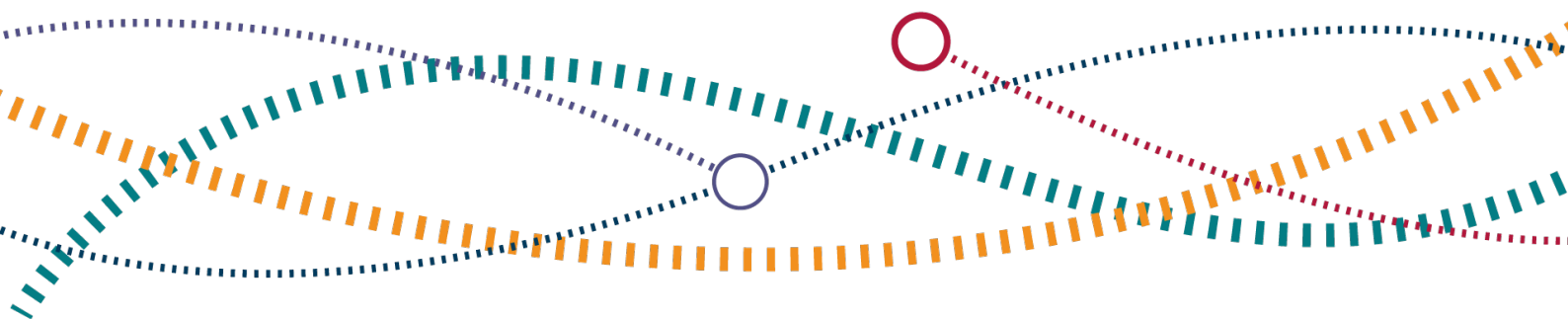




The Railways and Other Guided Transport Systems (Safety) Regulations 2006 (as amended) (ROGS)

Findings and conclusions from the
stakeholder survey as part of the
2021 post implementation review of
ROGS

06 October 2021



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1. Introduction

Purpose of the document

- 1.1 The Office of Rail and Road (ORR) carried out a stakeholder survey¹ (“the survey”) as part of the 2021 post implementation review² (PIR) of the Railways and Other Guided Transport Systems (Safety) Regulations 2006 (as amended) (ROGS). The PIR was conducted by ORR on behalf of the Secretary of State for Transport with oversight from the Department of Transport (DfT) to:
- analyse whether ROGS provide an appropriate level of regulation; and
 - check that any regulatory burdens or costs on business remain proportionate to the objectives.
- 1.2 The survey was used to collect sufficient evidence to establish whether, and to what extent, ROGS:
- have achieved their original objectives;
 - have objectives which are still valid;
 - are still required and remain the best option for achieving those objectives; and
 - can be improved to reduce the burden on business and overall costs.
- 1.3 The last PIR of ROGS in 2016 considered a medium to high level evidence base. The report³ concluded that ROGS (as amended), were meeting their original objectives and were fit for purpose. Given the conclusions from the 2016 PIR, and the fact that no significant changes have been made to ROGS since then, a lower-level evidence base was considered proportionate for the 2021 PIR. Stakeholders were asked fewer questions compared with 2016, and the 2021 PIR focused on finding out whether ROGS continue to meet their objectives and whether stakeholders would like to see any specific changes to ROGS.

¹ The questions from the stakeholder survey can be found in [Annex 1](#). Details of the stakeholder survey can be found here: [Stakeholder survey for the second post-implementation review of the Railways and Other Guided Transport Systems \(Safety\) Regulations 2006 | Office of Rail and Road \(orr.gov.uk\)](#)

² The 2021 ROGS PIR final report can be found here: [Second post-implementation review of the 'Railways and Other Guided Transport Systems \(Safety\) Regulations 2006' - GOV.UK \(www.gov.uk\)](#)

³ [Post implementation review of the railways and other guided transport systems \(publishing.service.gov.uk\)](#)

- 1.4 ORR published a consultation on 23 November 2020, which set out the background to the PIR and asked stakeholders to complete a survey⁴ and provide comments by 18 January 2021. The survey asked for general feedback from stakeholders on their views and experience of ROGS since the 2016 PIR. The survey was followed up by a direct email from DfT inviting stakeholders to supplement their survey responses with more detail but only one response was received following this request.
- 1.5 This document sets out the findings and conclusions from the survey.

Structure of the document

- 1.6 Chapter 2 sets out the methodology for the survey. Chapter 3 provides a summary of the findings and our conclusions (including next steps). Chapter 4 sets out detailed findings from the survey for each of the questions we asked. Chapter 5 provides a glossary of key terms used in the document. Annex 1 sets out the questions asked to stakeholders as part of the survey.

Confidentiality

- 1.7 Stakeholders provided responses to the survey anonymously. However, we do indicate the *type* of respondent throughout this report (for example, a train operating company (TOC) or Entity in Charge of Maintenance (ECM)).

⁴The questions from the stakeholder survey can be found in [Annex 1](#). Details of the stakeholder survey can be found here: [Stakeholder survey for the second post-implementation review of the Railways and Other Guided Transport Systems \(Safety\) Regulations 2006 | Office of Rail and Road \(orr.gov.uk\)](#)

2. Methodology

2.1 The survey was sent by email to around 400 individuals representing organisations from across the rail industry. This included all holders of mainline and non-mainline safety certificates and safety authorisations, entities in charge of maintenance, tramways, the heritage sector, and railway safety consultancies. It was also sent to members of the Rail Industry Health and Safety Advisory Committee. In total, there were 32 responses to the survey, distributed as shown below.

Table 2.1 Types of respondents to the 2021 PIR survey

Type of respondent	Number of responses
Consultancy	8
Entity in charge of maintenance	3
Freight operating company	2
Independent safety assessor	1
Light railway company	1
Local government body	1
Maintainer of vehicles or infrastructure	3
On track machine operator	1
Other	3
Rolling stock manufacturer or company (including leasing companies)	2
Train operating company	5
Tramways	2
Total	32

Source: ORR 2021 PIR survey

2.2 The different sizes of the organisations that responded are shown in Table 2.2.

Table 2.2 Size of the organisations that responded to the survey

Organisation size	Number
Fewer than 10 employees	5
Between 11 and 50 employees	3
Between 51 and 250 employees	8
More than 250 employees	16
Total	32

Source: ORR 2021 PIR survey

- 2.3 Although 32 stakeholders responded to the survey, only 31 provided answers to the questions (one stakeholder did not answer any of the questions). As such, the survey findings in this report are based on 31 responses⁵.
- 2.4 Feedback from a workshop organised by rail industry bodies was also considered as evidence for the 2021 PIR. In the detailed findings section (Chapter 4), feedback from the workshop is specifically highlighted to distinguish it from feedback obtained via the survey.

⁵ There was a total of eight survey questions, with 31 respondents providing answers to the questions. For question 6, only 30 respondents provided an answer, meaning percentages for that question are based on a total of 30 responses.

3. Summary of the findings and conclusions

- 3.1 The responses to the survey build on the positive findings of ORR's evaluation of ROGS in 2010⁶ and 2016⁷. The responses indicate that ROGS continue to work well and are meeting their original objectives. Following amendments to ROGS in 2011 and 2013, the consolidated objectives and intended effects of ROGS were as follows:
- (a) Bring together and streamline the regulatory landscape (by replacing three sets of regulations with one).
 - (b) Secure greater proportionality to risk and reduce costs.
 - (c) Make safety regulation of the railway more effective, better focused, more coherent, and with less bureaucratic processes.
 - (d) Apply the same principles of regulation to the mainline railway and other transport systems (e.g., metros, tramways and heritage railways) but only in proportion to risk and the character of the transport system.
- 3.2 The survey found that ROGS provide an effective framework for railway safety in the UK, whilst the impact of ROGS on organisations has not changed since the previous PIR in 2016. Overall, ROGS have had a positive impact on organisations and there have not been any unintended consequences of significance to note.
- 3.3 The survey found that the costs of complying with ROGS are proportionate to the benefits, and there do not appear to be disproportionate impacts on smaller businesses⁸. No evidence or examples were provided to support the perception of a small group of respondents that the impact had been disproportionate.
- 3.4 The survey identified that some stakeholders have experienced issues where ROGS interacts with other legislation, notably interoperability legislation. Whilst stakeholders thought that ROGS should remain, most thought that this should be with some amendments made to them. However, the supporting comments lacked specific suggestions as to what those changes should be and how they would

⁶ [Impact of ROGS | Office of Rail and Road \(orr.gov.uk\)](https://www.orr.gov.uk/impact-of-rogs)

⁷ [Impact of ROGS | Office of Rail and Road \(orr.gov.uk\)](https://www.orr.gov.uk/impact-of-rogs)

⁸ A smaller business is considered to be one which has fewer than 50 employees.

address the issues identified. There was a further opportunity to explore stakeholders' views on potential changes to ROGs as part of DfT's separate survey as part of its PIR of the Railways (Interoperability) Regulations 2011 (RIR) that is due for publication in January 2022. The outcome of the RIR PIR will feed into any future work on ROGS and supporting guidance.

3.5 Key points raised in the survey were:

- (a) The relationship between interoperability requirements, National Technical Specification Notices (NTSN) and ROGS could be made clearer.
- (b) The legal requirements in ROGS are no longer as clear after significant changes to legislation at the end of the EU exit transition period (although this concerns clarity of the legal documentation rather than the content).
- (c) ORR's ROGS guidance could cross-refer to other hazard specific legislation to support duty holders in developing a more holistic approach to their safety management system.
- (d) The relationship between ROGS and the common safety method for risk evaluation and assessment (CSM RA) could be explained more clearly.
- (e) There is a lack of clarity on duties arising from ROGS for freight end users.

3.6 Overall, the findings from the survey do not indicate the need for legislative change and we are therefore not proposing any changes to the Regulations or to the scope of their application. The ROGS PIR report therefore recommends that ROGS remain in place unamended, as ROGS continue to meet their original objectives.

3.7 The PIR report proposes the following in respect of improving guidance for stakeholders:

- (a) ORR should update its ROGS guidance to clearly explain the legal framework and where requirements sit following the legislative amendments made at the end of the EU Exit transition period on 31 December 2020.
- (b) A consolidated version of ROGS should be made available to duty holders. This should include the changes that took effect from the end of the EU Exit transition period.
- (c) ORR should carry out a wider review of its ROGS guidance to provide greater clarity on:

- (i) The relationship between interoperability, NTSN and ROGS.
- (ii) Freight end users and where ROGS affects their activities.
- (iii) The relationship between the CSM RA and ROGS.
- (iv) The relationship between ROGS and other legislation (e.g., Health and Safety at Work etc. Act 1974) and the relationship with industry standards.

4. Detailed findings

4.1 Respondents

4.1 There were 32 respondents to the survey and answers provided by 31 of those. The types of respondents and the sizes of respondents (in terms of employees) are shown in Table 4.1 below.

Table 4.1 Size and type of organisation that responded to the survey

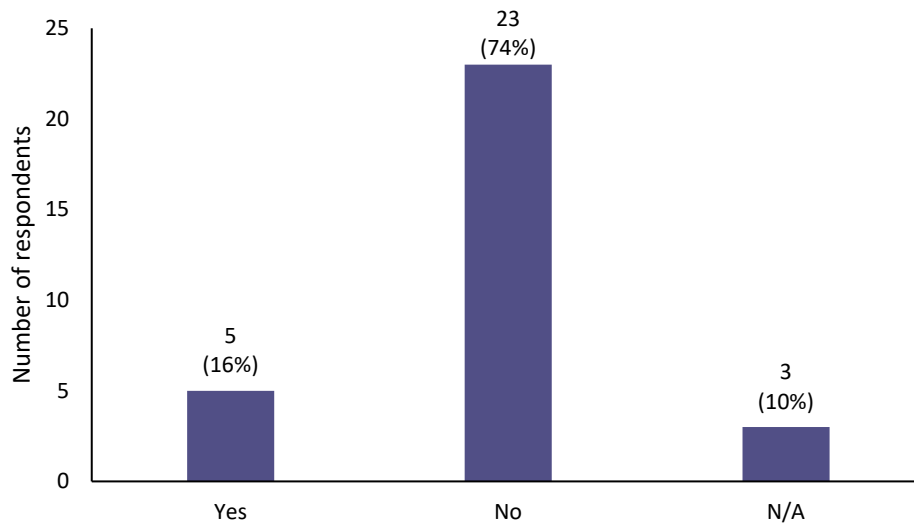
No.	Respondent type	Respondent size
1	Consultancy	Less than 10 employees
2	Consultancy	More than 250 employees
3	Consultancy	Less than 10 employees
4	Consultancy	More than 250 employees
5	Consultancy	More than 250 employees
6	Consultancy	Between 51 and 250 employees
7	Consultancy	Less than 10 employees
8	Consultancy	Less than 10 employees
9	Entity in charge of maintenance	Between 51 and 250 employees
10	Entity in charge of maintenance	More than 250 employees
11	Entity in charge of maintenance	Between 11 and 50 employees
12	Freight operating company	Between 51 and 250 employees
13	Freight operating company	More than 250 employees
14	Independent safety assessor	Less than 10 employees
15	Light railway company	Between 11 and 50 employees
16	Local government body	More than 250 employees
17	Maintainer of vehicles or infrastructure	Between 51 and 250 employees
18	Maintainer of vehicles or infrastructure	More than 250 employees

No.	Respondent type	Respondent size
19	Maintainer of vehicles or infrastructure	More than 250 employees
20	On track machine operator	Between 51 and 250 employees
21	Other	More than 250 employees
22	Other	More than 250 employees
23	Other	More than 250 employees
24	Rolling stock manufacturer or company (incl. Leasing companies)	More than 250 employees
25	Rolling stock manufacturer or company (incl. Leasing companies)	Between 51 and 250 employees
26	Train operating company	More than 250 employees
27	Train operating company	Between 11 and 50 employees
28	Train operating company	More than 250 employees
29	Train operating company	More than 250 employees
30	Train operating company	Between 51 and 250 employees
31	Tramways	More than 250 employees
32	Tramways	Between 51 and 250 employees

4.2 Respondent 15 did not provide any answers to the survey questions. As such, findings for each survey question are based on 31 responses.

4.2 The impact of ROGS on stakeholders since the 2016 PIR

4.3 **Figure 4.1** Question 1 asked stakeholders: “Has the impact of ROGS on your organisation changed since the previous PIR survey in 2016?”



4.4 Most respondents (74%) said that the impact of ROGS on their organisation had not changed since the previous PIR survey in 2016. 16% indicated that the impact had changed, with three respondents (10%) indicating that the question was not applicable.

Table 4.2 Stakeholders for whom the impact of ROGS has changed since 2016

No.	Respondent type
1	Consultancy
17	Maintainer of vehicles or infrastructure
22	Other
23	Other
24	Rolling stock manufacturer or company (incl. Leasing companies)

4.5 The small number of comments made did not reveal that significant changes had been felt since the last PIR and it was not always clear whether the changes had been positive or negative. There was an indication that understanding of ROGS across industry is not always at the level it could be, and one respondent thought

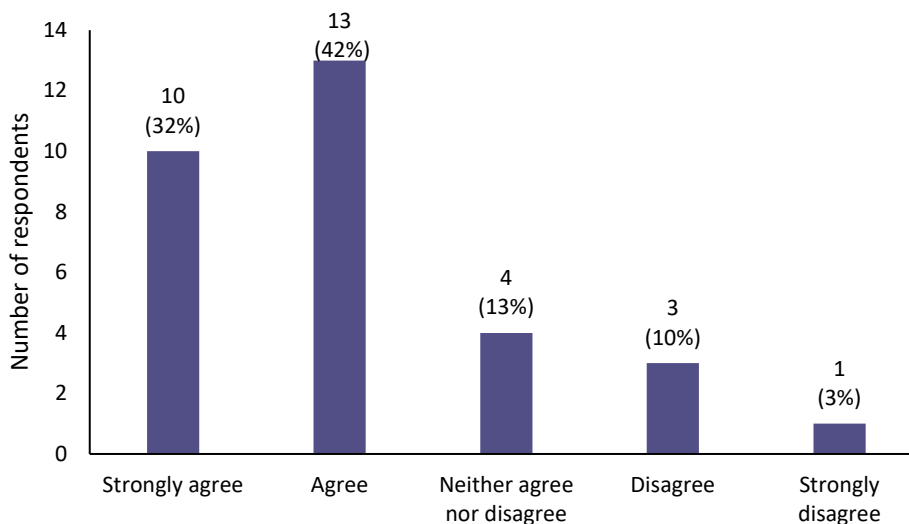
that confusion had been created by the application of ROGS and licence conditions which impacted on new vehicle projects.

ORR conclusions

- 4.6 The survey responses indicate that generally the impacts of ROGS on stakeholders have not changed since 2016.
- 4.7 In response to the comments from stakeholders, we note recent changes to the licence conditions which now means that licence holders need to follow railway industry standards, unless they develop an alternative which is equivalent to the standard.
- 4.8 We conclude that additional guidance on ROGS, including the relationship between ROGS and industry standards would be beneficial. We will review existing guidance to identify where further clarification would assist.

4.3 ROGS as a framework for railway safety in the UK

- 4.9 **Figure 4.2** Question 2 asked stakeholders to indicate how strongly they agreed or disagreed with the following statement: *“ROGS provides an effective framework for railway safety in the UK.”*



- 4.10 74% of respondents agreed or strongly agreed that ROGS provide an effective framework for railway safety in the UK, with 13% neither agreeing nor disagreeing.
- 4.11 Comments from stakeholders who agreed or neither agreed nor disagreed, indicated the following:

- (a) ROGS break down responsibilities for mainline and non-mainline railways.
- (b) ROGS provides a degree of commonality.
- (c) ROGS is easy to understand and implement, whilst remaining relevant and well established within the industry.
- (d) ROGS provides a robust framework for the development of risk and safety management systems.
- (e) The enforcement and understanding of ROGS is sometimes lacking, with responsibilities not always being understood.
- (f) There can be confusion, trade-offs, and a lack of clarity between the different policies, standards, regulations and specifications that exist.
- (g) ROGS have a lack of approval for minor railways and a lack of clarity on applicability for freight end users.
- (h) Visibility and awareness of ROGS needs improving amongst engineers, especially for those working in the design phase of projects.
- (i) Whilst a good reference, ROGS can sometimes be seen as a tick box exercise.
- (j) The use of CSM RA and health and safety management system could be improved and better integrated.

4.12 13% (four respondents) disagreed or strongly disagreed that the ROGS provided an effective framework for railway safety.

Table 4.3 Respondents who did not agree that ROGS provides an effective framework for railway safety

No.	Respondent type
2	Consultancy
3	Consultancy
7	Consultancy
31	Tramways

4.13 Where stakeholders did not agree that ROGS provide an effective framework for railway safety in the UK, the comments provided indicate the following themes:

- (a) ROGS, and their implementation and guidance, do not give enough attention to low probability, high consequence events.

- (b) ROGS are not effectively enforced.
- (c) Audits are process driven and recommendations only provided when a major incident occurs.
- (d) ROGS does not always fit with the operations of tramways, leaving them with limited safety regulation.

4.14 Two specific suggestions were made:

- (a) Following the UK's departure from the EU and the associated impacts on the Entities in Charge of Maintenance Regulation⁹, incorporating all requirements into a single revised version of the ROGS would be useful.
- (b) Consolidated sets of ROGS should be published at each revision, rather than publishing amended versions.

ORR conclusions

4.15 Overall, stakeholders agree that ROGS provides an effective framework for railway safety in the UK. However, ORR recognises that further updating of the ROGS guidance would be beneficial (see paragraphs 5.17 and 5.35).

4.16 ORR notes that industry standards are designed to meet the requirements of ROGS and should not create duplication. The risk assessment process represents a key feature of ROGS, and that should capture low probability, high risk events. Audit is also an integral part of the safety management system that duty holders are required to have.

4.17 Since the end of the EU exit transition period, several previously directly applicable EU regulations have been incorporated into ROGS. This means the existing ORR ROGS guidance no longer reflects the current legislation. We will review and update the existing guidance on ROGS to reflect the inclusion of the ECM regulation and Common Safety Targets into ROGS and explain other EU exit changes. We will also seek to publish a consolidated version of ROGS as guidance which will assist stakeholders in understanding the changes made following our exit from the EU.

4.18 We published a strategy for the health and safety regulation of tramways in 2019¹⁰. This strategy set out our refreshed approach to our supervision of the

⁹ ORR guidance on Entities in Charge of Maintenance can be found here: [Guidance on Entities in Charge of Maintenance from 1 January 2021 \(orr.gov.uk\)](https://www.gov.uk/guidance/guidance-on-entities-in-charge-of-maintenance-from-1-january-2021)

¹⁰ ORR strategy document on the health and safety regulation of tramways can be found here: [Strategy for regulation of health and safety risks – chapter 14: Tramways](#)

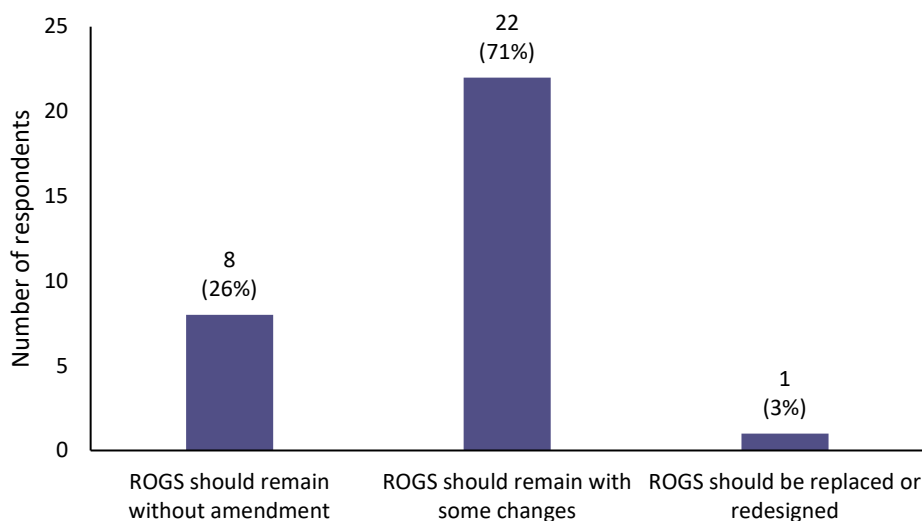
tramway sector. This included supporting the tramway sector in establishing a new Light Rail Safety and Standards Board (LRSSB).

- 4.19 We conclude that further updated guidance would be helpful on the relationship between ROGS and other industry standards, on ROGS in relation to freight end users, and the use of the Risk Management Maturity Model (RM3¹¹). This should take account of any conclusions from the RIR PIR.

4.4 What should happen to ROGS in the future

- 4.20 **Figure 4.3** Question 3 asked stakeholders: “Which of the following do you think should apply to ROGS?”

- A) ROGS should remain without amendment.
- B) ROGS should remain with some changes.
- C) ROGS should be replaced or redesigned.”



- 4.21 Most respondents (71%) felt that ROGS should remain, but with some changes made to them. From the comments made in support of some changes it was hard to identify what specific changes to ROGS would address the issues. One respondent said that the ROGS should be replaced or redesigned. Comments made by these stakeholders, and ORR’s response can be found in table 4.4.

¹¹ More information on RM3 can be found here: [Risk Management Maturity Model \(RM3\) | Office of Rail and Road \(orr.gov.uk\)](https://www.orr.gov.uk/risk-management-maturity-model-rm3)

Table 4.4 Comments in support of some changes to ROGS

Summary of comments made	ORR response
<p>A clearer demarcation is needed between ROGS and other industry standards, such as Network Rail's and London Underground Limited's own standards. There should also be the removal of any duplication where it exists.</p>	<p>ORR's view is that standards are designed to meet the requirements of ROGS, and duplication should not occur. We will consider how best to provide new guidance on the relationship between interoperability, standards and ROGS.</p>
<p>The legislation needs altering so that it gives more recognition to low probability, high consequence events.</p>	<p>We consider that the risk assessment approach, which is central to ROGS, already addresses low probability high consequence events. The safety management system should reflect this.</p>
<p>ROGS need stronger links with the CSM risk assessment process and the TSIs.</p>	<p>We consider that this can be addressed through guidance and will review how we can improve our existing guidance and supplement with new guidance where appropriate. We will take account of the RIR PIR as part of this work.</p>
<p>The trade-offs between safety and interoperability need to be removed, but the ROGS should not be removed without a replacement.</p>	<p>The separate RIR PIR will provide an opportunity to explore this issue further. We will take any relevant conclusions about the relationship between interoperability and ROGS into account when updating our guidance.</p>
<p>There should be a thorough review of ROGS.</p>	<p>We consider this PIR and the separate review of RIR provides sufficient opportunity for review.</p>
<p>The safety certificate and authorisation criteria could be reverted to the order of the first ROGS suite, so that an application tells a developing story¹². A requirement could be added for maintaining up-to-date contact details and for responding to, or acknowledging, applicants.</p>	<p>There is already flexibility in terms of how information is presented in the application. The criteria are not set out in order of priority and applicants may structure their application in a way that reflects their safety management system using cross-references to the criteria. We cover this in our assessment manual.</p> <p>ORR checks contact details annually with duty holders to whom we have issued safety authorisations or safety certificates, but we can consider how the certificate / authorisation consultation process can be improved without the need to change the regulations.</p>

¹² In terms of application documents, ORR normally advise applicants to take one of the following approaches: i) in order of the assessment criteria as they are written, or ii) describe how their safety management system is structured and provide a cross-reference matrix that shows which sections of the document correspond with the assessment criteria

Summary of comments made	ORR response
<p>Overall, the regulations are suitable and sufficient. Greater clarity on the applicability of ROGS at freight end user locations would be useful, particularly with regards to the management of safety critical work.</p>	<p>We suggest that this is addressed in guidance to explain how ROGS apply for freight end users.</p>
<p>Update the ROGS to incorporate ECM regulations as transposed to UK law (i.e. 445/2011 and 2019/779).</p>	<p>Since the end of the EU exit transition period, several previously directly applicable EU regulations have been incorporated into ROGS including EU Regulation 445/2011 on ECM requirements. EU Regulation 2019/779 was not incorporated into GB law, although it will be applied to channel tunnel operations in due course. ORR will update the existing ROGS guide during 2021 to reflect the legal framework following EU exit.</p>
<p>ROGS need to be brought up to date with, or checked against, related system safety standards that are integral to development of safety cases in the UK and have all been updated since 2016.</p>	<p>We do not think this requires change to the legislation itself and could be addressed through guidance and/or a review of our assessment criteria.</p>
<p>ROGS should be amended in line with the UK's exit from the EU. Should also be reviewed in line with other rail regulation due to the exit from the EU, and which are subject to their own post-implementation reviews.</p>	<p>ROGS were amended at the end of the transition period to ensure that they still work effectively after our exit from the EU.</p>
<p>ROGS should remain compatible with EU regulations, but this should not prevent specific GB changes to suit industry, provided that such changes do not prejudice business and vehicle exchange.</p>	<p>The requirements in ROGS have not altered following our exit from the EU and future changes to suit GB industry needs will be possible subject to stakeholder consultation.</p>
<p>Overall governance is good for providing foundations in maintaining safety, but in doing so it should remove any confusion, increase simplicity, and focus on system hazards. Need to consider adopting or removing things from TSI or ROGS and consider what is locally managed.</p>	<p>DfT's PIR of RIR invited stakeholders to comment on the relationship between interoperability and ROGS. Feedback from this PIR will be considered when updating the ROGS guidance.</p>
<p>ROGS should recognise and require greater transparency in how the duty of cooperation is achieved, including</p>	<p>We consider that this issue can be addressed through guidance on the relationship between ROGS and other safety legislation.</p>

Summary of comments made	ORR response
<p>providing for better integration with other safety legislation and regulations.</p>	
<p>The regulations are robust but only apply to capital, enhancement, and renewals projects. Amending them so they are scalable to the project scope would help with project delivery.</p>	<p>It is difficult to respond to this without more detail as to the perceived problems with the current application of ROGS. We will attempt to explore this further when reviewing the guidance on ROGS.</p>
<p>ROGS should not be replaced.</p>	<p>Noted.</p>
<p>ROGS should remain, with the necessary changes made following Brexit. A consolidated set of Regulations would make things clearer.</p>	<p>We will aim to publish a consolidated version of ROGS as guidance for stakeholders.</p>
<p>It would be beneficial to introduce some flexibility relating to the five-year validity of Safety Authorisation and Safety Certificates to allow for alignment with the end of a contract or franchise.</p>	<p>There is no flexibility provided for currently in ROGS regarding the expiry date of safety certificates or authorisations, but this may be impacted by wider rail reforms in any case. We do not see this as a major issue in practice.</p>
<p>Greater clarity on the use, application and importance of ROGS, including the benefits they bring, would be beneficial. Briefings and training would help to ensure that there is a consistent understanding of ROGS. There are areas where a more consistent approach across industry would significantly reduce the workload for each duty holder if adopted.</p>	<p>We can address this when reviewing the guidance to support the consistent application of ROGS.</p>
<p>Greater regulation of tramways, especially relating to safety systems, is needed to bring them close in line with the mainline railway.</p>	<p>In 2018 ORR carried out a review of its approach to regulating the tramway sector, including a review of the regulatory framework. This review considered the different operating and risk profile between mainline and non-mainline tramways and whether the tramway sector should have similar permissioning requirements to the mainline and non-mainline railway metro operations. This review did not identify that change was necessary at the time. Since then, ORR has published our strategy for regulation of health and safety risks associated with tramways¹³, and supported the creation of a LRSSB to improve consistency and increase</p>

¹³ [Strategy for regulation of health and safety risks – chapter 14: Tramways | Office of Rail and Road](#)

Summary of comments made	ORR response
	confidence in the sector. ORR will carry out a review of the LRSSB in 2021/22.

- 4.22 Eight respondents (26%) felt that ROGS should remain without any amendments. Comments indicated that ROGS have worked successfully, and industry are familiar with them and their application.
- 4.23 One respondent said ROGS should be replaced or redesigned and commented that the rules needed reconstructing. They felt guidelines were not being followed by stakeholders, regulation was dependent on those policing them and that the systems used needed to change. In response, ORR notes that data shows that overall, safety continues to improve on the railway. Legislation enshrines the principle for operations on the railway to be safe so far as is reasonably practicable rather than requiring absolute safety.

Industry webinar comments

- 4.24 From the industry webinar, the following comments and points were raised:
- (a) Annual safety reports do not seem to add value, as they receive no feedback and are not published.
 - (b) Guidance could be clearer for new entrants.
 - (c) Clarity in ORR’s guidance would be desirable over how responsibilities under ROGs extend to bodies which do not have specific duties under ROGS. e.g., rolling stock leasing companies (ROSCOs).
 - (d) System for maintenance should be based on Directive 2019/779.
 - (e) Safety critical work provides a good framework, but the concept is still misunderstood by many.
 - (f) Where issues arise, these tend to be due to poor communication and subsequent misunderstanding. Greater awareness and understanding of ROGS and roles under ROGS could help streamline projects. Industry bodies such as RSSB and RDG can facilitate cooperation.

ORR conclusions

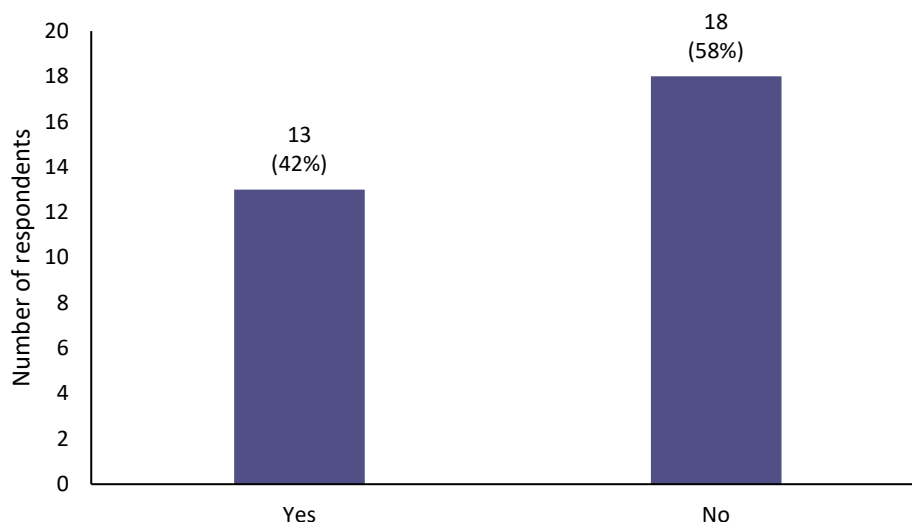
- 4.25 Most of the comments supporting amendments to ROGS did not specifically set out what changes should be made and how these would address the concerns. Survey respondents were invited to provide more explanation to support their comments, but only one response was received. ORR has responded to the

comments as shown in Table 4.4 and notes that ROGS were amended at the end of the EU exit transition period to ensure they continue to work effectively following our exit from the EU.

- 4.26 With regards to the annual safety reports, ORR notes that most of the information contained within them should already be known as a result of inspections and liaison meetings. ORR would be supportive of a review as to whether the benefits of producing an annual safety report could be achieved by non-legislative means.
- 4.27 ORR notes that in the future, Channel Tunnel operations will have to follow Directive 2019/779. Domestic duty holders operating in the rest of GB may choose to follow Directive 2019/779 voluntarily.
- 4.28 Overall, the comments do not provide the level of detail needed to establish what specific changes there should be to the ROGS. ORR's conclusion is that many of the comments provided in Table 4.4 could be addressed through improved guidance, rather than through any changes to the ROGS themselves.
- 4.29 Improved guidance would also address the issues raised at the industry body webinar which discussed the need for greater awareness of roles under ROGS, and for clarity over the interface between ROGS and RIR.

4.5 ROGS interaction with other legislation

- 4.30 **Figure 4.4** Question 4 asked stakeholders: “Are there any issues that your organisation experiences with ROGS where it interacts with other legislation?”



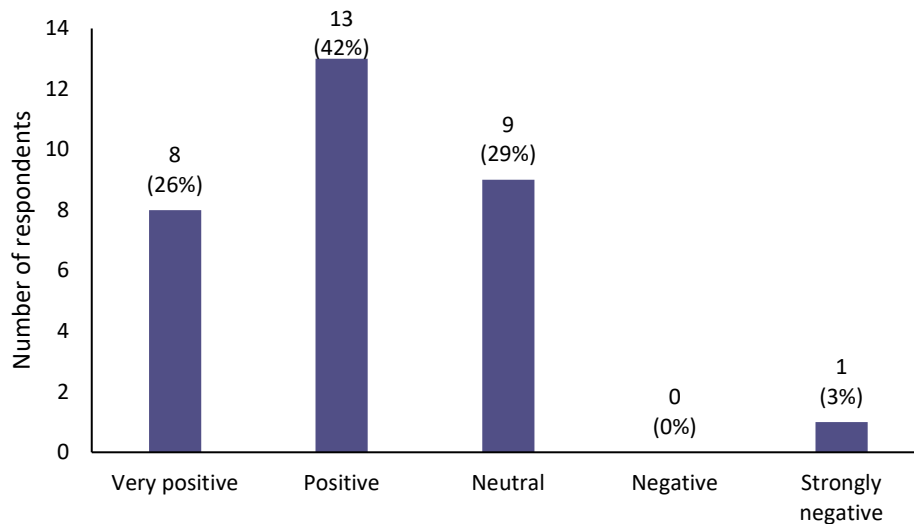
- 4.31 58% of respondents said that their organisation experienced no issues in relation to the interaction between ROGS and other legislation. One stakeholder commented that while they did not have any issues, they felt ROGS duplicated other legislation.
- 4.32 42% of respondents noted that they had experienced issues in relation to the interaction between ROGS and other legislation. Key issues identified were:
- (a) Inconsistency between ROGS and fire safety legislation can lead to contradictory results, and so need to be more aligned.
 - (b) The relationship between ROGS and the CSM RA and how to show change is managed safely in organisations not covered by CSM RA.
 - (c) The lack of clarity on the relationship between the Construction (Design and Management) Regulations 2015 and CSM RA.
 - (d) The need for clarification on the role of suppliers.
 - (e) The need to minimise interfaces between infrastructure manager duties to avoid involving a TOC and Network Rail when making station changes.
 - (f) Language issues, such as where 'safety critical' has a different meaning in ROGS compared with use of the same term in the construction sector.
 - (g) The interface with legislation relating to ECMs.
 - (h) The need for a review in the context of new technologies and integration of security issues, as the rail sector is increasingly likely to manage safety and security risks together.
 - (i) The complex relationship between ROGS, other industry standards, CSM, TSI and local policies, and the need for greater clarity between these requirements.
 - (j) Boundaries with areas outside the 'railway system' and non-rail legislation.
 - (k) Conflict between ROGS, RIR and railway licensing condition of compliance with railway industry standards.
 - (l) Lack of clarity at the boundary of ROGS with other health and safety legislation, as well as the role of ROSCOs.
 - (m) Mixed understanding as to how ROGS should be adopted and applied.
 - (n) The Assessment Bodies for CSM RA lack consistency of application and have little value in its application.

ORR conclusions

- 4.33 Overall, the main issues experienced by stakeholders' stem from a lack of clarity and understanding about the interaction of ROGS with other industry standards and other legislation.
- 4.34 ORR will consider how best to produce new guidance which will:
- (a) Clearly explain the legal framework and requirements following the legislative amendments made at the end of the EU Exit transition period.
 - (b) Provide greater clarity on the relationship between interoperability, NTSNs and ROGS.
 - (c) Provide greater clarity for freight end users where ROGS affect their activities.
 - (d) Provide greater clarity between the CSM RA and ROGS.
 - (e) Provide greater clarity on the relationship between ROGS and other legislation (e.g., Health and Safety at Work etc. Act 1974) and the relationship with industry standards.
- 4.35 ORR notes that whilst there is separate legislation for specific hazards such as fire, they are not necessarily contradictory with ROGS, and duty holders should cross-refer to other hazard specific legislation as required.

4.6 The impact of ROGS on stakeholders

- 4.36 **Figure 4.5** Question 5 asked stakeholders: *“Which of the following best describes the impact of ROGS on your organisation?”*
- a) *Positive*
 - b) *Negative*
 - c) *Neutral*



4.37 68% of respondents said that ROGS had had a positive or very positive impact on their organisation. Comments from stakeholders indicated the following themes:

- (a) ROGS require companies to have a good structure in their Safety Management Systems and to focus on safety.
- (b) ROGS provide a framework for safety management and railway safety.
- (c) ROGS make it easier to achieve buy-in to safe working at all levels of an organisation.
- (d) ROGS help to fill gaps that can exist at an organisational level.
- (e) ROGS provide clarity on responsibilities between railway actors (although these are not always clearly understood).
- (f) ROGS provide confidence that safety management systems are applied appropriately.
- (g) ROGS are better balanced and provide greater flexibility than the previous regulations¹⁴.
- (h) A lack of type approval for minor railways has both positives and negatives, such as the difficulty in finding an independent competent person to provide the required validation.
- (i) Having the licence holder as the driver for safety brings clarity and greater understanding of the requirements.

¹⁴ ROGS replaced several sets of railway safety regulations: The Railways (Safety Case) Regulations 2000, The Railways (Safety Critical Work) Regulations 1994, and The Railways and Other Transport Systems (Approval of Works, Plant and Equipment) Regulations 1994

(j) ROGS are fundamental to the management of safety on UK railways.

(k) ROGS allow businesses to make risk-based cost decisions.

4.38 One respondent said that ROGS had had a negative or strongly negative impact on their organisation. This respondent reflected that the ROGS were not delivering on their needs but did not provide any further detail or context.

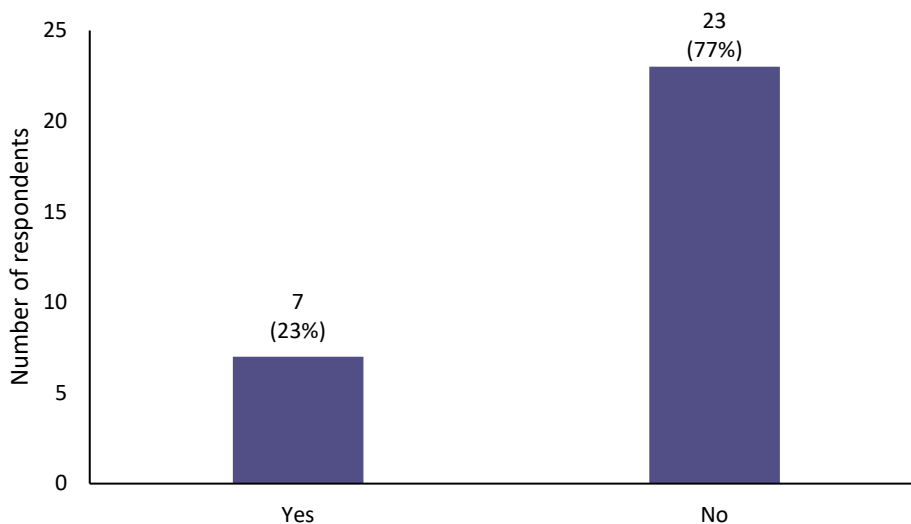
4.39 29% of respondents said the impact of ROGS on their organisation was neutral. One of these respondents reflected on the fact that they simply act as a reviewer of its application on others, whilst another respondent remarked that they were not aware of any unintended consequences on their organisation.

ORR conclusions

4.40 Overall, the survey results indicate that ROGS have had a positive impact on organisations. Where one respondent indicated that ROGS were not delivering on their needs, it is impossible for ORR to draw any further conclusions without further information and detail to support the comment.

4.7 Unintended effects from ROGS

4.41 **Figure 4.6** Question 6 asked respondents: “Have there been any unintended effects from ROGS and, if so, how significant have the impacts been on your organisation?”¹⁵



4.42 77% of respondents said that there had been no unintended effects from ROGS.

¹⁵ For question 6, only 30 respondents provided an answer – results shown are therefore based on a total of 30

- 4.43 One respondent thought there were possibly marginal unintended effects but these were not clarified and another commented that there had been more of an impact with using TSIs and whether that system worked properly and accurately reflected risk. ORR notes that the separate PIR of RIR may reveal further stakeholder views on this issue and will take any relevant conclusions about the relationship between interoperability and ROGS into account when updating ROGS guidance.
- 4.44 23% of respondents felt that ROGS have had unintended consequences. Comments from those stakeholders indicated the following themes:
- (a) There has been no improvement with the rules.
 - (b) The regulation of light rail and metro systems is lighter and weaker, but in some areas, there is cross-over where mainline trains run over light rail infrastructure.
 - (c) Additional costs have been added through things like ECM certification, although these costs have been offset by the benefits.
 - (d) ROGS provides greater clarity on undertaking the responsibilities needed to achieve the requirements of ROGS and other health and safety legislation.
 - (e) Some duty holders are not fully aware of their responsibilities under ROGS and how best to discharge them, whilst there can be confusion between railway undertakings and infrastructure managers.
 - (f) The application of ROGs can have a disproportionate cost on duty holders and a more common approach could potentially bring an economy of scale.
 - (g) Proportionality is not fully understood and there is often a lack of clarity over what "good" looks like (although RM3 has gone some way to provide that clarity). Many freight end users approach other organisations for help as they are not sure how applicable ROGS and RM3 are to their organisation.

ORR conclusions

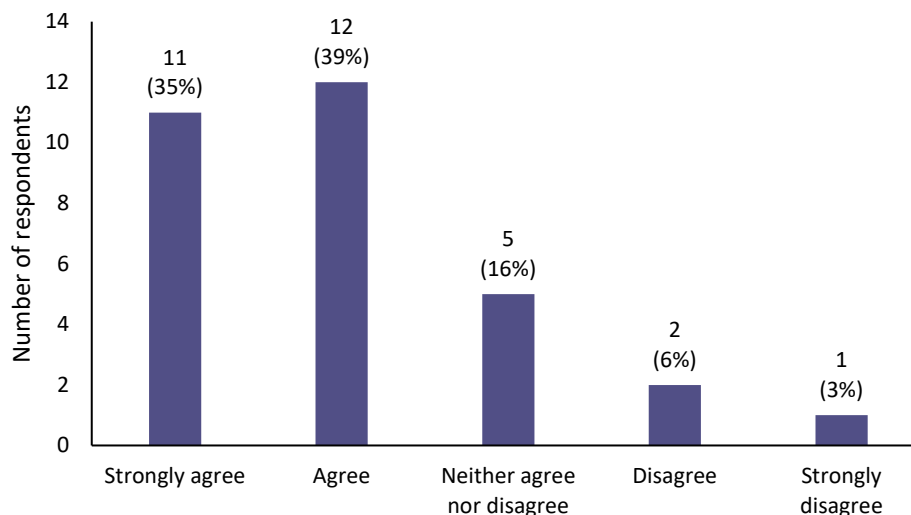
- 4.45 Overall, the survey responses indicate that ROGS have not had unintended effects on organisations. In relation to comment 4.44(b) above, ORR notes that ROGS deliberately provided for different but proportionate regulation for metros and tramways compared to the mainline railway.
- 4.46 In relation to the comment that there had been no improvement with the rules, ORR notes that it is impossible to draw any conclusions without further information or examples to support the comment.

4.47 With regards to other regulation, ORR again notes that the PIR of RIR may generate further views on the relationship between interoperability and ROGS and will take these into account when updating the ROGS guidance.

4.48 Most of the comments and themes raised point to the need for increased clarity and guidance, rather than representing unintended effects per se. ORR will seek to address the comments and themes raised by stakeholders through improved guidance.

4.8 The costs of complying with ROGS

4.49 **Figure 4.7** Question 7 asked respondents to indicate how strongly they agreed or disagreed with the following statement: *“From experience I believe the costs associated with continuing to comply with ROGS have been proportionate to the benefits.”*



4.50 74% of respondents either agreed or strongly agreed that the costs associated with continuing to comply with ROGS were proportionate to the benefits. Comments from stakeholders indicated the following:

- (a) The costs for minor railways are not disproportionate, provided the undertaking has been proactive in discharging its legal obligations.
- (b) The requirements are proportionate, although depending on how obligations are discharged, it can lead to a top-heavy tier of management,
- (c) In the context of an overall project cost, it is usually very small.

- (d) ROGS are not responsible for direct costs as organisations will determine how they comply with the regulations.
- (e) Ongoing costs are no greater than what would be incurred without ROGS.
- (f) The main costs are in the five-year renewal process. However, it is money well spent as it prompts review.

4.51 16% neither agreed nor disagreed, whilst 9% indicated that the costs were not proportionate to the benefits. Those that said that the costs were not proportionate to the benefits highlighted the following themes:

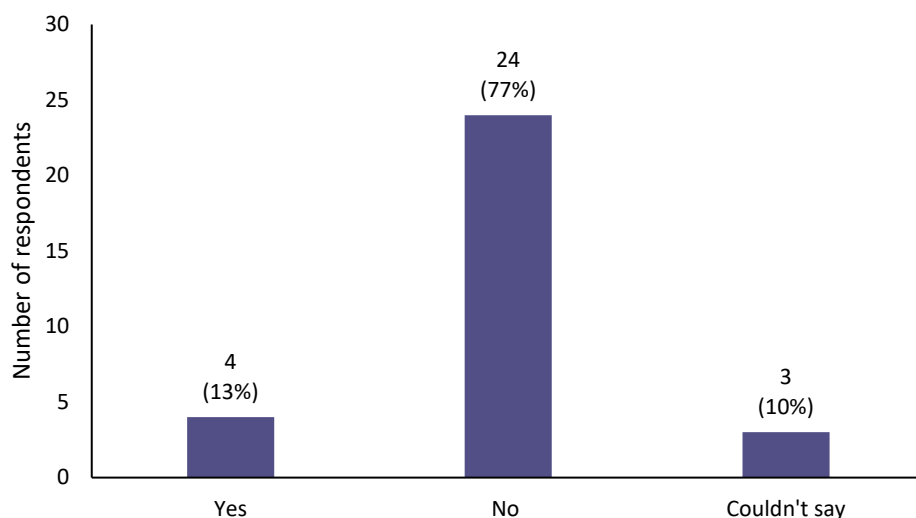
- (a) ROGS costs are disproportionately low when compared with other safety legislation.
- (b) ROGS costs have never been accurately declared.
- (c) The costs and efforts of ROGS are quite explicit, whilst not all the benefits are tangible.

ORR conclusions

4.52 Based on the survey responses, the costs of complying with ROGS appear to be proportionate to the benefits. The survey did not ask stakeholders to quantify the impact of ROGS as this was a purely qualitative assessment to provide evidence for the PIR. This was in line with the 2021 PIR using a lower level of evidence; the burden of asking stakeholders to quantify the impacts would have been disproportionate.

4.9 The impact of ROGS on business with fewer than 50 employees

4.53 **Figure 4.8** Question 8 asked respondents: “Do you think that ROGS has had a disproportionate impact on businesses with fewer than 50 employees?”



4.54 77% of respondents thought that ROGS had not had a disproportionate impact on businesses with fewer than 50 employees, with 13% thinking that they had. Three respondents said that they could not say. Of those that responded no, the following themes were mentioned:

- (a) It is about how organisations manage their own risk in what is a critical environment.
- (b) Some safety verification work may be more demanding under ROGS than the previous type of approval system.
- (c) The step up from minor railway to non-mainline undertaking should not be that overly onerous, although additional paid resource may be required to fulfil all obligations.

4.55 Table 4.5 shows those respondents that replied yes. Three of those respondents had less than 10 employees.

Table 4.5 Respondents who felt that ROGS did have a disproportionate impact on businesses with fewer than 50 employees.

No.	Respondent type	Respondent size
1	Consultancy	Less than 10 employees
3	Consultancy	Less than 10 employees
14	Independent safety assessor	Less than 10 employees
23	Other	More than 250 employees

- 4.56 For those respondents who felt that ROGS had a disproportionate impact on businesses with fewer than 50 employees, the following themes were highlighted:
- (a) New (or duplicated) requirements will have that impact, whilst smaller firms have less negotiating power and ability to 'push back'.
 - (b) It is likely to impact small operators such as heritage railways and tramways more, both in terms of being onerous to implement, and the relative cost versus their income.

ORR conclusions

- 4.57 Based on the survey responses, ROGS do not seem to have had a disproportionate impact on businesses with fewer than 50 employees. However, only eight of the 32 respondents were organisations with fewer than 50 employees, and one of those did not provide answers to any of the questions.
- 4.58 Of the four respondents who indicated that ROGS have had a disproportionate impact on businesses with fewer than 50 employees, three of those organisations employed less than 10 employees. Only two of the four respondents gave comments to support their answer, and these were expressed as views on what they envisage the impact to be rather than direct experience or examples. Overall, the survey responses indicate that ROGS have not had a disproportionate impact on smaller businesses.

5. Glossary

Abbreviation	Definition
CSM	Common safety method
CSM RA	Common safety method for risk evaluation and assessment
DfT	Department for Transport
ECM	Entity in Charge of Maintenance – people or organisations responsible for the maintenance of vehicles used on the mainline railway
LRSSB	Light Rail Safety and Standards Board
NTSN	National Technical Specification Notices
ORR	Office of Rail and Road
PIR	Post implementation review
RDG	Rail Delivery Group
RIR	Railways (Interoperability) Regulations 2011
RM3	Risk Management Maturity Model – a tool for assessing an organisation’s ability to successfully manage health and safety risks, to help identify areas for improvement and provide a benchmark for year-on-year comparison
ROGS	The Railways and Other Guided Transport Systems (Safety) Regulations 2006 (as amended)
ROSCO	Rolling stock leasing company
RSSB	Rail Safety and Standards Board
TOC	Train operating company
TSI	Technical Specifications for Interoperability

6. Annex 1 – survey questions

6.1 Stakeholders were asked to indicate what type of business they were, and to indicate their organisation's size in terms of the number of employees.

6.2 The survey asked stakeholders to respond to the following eight questions:

- (a) Has the impact of ROGS on your organisation changed since the previous PIR survey in 2006?
- (b) Please indicate how strongly you agree or disagree with the following statement: "ROGS provides an effective framework for railway safety in the UK".
- (c) Which of the following do you think should apply to ROGS?
 - (i) ROGS should remain without amendment
 - (ii) ROGS should remain but with some changes made
 - (iii) ROGS should be replaced or redesigned
- (d) Are there any issues that your organisation experiences with ROGS where it interacts with other legislation?
- (e) Which of the following best describes the impact of ROGS on your organisation?
 - (i) Very positive
 - (ii) Positive
 - (iii) Neutral
 - (iv) Negative
 - (v) Strongly negative
- (f) Have there been any unintended effects from ROGS and, if so, how significant have the impacts been on your organisation?
- (g) Please indicate how strongly you agree or disagree with the following statement: "From experience, I believe that costs associated with continuing to comply with ROGS have been proportionate to the benefits."
- (h) Do you think ROGS has had a disproportionate impact on businesses with fewer than 50 employees?



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