Title: Rail Passengers' Rights and Obligations (Exemptions) Regulations 2014 **IA No:** DfT00298 **Lead department or agency:** Department for Transport **Other departments or agencies:** None	**Impact Assessment (IA)** **Date:** 31/07/2014 **Stage:** Final **Source of intervention:** EU **Type of measure: Secondary legislation** **Contact for enquiries:** Frances.Soames@dft.gsi.gov.uk Kraig.McCarthy@dft.gsi.gov.uk

Summary: Intervention and Options

RPC Opinion: Not Required

Cost of Preferred (or more likely) Option				
Total Net Present Value	**Business Net Present Value**	**Net cost to business per year** (EANCB on 2009 prices)	**In scope of One-In, Two-Out?**	**Measure qualifies as**
ZERO	ZERO	ZERO	No	N/A

What is the problem under consideration? Why is government intervention necessary?

In 2009 the Government used their powers to fully exempt GB domestic rail industry from the 'non-core' Articles of the PRO. These exemptions expire on 4 December 2014. Government intervention is necessary to make a new SI that renews exemptions, to ensure that the PRO doesn't have full effect without appropriate consideration. The automatic expiry of the current exemptions would impose additional cost on industry and the Government would lose the power to derogate in future. Removal of all exemptions in this way would also lead to industry compliance gaps which would place GB industry, and the ORR as the National Enforcement Body, at the risk of legal challenge.

What are the policy objectives and the intended effects?

The primary policy objectives of the PRO are to align and strengthen the rights of rail passengers. The specific objective of Government intervention at this time is to maintain exemptions, which will avoid industry cost burdens and make use of available derogations. It would provide a holding position to allow time for full and detailed consideration of PRO compliance issues and impacts. A consultation in autumn 2014 will consider options for removing exemptions where appropriate through an amending SI in 2015. Full details are in the evidence base at Section 4.

What policy options have been considered, including any alternatives to regulation? Please justify preferred option (further details in Evidence Base)

A 'Do nothing' Option: to maintain the status quo by renewing all current exemptions;
Option 1: To allow all current exemptions to expire on 4th December 2014.
Option 1 would not achieve the policy objectives that are outlined in Section 4 of the evidence base, and is not therefore considered to be an appropriate course of action.
Our preferred option is the 'Do nothing' option. This option will renew all the current domestic exemptions for another five year period from 2014 to 2019 by making a new SI. At this stage, due to timing constraints ahead of the December expiry of current exemptions, this is the only viable policy option to ensure that exemptions are put in place and we can achieve our intervention objectives.

Will the policy be reviewed? It will be reviewed. **If applicable, set review date:** 2015

Does implementation go beyond minimum EU requirements?			No		
Are any of these organisations in scope? If Micros not exempted set out reason in Evidence Base.	**Micro** Yes	**< 20** Yes	**Small** Yes	**Medium** Yes	**Large** Yes
What is the CO_2 equivalent change in greenhouse gas emissions? (Million tonnes CO_2 equivalent)			**Traded:** N/A	**Non-traded:** N/A	

I have read the Impact Assessment and I am satisfied that (a) it represents a fair and reasonable view of the expected costs, benefits and impact of the policy, and (b) that the benefits justify the costs.

Signed by the responsible Minister: Claire Perry MP Date: 01/09/14

Summary: Analysis & Evidence — Policy Option 1

Description: To allow all current exemptions to expire on 4th December 2014.

FULL ECONOMIC ASSESSMENT

Price Base Year 2014	PV Base Year 2015	Time Period Years 10	Net Benefit (Present Value (PV)) (£m)		
			Low: ZERO	**High:** ZERO	**Best Estimate:** ZERO

COSTS (£m)	**Total Transition** (Constant Price)	Years	**Average Annual** (excl. Transition) (Constant Price)	**Total Cost** (Present Value)
Low	£1m	1	£32m	**£321m**
High	£1m		£103m	**£1,034m**
Best Estimate	0			

Description and scale of key monetised costs by 'main affected groups'

Option 1 will impose an additional equivalent annual cost of between £31m and £100m on industry. These cost estimates are based heavily on the cost estimates provided by ATOC. Due to the number of assumptions used in the determination of these costs, the estimates therefore have low assurance. The costs includes the loss of revenue due to the transferability of tickets and the additional cost of providing compensation in the event of delays and cancellations including in circumstances outside of the rail industry's control.

Other key non-monetised costs by 'main affected groups'

The non-monetised costs include the additional costs from the provision of overnight accommodation where a journey cannot be continued on the same day (where domestic regulation does not meet PRO requirements) (Article 15), the additional payments TOCs would make to passengers in the event of a delay (Article 17) outside of the rail industry's control and the cost of implementing a quality management system to maintain PRO service quality standards (Article 28).

BENEFITS (£m)	**Total Transition** (Constant Price)	Years	**Average Annual** (excl. Transition) (Constant Price)	**Total Benefit** (Present Value)
Low			£32m	**£321m**
High			£103m	**£1,034m**
Best Estimate	0			

Description and scale of key monetised benefits by 'main affected groups'

The majority of costs to the rail industry, as quanitified and presented above, are likely to be a transfer of payment from Train Operating Companies to passengers and therefore we assume that an equivalent magnitude of benefits exists. As mentioned above, the current estimates have low assurance. This is due to the number of assumptions used in the determination of the costs.

Other key non-monetised benefits by 'main affected groups'

The key benefits include improved rights of passengers in the areas of information and ticket provision, compensation and assistance in the event of delays and cancellations, and the rights of DPRMs. Other non-monetised benefits include full alignment of domestic and European legislation. Better alignment of regulation provides clarity to both industry and passengers about their rights and obligations. This in turn will facilitate enforcement by the ORR under the railways licensing regime.

Key assumptions/sensitivities/risks — **Discount rate (%)** 3.5%

Risks: Full and early application of the 'non-core' PRO articles , without the Government utilising its powers of derogation, will have a significant additional cost burden on the rail industry. The UK could be at risk of legal challenge. This is because it may lead to some industry compliance gaps, where it is not feasible to implement the Regulation ahead of the expiry of exemptions. It is also assumed that the additional benefits to passengers are likely to be a transfer of payments from TOCs.

BUSINESS ASSESSMENT (Option 1)

Direct impact on business (Equivalent Annual) £m:			**In scope of OITO?**	**Measure qualifies as**
Costs: 31-100	**Benefits:** Zero	**Net: 31-100**	YES	IN

Evidence Base (for summary sheets)

<u>Key Definitions:</u>

DfT = Department for Transport
DPRM = Disabled persons and persons with reduced mobility
EU = European Union
GB = Great Britain
IA = Impact Assessment
NEB = National Enforcement Body
NR = Network Rail
OITO = One In Two Out
ORR = Office of Rail Regulation
PRO = EU Regulation 1371/2007 on Rail Passengers' Rights and Obligations
RU = Railway Undertaking
SI = Statutory Instrument
TOC =Train Operating Company

1. TITLE OF PROPOSAL

Rail Passengers' Rights and Obligations (Exemptions) Regulations 2014

2. PROBLEM UNDER CONSIDERATION

The European Regulation No. 1371/2007 on rail passengers' rights and obligations, "the PRO", was designed to align and strengthen passengers' rights and obligations across the EU by building on the existing regime that applies to international rail journeys.

The PRO consists of 'core' Articles, which have applied to GB's domestic and international rail transport services since December 2009[1]. As such, the 'core' mandatory elements of the PRO covered by Articles 9, 11, 12, 20(1) and 26 do not form part of this IA.

Member States have the power[2] under the PRO to exempt domestic rail passenger services from the 'non-core' PRO articles for up to 5 years[3] (See Annex 1 for a list of 'non-core' articles). This power can be renewed twice for a maximum period of 5 years on each occasion, culminating in a total period of 15 years.

In December 2009, the Government exercised this power to exempt Great Britain's domestic railways from all of the 'non-core' Articles for a period of five years. The Statutory Instrument (SI) that provides these exemptions is in place until 4 December 2014, at which point the exemption will expire and all of these 'non-core' articles will apply in full.

The full and early application of the 'non-core' PRO articles, without the Government utilising its powers of derogation will have a significant additional cost impact on business. Government intervention is therefore necessary to prevent all the non-core articles having full effect by default.

If a new exempting SI is not in force by 4 December 2014 then all the 'non-core' articles would automatically come into effect. This would be gold plating and would have significant cost

[1] The PRO does not apply to railway undertakings and transport services that are not licensed under Directive 2012/34/EU establishing a single European railway area (recast).
[2] Article 2 (4) of the PRO provides Member States with powers to grant exemptions from the 'non-core' articles of the Regulation
[3] 'non-core' articles were also immediately mandatory for international services, i.e. Eurostar.

implications. If the December deadline was missed, it would not be possible to restore the exemptions later and we would lose powers for future derogations.

Short notice removal of exemptions will lead to industry compliance gaps where, separately to cost issues, it is not feasible to implement the Regulation ahead of the expiry of exemptions, or within the next exemptions period. Such non-compliances would place GB industry, and the Office of Rail Regulation as the National Enforcement Body, at the risk of challenge on compliance and on enforcement. This could ultimately lead to the risk of infraction proceedings.

In this case, the specific problem under consideration is the timing of intervention. The Department would like to ensure that a proportionate approach is taken that balances a progressive, phased implementation of the PRO and makes use of available derogations where appropriate. Given time constraints ahead of the current exemptions expiring, the only way to achieve this is, would be to retain current exemptions (maintain the status quo) in the short term while we are consulting on the wider options.

3. RATIONALE FOR INTERVENTION

Government intervention is necessary to make a new SI that renews exemptions for all the ‘non-core’ articles to ensure that the PRO doesn’t have full effect automatically without appropriate consideration. Given timing constraints between now and the December expiry of exemptions, the only way to prevent such full application is to take forward a Statutory Instrument for a “fast track” low cost option (<£1m) that preserves the status quo and re-establishes complete exemption from the ‘non-core’ PRO articles at no additional cost to business.

The intention is that this intervention will form a holding position to allow for full and proper consideration of options to remove exemptions where possible, and to allow for the collection of additional detailed evidence and the appropriate analysis of it. We will consult widely in order to do this and intend to bring forward another SI in 2015 to remove certain exemptions for the period to 2019, in cases where passenger benefits greatly outweigh costs to business or where there are no costs to businesses. A full Impact Assessment on the proposed Rail Passengers’ Rights and Obligations (Exemptions) (Amendment) Regulations 2015 was submitted to RPC on 17 July 2014.

4. POLICY OBJECTIVES

The primary European policy objectives of the PRO are to safeguard the rights of rail passengers and to improve the quality and effectiveness of rail transport. It does this by harmonising and supporting the rights of rail passengers in the areas of information and ticketing provision, compensation and assistance in the event of delays and cancellations, and rights for disabled people and people with reduced mobility and enforcement of those rights. The PRO rights are enforced through a National Enforcement Body (the ORR in GB).

However, as noted above, powers are available to put in place temporary exemptions where Member States have difficulty in applying the entirety of the PRO following its entry into force.

The specific objectives of Government intervention at this time, to renew all the existing PRO exemptions, are as follows:

- To provide a holding position – necessary to avoid cost and loss of exemptions by default – until we have concluded the required consultation on a wider range of options for removal of exemptions for the period to December 2019.
- To maintain our ability to utilise the power to exempt in future.
- To avoid significant costs to industry due to the expiry of exemptions by default.

- To adhere to government policy of not "gold plating" EU legislation, particularly where not making full use of a derogation would result in additional costs.
- To not place the industry and Regulator at risk of challenge for non-compliance and/or failure to enforce the PRO after the expiry of current exemptions.

5. DESCRIPTION OF OPTIONS CONSIDERED

5.1. Do nothing: Maintain the status quo by renewing all current exemptions.

This option would put in place an SI, which retains all the exemptions for the 'non-core' PRO articles. As explained in section 3, this is the only feasible option preventing the automatic application of all the currently exempted articles, which would result in significant costs to the rail industry.

This option would achieve the policy objectives outlined in section 4 above.

5.2. Option 1: To allow all current exemptions to expire on 4th December 2014..

This option would let all the current exemptions for the 'non-core' articles expire on 4th December 2014. Therefore, all the PRO articles would apply to the GB rail industry, regardless of preparedness of the UK rail industry and the costs of compliance.

Although not renewing exemptions would achieve full alignment of domestic and European legislation and additional passenger benefits, it is likely to be at a significant cost to the rail industry where it is not currently compliant, which needs to be compared against the contingent benefits to passengers.

However, the industry has achieved compliance on a number of PRO articles during the previous exemption period due to compliance with existing domestic legal requirements or best practice and other European legislation.

In these cases an assumption is made that existing domestic requirements are considered equivalent to the PRO provisions. This implicitly assumes that industry are compliant with those domestic requirements. Therefore, any additional cost to TOCs to comply with the current domestic regulation would not be as a direct result of the PRO itself – rather it would be a reflection of TOCs not complying with some of the current domestic regulation/ required practice. Therefore, allowing those particular articles to expire would not impose any additional costs to industry and are not considered under Option 1. The only additional costs are assumed to materialise where PRO requirements go above and beyond current domestic regulation and standards.

Option 1 would not achieve the policy objectives outlined in section 4 above.

6. COSTS AND BENEFITS OF OPTION 1

Option 1 affects railway undertakings i.e. train operating companies (TOCs)), as well as station managers, tour operators, and ticket vendors operating in GB. This section will examine the costs and benefits of implementing Option 1 relative to the 'Do nothing' scenario that maintains the status quo.

For the purposes of this impact assessment, the costs and benefits of the different options have been assessed to the extent that it is possible. However, given the limitations of the available evidence base, it has not been possible to provide new estimates of the costs and benefits of complying with the 'non-core' elements of the regulation.

An initial stakeholder evidence gathering exercise in early 2014 failed to provide detailed new information on costs or benefits. Therefore, the Department has had to rely on estimates of the costs of implementing the 'non-core' elements of the PRO articles provided by the Association of Train Operating Companies (ATOC) during the 2009 consultation, with some minor changes (e.g. uplift to 2014 prices where possible). Due to the number of assumptions used in the determination of these costs and benefits, these figures have low analytical assurance. A consultation exercise specifically for the 2014 Regulations will not take place and these figures necessarily inform the final analysis of option 1.

However, as mentioned above, the Department will be looking to bring forward a measure during the next exemption period that will look to remove exemptions, where the costs to industry are negligible or passenger benefits strongly outweigh industry costs for example. For that SI we intend to consult widely and seek evidence on the additional costs and benefits of implementing the 'non-core' elements of the PRO. ATOC have informed the Department that they will review the assumptions that were used in 2009 before providing revised cost estimates for that consultation. This will allow more detailed analysis of benefits/ costs that should provide figures of greater assurance to inform future decisions on removing or maintaining exemptions.

6.1. Changes due to the proposed Option 1

Option 1 proposes to let all the current exemptions for all the 'non-core' articles expire. The full list of the 'non-core' articles and the additional requirements are described in Annex 1. However, as mentioned above the industry has moved towards compliance on a number of PRO articles. Therefore, only the articles which will impose an additional cost to industry, relative to the 'Do nothing' option, are described in Section 6.3.

6.3. Costs of the proposed Option 1

ATOC provided their estimates of the costs of implementing the PRO based on those provided in 2009. Table 1 below summarises the estimated annual costs to the rail industry from implementing the non-core elements of the PRO. These costs are described below in more detail.

Table 1: Summary of ATOC cost estimates (annual cost £m; 2014 prices; *one-off cost)		
Article	**Low estimate**	**High estimate**
4 Transport Contract	9.25	37
13 Advance payments of compensation to those injured or the dependants of those killed in an accident	0.7	1.6
16 Reimbursement and re-routing in the event of delays	2	13
18 Assistance to passengers in the event of delays	6	17
22 Assistance for disabled passengers and passengers with reduced mobility at stations	0.077*	0.9
24 Conditions on which assistance is provided	13	33
29 Information to passengers about their rights	1.7 + 1.102*	2.3 + 1.004*
TOTAL	£33m + 1m*	£105m +£1m*

6.3.1.1. Additional cost of Article 4 – Transport Contract

The main cost of Article 4 arises as it would allow a passenger who has purchased a ticket that has not been made out in their name to transfer (sell/offer) the ticket to another traveller if they are unable to use it. ATOC estimate that this element of the regulation will cost the rail industry between **£9.25m** and **£37m** per year in today's prices. The high estimate is based on the revenue loss from the sharing of 1% of the off-peak returns and the revenue loss from the resale of 1% of the advance fares. The low estimate is calculated as 25% of the high estimate. The calculations and assumptions behind these cost estimates can be found in Annex 2.

6.3.1.2. Additional costs of Article 13 – Advance payments of compensation to those injured or the dependants of those killed in an accident.

This Article mandates the provision of immediate and proportionate financial assistance by railway undertakings in the event of an accident (where passengers are killed or injured). The status and liabilities arising from such a payment, including subsequent award, can be reduced by the amount of the advance payment.

ATOC estimate that non-renewal of this exemption will cost the rail industry between £0.7m and £1.6m per year in today's prices. This estimate is based on an interpretation of requirements in Article 13 that differ from the Department's interpretation. ATOC has calculated the advance payments based on RSSB statistics on the number of passenger fatalities and injuries. This cost estimate has not been included in the summary sheet, as it represents the totality of the advance payment itself, and not the additional cost of lost interest.

The additional burden for TOCs is to provide an advanced payment and having the cash available in the event of an accident. However, the additional cost to TOCs will be the loss in interest they could have earned for the period of time it takes to determine whether they were liable for the death/injury and not the actual advance payment itself. The Department have estimated that it will cost the industry between £284k and £744k in today's prices over a 10 year appraisal period, which translates to between **£33k and £86k equivalent annual cost**. The calculations and assumptions behind these cost estimates can be found in Annex 2.

6.3.1.3. Additional costs of Article 16 – Reimbursement and re-routing in the event of delays

Article 16 mandates that where a delay will be more than 60 minutes, a passenger has a right to abandon the journey, and seek, as compensation, reimbursement of the full cost of the ticket. ATOC estimate that this element of the regulation will cost the rail industry between **£1.7m** and **£13m** per year in today's prices. The low estimate is based on revenue loss in the Long Distance, London and South East and Regional Services, assuming that 15% of passengers delayed more than 60 minutes would seek a refund. The high estimate is based on assuming 50% of passengers from the long distance sector trains seeking a refund if their train was delayed more than 60 minutes. These estimates also include administration costs. The calculations and assumptions behind these cost estimates can be found in Annex 2.

6.3.1.4. Additional costs of Article 18– Assistance to passengers in the event of delays

In the case of a delay of over 60 minutes, Article 18 of the PRO enforces the requirement to provide refreshments to delayed passengers (See Annex 1 for full requirements). ATOC estimate that this element of the regulation will cost the rail industry between **£6m** and **£17m** per year in today's prices. The low estimate is based on the assumed cost of providing refreshments applied to an annual number of 928k passengers delayed over 60 minutes. Their high estimate is based on a 20% increase to current expenditure reported by two TOCs and then normalised to represent all TOCs. ATOC proposed to assume that only half the number of passengers (50%) would be affected on stations, because of the strenuous efforts that are made to quickly turn round late operating trains. The calculations and assumptions behind these cost estimates can be found in Annex 2.

6.3.1.5. Additional costs of Article 22 - Assistance for disabled passengers and passengers with reduced mobility at stations

This requires that at unstaffed stations, railway undertakings and the station manager shall ensure that there is easily available information regarding the nearest staffed station and directly available assistance for DPRMs (See Annex 1 for full requirements). ATOC has provided two estimates for the cost of complying with this article. The low estimate is a one-off cost of **£77k** (2014 prices), which is derived from premature replacement of station welcome posters at unstaffed stations to include the newly required information. The high estimate is annual loss of **£0.9m** (2014 prices) worth of advertising revenue, in the event that the information would not fit on existing posters and that new poster locations would be required that displace existing media revenue. The calculations and assumptions behind these cost estimates can be found in Annex 2.

6.3.1.6. Additional costs of Article 24– Conditions on which assistance is provided

This additionally requires station managers or any other authorised person to designate points, within and outside the railway station, at which DPRMs can announce their arrival at the railway station and, if need be, request assistance (See Annex 1 for full requirements). ATOC estimated that this element of the regulation will cost the rail industry between **£13m** and **£33m** (today's prices), on the basis of potentially needing to equip stations with intercom devices. The calculations and assumptions behind these cost estimates can be found in Annex 2.

6.3.1.7. Additional costs of Article 29 – Information to passengers about their rights

Article 29 requires railway undertakings, station managers, and tour operators to inform passengers of their rights and obligations under the PRO when selling tickets (See Annex 1 for full requirements).

ATOC has provided costs *if* a full summary poster was required at stations. This is estimated between an additional **£1.7m p.a. and a £1.102m one-off cost** (low estimate) and **£2.3m p.a. and a £1.004m one-off** cost (today's prices) (high estimate).

The high cost estimate is on the basis of lost advertising revenue at staffed stations and applying vinyl posters for all rail carriages. The low cost estimate is also on the basis of lost advertising revenue at staffed stations, but assumes that 25% of the stations currently have space for an information poster without foregoing media income. It also includes the cost of applying vinyl posters for all rail carriages. The calculations and assumptions behind these cost estimates can be found in Annex 2.

6.3.1.7. Non-monetised costs

Article 15 - Liability for delays, missed connections and cancellations

Article 15 provides that the carrier shall be liable to the passenger for the loss or damage resulting from the fact that the journey cannot be continued on the same day due to delays, missed connections, or cancellations. The damages shall comprise of the reasonable costs of accommodation and the reasonable cost of having to notify people expecting the passenger. There are limitations to liability but additional costs potentially arise as although the current regime and the PRO requirements are similar, the legal regimes are not fully aligned. The exclusions from liability in the NRCoC go beyond those permitted under Article 15[4]. It is likely that there is a cost to industry in ensuring full alignment between the legal regimes, though it is likely to be small considering that the costs would predominantly arise from the provision of overnight accommodation where a journey cannot be continued on the same day. Given the limitations of the available evidence base it has not been possible to monetise the costs of removing the exemption for Article 15.

Article 17 – Compensation of ticket prices

This sets compensation in the event of delays to the journey (and where the passenger has not been reimbursed under Article 16) (see Annex 1). The costs from any removal of this article

[4] Via Article 32 of CIV

arise from those train operating companies that do not currently participate in Delay/Repay[5] schemes as part of their franchise obligations. Costs for these train operators would therefore consist of the additional level of payments to match the PRO requirements and the additional volume of payments as a result of having to compensate for delays outside the control of the rail industry (e.g. due to vandalism, suicides). Given the limitations of the available evidence base, it has not been possible to monetise the costs of removing the exemption for Article 17.

Article 28 – Service quality standards

This requires railway undertakings to define service quality standards that include the items listed in Annex III of the PRO Regulation and to implement a quality management system to maintain service quality (See Annex 1)**.** However, there is not full alignment between existing reporting and monitoring and that required by the PRO. In a number of categories such as availability of toilets, assistance provided to disabled passengers and air quality, new monitoring systems would likely need to be set up. In others, changes would be required to the way in which data is measured. Given the limitations of the available evidence base, it has not been possible to monetise the costs of removing the exemption for Article 28.

6.3.1.8. Overall Costs under Option 1

We have projected the ATOC cost estimates forward assuming that they stay constant over the next 10 year appraisal period, and discounted to obtain a present value (PV) total (Table 3). Where ATOC have not provided a cost estimate, it has been assumed that there are no additional costs attached to implementing the article. Using the PV total of all the articles in Table 3 (end of the IA), the total equivalent annual cost[6] to industry of implementing the PRO, using the ATOC estimates[7], is between **£31m (low estimate)** and **£100m (high estimate)**. Due to the low assurance around the cost estimates provided by ATOC, the Department has not conducted a separate analysis in order to provide a 'best estimate.' As mentioned earlier, these numbers have low assurance. However, due to the limited evidence base it is necessary for the Department to use them to inform the decision on 2014 exemptions. As noted a separate consultation will take place to establish revised cost estimates and evidence to inform decisions on the removal/maintenance of exemptions during the next period (2015-19).

6.4. Benefits of Option 1

There is a general absence of monetised benefits in this area. Our assumption is that the rail industry costs to meet the requirements of Option 1 are likely to be a transfer of payment from TOCs (who meet the compliance costs) to the passengers (who benefit from improved passenger rights). The costs are imposed on TOCs are therefore currently assumed to result in a broadly equivalent magnitude of benefits to the passengers.

Passenger benefits provided by the "non-core" articles are intended to improve the rights of rail passengers in the areas of information and ticketing provision, compensation and assistance in the event of delays and cancellations, and rights for disabled people and people with reduced mobility and enforcement of those rights.

The key non-monetised benefits also include full alignment of domestic and European legislation. Better alignment of regulation provides clarity to both industry and passengers about their rights and obligations. This in turn will facilitate enforcement by the ORR under the railways licensing regime.

---

[5] Under Delay repay here are no exclusions for delays outside the control of the train operators or even outside the rail industry.

[6] Annuity rate - 8.61%

[7] Use the departments cost estimate for Article 13

There may also be some un-monetised benefits arising as a result of articles listed under 6.3.1.8. This includes the benefits for passengers from an enhanced compensation regime (though not comparable with Delay/Repay, which is being rolled out as franchises are replaced). This could also lead to improved passenger perceptions, and satisfaction with rail services and the way train operators deal with delays. Improvements to customer loyalty, fewer complaints, and/or more repeat business (particularly of leisure customers) is of potential benefit to train operators. Also defining service quality standards should result in an improvement in the areas listed in Annex III of the PRO Regulation. Improving the level of service would result in additional benefits for current users of the trains, but also could prompt users of other transport modes to switch to using trains.

6.5. One-in Two-out (OITO)

Our preferred option, which is to maintain the status quo by retaining the current exemptions, would be considered OUT of scope of One-in, Two-out. As the UK would be making full use of derogations, it would not be considered to be going beyond the minimum necessary to comply with EU law, and therefore it is OUT of scope.

Option 1 would be within the scope of OITO due to "gold plating" as the UK would not be taking full advantage of available derogations. This option is estimated to have a direct equivalent annual cost to business of between **£31m** and **£100m**.

6.5. Monitoring and Enforcement

The Office of Rail Regulation (ORR) has been designated as the National Enforcement Body by virtue of SI 2010/1504.

With the exception of Article 26, all of the core and non-core elements will be enforced by ORR through the relevant operators' licences. For those entities which are not licensed by ORR, such as tour operators and ticket vendors, ORR will use enforcement mechanisms which mirror those available for licence enforcement.

Passenger Focus and London TravelWatch are designated as the official complaints handling bodies for the purposes of this PRO. Should a passenger believe that a train operator, ticket vendor, station manager or tour operator has infringed the PRO they should initially complain to the relevant party (train operator etc.). If this does not lead to a satisfactory outcome, they may take their complaint to Passenger Focus or (when appropriate) London TravelWatch.

Where exemptions are removed as per Option 1 the enforcement and complaints bodies will need to undertake additional activities related to the newly applicable PRO articles.

The preferred 'Do nothing' option, maintains the status quo and no additional activity will be required of these bodies.

7. RISKS

7.1. Risks associated with 'Do nothing' option

There are no identified risks associated with renewing all the exemptions for the 'non-core' articles of the PRO. The Government would be exercising its power to exempt Great Britain's domestic railways from all of the 'non-core' Articles for a period of five years[8]. As a result there would be no changes and consequently no risks attached.

7.2. Risks associated with Option 1

[8] Subject to decisions on the removal/maintenance of exemptions following the consultation on 2015 Amending Regulations

The full and early application of the 'non-core' PRO articles, without the Government utilising its powers of derogation will have a significant additional cost impact on business (see section 6.3).

Option 1 would also result in the expiry of the current exemptions, which effectively relinquishes our powers to derogate in future, whereas currently we have the opportunity to exemptions to December 2024 (where appropriate).

The removal of exemptions will lead to industry compliance gaps where it is not feasible to implement the PRO ahead of the expiry of exemptions. Such non-compliance would place GB industry, and the Office of Rail Regulation as the National Enforcement Body, at the risk of challenge on compliance and on enforcement. This could ultimately lead to the risk of infraction proceedings.

<u>8. RATIONALE AND EVIDENCE THAT JUSTIFY THE LEVEL OF ANALYSIS IN THIS IA</u>

The only viable option to ensure that exemptions are in place by December, and we meet the objectives in section 4, is to make a Statutory Instrument that renews all the current domestic exemptions for another five year period from 2014 to 2019 ('Do nothing' – to renew current exemptions). This policy maintains the status quo and therefore will impose no additional cost to industry, or benefits for passengers, and makes full use of available derogations.

The proposed new SI is intended to form a holding position – necessary to avoid additional costs to industry and loss of exemptions by default – while consulting in parallel on options for removing some or all of these exemptions in 2015 through an amending SI. Further analysis of the impacts here is not therefore considered necessary as full and detailed examination of additional evidence will be undertaken as part of the autumn consultation..

<u>9. REDUCING REGULATION POLICY</u>

9.1. Review clauses

There is no need for a separate review clause as we will be reviewing whether it is appropriate to maintain all the exemptions in the autumn consultation following which we would make an amending SI to remove exemptions where appropriate during the next period. These will have an automatic 5 year expiry date of December 2019, at which point the approach to further exemptions will be considered..

<u>10. SPECIFIC IMPACT TESTS</u>

10.1. Equalities Assessment

Some PRO Articles are specifically aimed at ensuring that all DPRMs, irrespective of whether this is due to disability, age or any other factor, have opportunities for rail travel comparable to those of other citizens. A number of protections already exist for DPRMs when travelling by rail in GB including under articles 19 and 20(1) of the PRO (since 2009), the Equality Act 2010, Railway Licencing regimes and the PRM TSI.

However, in some areas the PRO goes further than existing accessibility requirements. In these areas it is likely that DPRMs would receive additional benefits if these exemptions were removed. Nevertheless, if these exemptions were retained, as per the preferred option, then the status quo for DPRMs is maintained **<u>and there is no specific detriment as a result of the preferred option</u>**.

Given the limited evidence base we are not able to quantify all costs or benefits in this area. However, evidence and views of stakeholders that are submitted as part of the separate consultation on 2015 amending Regulations will help identify any further equality impacts to inform decisions and a final equality assessment as part of that process.

10.2. Small and Micro Business Assessment

The PRO articles would be applicable to all railway undertakings as well as station managers, ticket vendors and tour operators where specified, who operate domestic as well as international services.

However the proposed ‘Do nothing’ option is maintaining the status quo therefore there will be no effect, positive or negative on small and micro businesses.

10.3. Competition Assessment

There are no anticipated competition impacts as the proposed ‘Do nothing’ option is maintaining the status quo.

11. SUMMARY AND PREFERRED OPTION

In December 2009, the Government exercised their power to exempt Great Britain’s domestic railways from all of the ‘non-core’ PRO Articles for a period of five years. The Statutory Instrument (SI) that provides these exemptions is in place until 4 December 2014, at which point the exemption will expire and all of these ‘non-core’ Articles will apply in full.

Given timing constraints between now and the December expiry of exemptions we are making an SI to that preserve the status quo and maintain the existing exemptions from the ‘non-core’ PRO articles at no additional cost to business. This is the ‘Do nothing’ option in this IA.

As such it makes full use of the derogation (i.e. no “gold-plating”) and is in line with the Coalition Government’s Principles of Better Regulation. This allows for a shorter regulatory clearance route in order to maintain our powers of exemption, and provides a holding position for more detailed examination of the case to remove/maintain exemptions from the PRO in 2015.

12. IMPLEMENTATION PLAN

The decision involves making an SI to renew existing exemption on the expiry of the current exemptions on December 4, 2014.

As per section 6.5 the preferred option maintains the status quo and activities of enforcement and complaints bodies will not be affected.

The 2014 Regulations are required as a holding measure to provide a full and proper consideration of options to remove exemptions in the parallel consultation. This will enable us to gather of additional data on benefits and costs, and take further robust decisions on whether to remove exemptions.

		DISCOUNTED															
	Article No>>	**4**		**13**		**16**		**18**		**22**		**24**		**29**		**Total**	
Year	**Discount Factor**	**Low (£)**	**High (£)**	**Low (£)**	**High (£)**	**Low (£)**	**High (£)**	**Low (£)**	**High (£)**	**Low (£)**	**High (£)**	**Low (£)**	**High (£)**	**Low (£)**	**High (£)**	**Low (£)**	**High (£)**
2015	0.97	8.94	35.75	0.01	0.03	1.93	12.56	5.80	16.43	0.07	0.87	12.56	31.88	2.71	3.19	32.02	100.71
2016	0.93	8.63	34.54	0.01	0.04	1.87	12.14	5.60	15.87	-	0.84	12.14	30.81	1.59	2.15	29.84	96.38
2017	0.90	8.34	33.37	0.02	0.06	1.80	11.73	5.41	15.33	-	0.81	11.73	29.76	1.53	2.07	28.84	93.14
2018	0.87	8.06	32.24	0.03	0.07	1.74	11.33	5.23	14.81	-	0.78	11.33	28.76	1.48	2.00	27.87	90.00
2019	0.84	7.79	31.15	0.03	0.08	1.68	10.95	5.05	14.31	-	0.76	10.95	27.79	1.43	1.94	26.93	86.97
2020	0.81	7.52	30.10	0.03	0.09	1.63	10.58	4.88	13.83	-	0.73	10.58	26.85	1.38	1.87	26.02	84.04
2021	0.79	7.27	29.08	0.03	0.09	1.57	10.22	4.72	13.36	-	0.71	10.22	25.94	1.34	1.81	25.15	81.20
2022	0.76	7.02	28.10	0.04	0.09	1.52	9.87	4.56	12.91	-	0.68	9.87	25.06	1.29	1.75	24.30	78.47
2023	0.73	6.79	27.15	0.04	0.10	1.47	9.54	4.40	12.47	-	0.66	9.54	24.21	1.25	1.69	23.48	75.82
2024	0.71	6.56	26.23	0.04	0.10	1.42	9.22	4.25	12.05	-	0.64	9.22	23.39	1.21	1.63	22.69	73.26
PV Total (10 year appraisal)		**76.93**	**307.71**	**0.28**	**0.74**	**16.63**	**108.12**	**49.90**	**141.38**	**0.07**	**7.48**	**108.12**	**274.45**	**15.20**	**20.10**	**267.14**	**859.99**
Equivalent annual cost		**8.94**	**35.75**	**0.03**	**0.09**	**1.93**	**12.56**	**5.80**	**16.43**	**0.01**	**0.87**	**12.56**	**31.88**	**1.77**	**2.33**	**31.03**	**99.91**