory burdens when transposing European legislation. Such a list of excluded lines has been published and is available at the following:
https://www.gov.uk/government/publications/exclusions-from-the-railways-interoperability-regulations-2011

Question 3: *What are your views on the provisions within RIR 2011 which exclude certain parts of the railway from the scope of the interoperability regime? What are your views on the regulatory mechanism for DfT to publish an exclusion list?*
- ☐ *Positive*
- ☐ *Negative*
- ☐ *Neutral*
- ☐ ***Mixed***
- ☐ *Other*

Please could you provide the reasons for your response here:

> Response: Whilst we recognise it is necessary to provide certain exemptions for heritage railways and trams, it is unclear why metros, light rail or local lines should be excluded from the provisions regarding safety and PRM requirements.

Upgrade and Renewals

It is possible for the Department to publish a list of projects that it considers to be upgrade or renewal work under RIR 2011, so far, such a list has not been compiled.

Question 4: *What are your views on the regulatory mechanism of DfT to publish a list of projects that it considers to be upgrade or renewal?*
- ☐ ***Positive***
- ☐ *Negative*
- ☐ *Neutral*
- ☐ *Mixed*
- ☐ *Other*

Please could you provide the reasons for your response here:
> Response: Publication of such a list would make it clear whether RIR2011 is being applied

Roles and Responsibilities

Refer to Annex I for any guidance in answering this question.

Question 5: *What are your views on the current roles and responsibilities of a) railway actors and b) regulatory bodies as outlined in RIR 2011? Do you think there should be any changes?*
> Response: The ORR and RSSB should have a much greater role

<u>Costs and Benefits</u>

The Impact Assessment that accompanied RIR 2011 estimated the costs and benefits of the changes that would be introduced by the new regulations over a ten-year period. It estimated a total benefit of £111m for the chosen option 2 which was to implement the 2008 Interoperability Directive with additional provisions to provide clarity and flexibility to the rail industry. The estimated costs were £35.8m over this ten-year period, which were mostly attributed to the costs that would be incurred by owners of infrastructure in setting up a register of their infrastructure. The total net benefit was therefore estimated as £75.14m.

For further information the impact assessment that accompanied the introduction of the 2011 regulations is available at:
http://www.legislation.gov.uk/ukia/2011/449/pdfs/ukia_20110449_en.pdf

Question 6: *Please provide any information about the actual costs and benefits of RIR 2011 compared with the Impact Assessment estimates - for example, the costs and benefits of setting up the register of infrastructure.*

> Response (if you wish to provide data separately or in another format, please contact interoperability@dft.gov.uk and we'd be happy to advise):

<u>Register of Infrastructure</u>

Question 7: *What are your views on the requirements for infrastructure owners to keep a register of infrastructure in line with the retained and corrected EU specification?*
- ☐ ***<u>Positive</u>***
- ☐ *Negative*
- ☐ *Neutral*
- ☐ *Mixed*
- ☐ *Other*

Please could you provide the reasons for your response here:

> Response: Such a register should be maintained as a matter of course.

<u>Authorisations</u>

Question 8: *What are your views on the current vehicle type authorisation process in the regulations? Has it delivered the intended benefit of making it easier to obtain an authorisation for an identical vehicle? Have there been any unintended effects?*
- ☐ *Positive*
- ☐ ***<u>Negative</u>***
- ☐ *Neutral*
- ☐ *Mixed*
- ☐ *Other*

Please could you provide the reasons for your response here:

> Response: Whilst PRM requirements may have been followed with new vehicles, each rail company has decided to implement them in a different way

Question 9: *What are your views on the provisions for enabling a type authorisation process to apply to infrastructure projects under RIR 2011? Has it been widely used by your organisation and led to any benefits or drawbacks?*

- ☐ *Positive*
- ☐ *Negative*
- ☐ *Neutral*
- ☐ *Mixed*
- ☐ *Other*

Please could you provide the reasons for your response here:

Response: No particular views; not relevant to our organisation.

Question 10: *What are your views on the provisions to enable conditions and restrictions to be attached to an authorisation which might, for example, impose limitations on the use of a subsystem, or requirements that must be met by a time specified in the authorisation?*

- ☐ *Positive*
- ☐ *Negative*
- ☐ *Neutral*
- ☐ *Mixed*
- ☐ *Other*

Please could you provide the reasons for your response here:

Response: No particular views; not relevant to our organisation.

Under Regulation 13 of RIR 2011, a project renewing or upgrading a structural subsystem may apply to the Competent Authority for a decision as to whether an authorisation is required or the extent to which the NTSNs should apply to the work. The Competent Authority may then decide if authorisation is required, or if all/parts of a NTSN are not required to be complied with for this project. Regulation 13 decisions can be issued so that an authorisation is not required for infrastructure or vehicle projects.

The NTSN exemption criteria are set out in Regulation 14 and among other things include when a project is too far advanced when a NTSN is published or where the application of an NTSN would compromise the economic viability of the project. The full exemption criteria can be found here: https://www.legislation.gov.uk/uksi/2011/3066/regulation/14

Question 11: *What are your views on the effectiveness of regulations 13 and 14?*

- ☐ *Positive*
- ☐ *Negative*
- ☐ *Neutral*
- ☐ *Mixed*
- ☐ *Other*

Please could you provide the reasons for your response here:

Response: No particular views; not relevant to our organisation.

Question 12: *What are your views on the requirement for new work, upgrade and renewal to be subject to authorisation? Is it clear which work falls within these categories and could the system be improved?*

- ☐ *Positive*
- ☐ ***Negative***
- ☐ *Neutral*
- ☐ *Mixed*
- ☐ *Other*

Please could you provide the reasons for your response here:

Response: It is often unclear which work falls within these categories

Question 13: *What are your views on the competent authorities' roles (for GB the DfT, and for NI the DfI) in making decisions about non-compliance with standards or the need for an authorisation to place into service? Do you think another body should perform this function?*

☐ *Positive*
☐ ***Negative***
☐ *Neutral*
☐ *Mixed*
☐ *Other*

Please could you provide the reasons for your response here:

Response: The ORR – with advice from RSSB – should perform this function

Question 14: *What are your views on the exemption criteria set out in Regulation 14 of RIR 2011? Are amendments or a new criteria required?*

☐ *Positive*
☐ ***Negative***
☐ *Neutral*
☐ *Mixed*
☐ *Other*

Please could you provide the reasons for your response here:

Response: It is unclear how far these criteria are being correctly applied. This suggests that they should be reviewed.

The Recast Interoperability Directive

Further regulatory changes concerning interoperability in the UK are expected to be made in 2021. The first of these concerns the Channel Tunnel and the second set of changes relate to the operation of the interoperability regime in Northern Ireland. The changes required for the Tunnel concern the continuity of cross-border services and France's obligations to keep pace with developments in EU law for rail interoperability and safety.

The recast interoperability Directive 2016/797 was introduced in the EU as part of the technical pillar of the Fourth Railway Package. It gave new vehicle authorisation powers to the European Union Agency for Railways and also makes changes to the processes for authorising new vehicles to be placed on the EU market. The UK did not implement the recast Directive, but is considering the extent to which the legislative framework for the UK section of the Tunnel should be changed for the sake of consistency and ensuring a unified framework for the whole of the Tunnel. The increase in powers for the Agency will not apply to the UK section and the UK will not dynamically align with EU law in relation to the UK section of the Tunnel.

The changes required for NI are related to the continued application of EU law for interoperability as a result of the Northern Ireland Protocol. Further information about the regulatory changes for NI and the Tunnel will be made available as soon as possible.

Question 15: *Do you have any views about the processes for vehicle authorisation for domestic GB-only vehicles compared with international vehicles?*

Response: It is unclear how the processes are fully taken into account by railway operating companies or train manufacturers.

Accessibility

Currently, the UK's accessibility standards in rail are contained within three sets of standards: *The Persons with Disabilities and Persons of Reduced Mobilities (PRM) NTSN,* the *Rail Vehicle Accessibility (Non-Interoperable Rail System) Regulations (RVAR) 2010* and the *Design Standards for Accessible Railway Stations Code of Practice.*

The PRM NTSN retains the technical requirements from the European TSI which applied in the UK up to the 31 December 2020 and contains the mandatory standards, which must be applied when new work or renewal or upgrade is carried out.

RVAR is no longer the applicable standard for seeking an authorisation to place into service. However, RVAR still remains in place for those parts of the railway that do not fall within scope of RIR 2011 (i.e. light railway, tramways and heritage lines).

New stations or stations where upgrade or renewal work (defined as 'major work') takes place come under the scope of RIR and the PRM NTSN. This applies to all the public areas of stations controlled by the railway undertaking, infrastructure manager or station manager. The Code of Practice contains mandatory national standards which must be applied to all other work and applies to each licenced train operating company (TOC) and licensed infrastructure manager. It applies in all cases, whether installing, renewing or replacing infrastructure or facilities. It includes best practice guidance which should be applied wherever possible. Failing to comply with the Code of Practice means an operator is in breach of their licence and may be subject to enforcement action by the Office of Rail and Road (ORR). If the scheme promoter cannot meet national standards in the Code of Practice they must apply for a dispensation under the code. A dispensation of this type is an authorised non-compliance with a particular element of national accessibility standards for UK rail projects. They are granted by the Secretary of State after an application made by the scheme promoter.

For Rolling Stock, the PRM-NTSN sets the standard to which all new rolling stock must be designed and built. For rolling stock built before accessibility standards were established in Great Britain, a policy of targeted compliance is used by the Department. This was established in the decade ahead of the 31 December 2019 mandatory accessibility standards compliance date for all rolling stock and allows a pragmatic approach to achieving compliance when upgrading older vehicles through the use of the Secretary of State's powers to grant dispensations.

Question 16: *Although we are not seeking views on the content of individual standards, what are your views on the current accessibility standards framework for (a) stations and (b) rolling stock?*
☐   *Positive*
☐   ***Negative***
☐   *Neutral*
☐   *Mixed*
☐   *Other*

Please could you provide the reasons for your response here, including whether you are responding for stations or rolling stock, or both:

Response: The platform / train interface is a key issue when deciding on accessibility. Hence hew trains may be regarded as meeting accessibility standards, but passengers with disability issues will not be able to board or alight safely because of the platform height. This is a key safety issue. This needs to be addressed as far as possible by requiring a sliding step (such as is being used on the new Merseyrail and East Anglia Stadler multiple units) as part of the standards.

Annex I

Roles and Responsibilities under The Railways (Interoperability) Regulations 2011 (RIR 2011)

Project entity – In relation to a project, a contracting entity or manufacturer or the authorised representative of a contracting entity or manufacturer. An example of a project entity for an infrastructure project would be Network Rail, and for a rolling stock project it would be a passenger or freight vehicle manufacture.

Railway Undertakings – Any public or private undertaking, whose principal business of which is to provide services for the transport of goods and/or passengers by rail. An RU could become an owner of a subsystem and would have an ongoing obligation under the regulations to maintain the subsystem (in accordance with the standards which were used to obtain authorisation). The same requirements might also apply to a leasing company that owns the vehicle.

Safety Authority – This is the body that issues the authorisation to place into service to the project entity. For Great Britain this would be the Office of Rail and Road, Department for Infrastructure in Northern Ireland and the Intergovernmental Commission for the UK section of the Channel Tunnel.

Secretary of State – Responsible for publishing technical standards (NTSNs and NTRs) and the lists outlined in questions 3 and 4 of the technical questions section. Changes to the technical standards will be made with help from the RSSB. Although there is no formal role for the RSSB on the face of the regulations, stakeholders can find more information about how they will make recommendations about these standards and the change management process at the [following link](#).

Competent Authority - This body makes a decision about the application of the authorisation process for renewal or upgrade work under regulation 13, and makes decisions about exemptions from NTSNs under regulation 14. A Competent Authority also makes decisions about dispensations against accessibility standards under regulation 45 and National Technical Rule dispensations under regulation 46. This role is carried out by the Department for Transport in GB and the Department for Infrastructure in NI.

Approved Bodies – Independent third parties that check that the project entity's work complies with the relevant standards in the National Technical Specification Notices and issues a UK certificate of verification as proof of compliance for the project's technical file.

Designated Bodies - Independent third parties that check that the project entity's work complies with the relevant standards in the National Technical Rules and issues a UK certificate of verification as proof of compliance for the project's technical file.

Infrastructure owner – The entity required to keep a register of infrastructure under regulation 35. This register must be kept against a specification to detail how the asset complies or does not comply with the relevant NTSN.