

Our role as safety authority in line with ROGS 'Duty of co-operation'

(July 2007)

Introduction

- 1 This statement provides a summary of our (the Office of Rail Regulation's) role in the safety arrangements provided by the Railways and Other Guided Transport Systems (Safety) Regulations 2006 (ROGS). Railway infrastructure managers and train operating companies (known as 'transport undertakings' in ROGS), working together where necessary, share responsibility for the safety of the system, and we use our regulatory and enforcement powers to make sure they meet those responsibilities so that safety is maintained. This statement briefly describes how we carry out our role.

Railway Safety Directive

- 2 European Member States have a duty under article 4(1) of the Railway Safety Directive to make sure "that railway safety is generally maintained and, where reasonably practicable, continuously improved ...". Member States also have a duty (under article 4(3) of the directive) to make sure "that the responsibility for the safe operation of the railway system and the control of risks associated with it is laid upon the infrastructure managers and railway undertakings, obliging them to implement necessary risk control measures, where appropriate in co-operation with each other..." The directive refers to 'railway undertakings' (train operating companies), whereas ROGS refers to 'transport undertakings' because ROGS also includes tramways.
- 3 In Great Britain these duties are carried out by us, together with the Department for Transport (DfT) where necessary. With DfT we have the role of making sure that an appropriate regulatory system is in place so that safety risks arising from running the mainline railway system are controlled by the relevant dutyholders (mainline infrastructure managers and transport undertakings as defined in ROGS), acting together where necessary. The safe running of the system relies on these dutyholders sharing information and co-operating as necessary, with us taking an overview as to whether the system is being run safely.
- 4 Our role, as Great Britain's national safety authority, is to:
 - a work with DfT to provide the appropriate regulatory framework so that railway safety is generally maintained and, where reasonably practicable, continuously improved;



- b assess each dutyholder's application for ROGS safety certificates and authorisations, including its co-operation arrangements; and
- c assess whether safety is being achieved by inspecting dutyholders' safety management systems (SMSs) and assessing available safety information and data.

Safety certificates - assessment and inspection

Assessment

- 5 Under parts 2 and 3 of ROGS (which are based on chapters III and IV of the Railway Safety Directive) we have a duty to assess applications for safety certificates and authorisations, including amendment applications, and to reach a decision on these within the timescales set by the regulations. While carrying out assessments, our inspectors identify areas of concern and raise these with the dutyholder. Each dutyholder has to provide evidence of how it plans to co-operate with other dutyholders.

Inspection

- 6 In line with article 16 (2) (e) of the Railway Safety Directive, we also inspect dutyholders' safety management systems (SMSs) and monitor whether they keep to other aspects of ROGS as part of our wider work with each dutyholder.
- 7 Our inspection process is based on the certificate and authorisation assessment and our knowledge of dutyholders through all our contacts (for example inspections, investigations and liaison meetings) with them. A major part of these contacts is tracing issues back to the relevant part of the dutyholder's SMS and deciding whether it is adequate. A priority of inspection is to make sure dutyholders keep to their stated aims about co-operation. Where appropriate, we will carry out specific SMS inspections.
- 8 We consider how the dutyholders' SMSs are linked and take a view, based on all available information, as to whether dutyholders' SMSs are together controlling overall system risk.

Dealing with complaints under the 'duty of co-operation'

- 9 If a dutyholder believes that others are failing to co-operate to provide a safe system it will use the appropriate industry procedure, as described in the Rail Safety and Standards Board's guide on the duty of co-operation (currently out for consultation), to sort out its concerns. If, having gone through this procedure, the matter is still not settled, the dutyholder will refer it to us (in line with the guidance) as a formal complaint. We expect these occasions to be rare, and likely to arise only from the most serious

matters. In these circumstances, we will review whether the dutyholder is following their SMS and whether the overall safety of the system is more efficient as a result and try to help settle the dispute. Where necessary we will take appropriate enforcement action.