

## Summary: Intervention & Options

<b>Department /Agency:</b> <b>Transport</b>	<b>Title:</b> <b>Impact Assessment of Transposition of Directive on working conditions for cross-border train crews</b>	
<b>Stage:</b> Final proposal	<b>Version:</b> 1	<b>Date:</b>
<b>Related Publications:</b>		

### Available to view or download at:

<http://www.dft.gov.uk>

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

The European Council and Parliament have adopted a Directive implementing an Agreement of the Social Partners on certain aspects of the working conditions of mobile workers engaged in interoperable cross-border services in the railway sector. Member States are required to take the measures necessary to bring this Directive into effect in their territories, by 27 July 2008. For Great Britain, this will require an amendment to the existing legislation covering working conditions in the rail sector.

### What are the policy objectives and the intended effects?

The Directive implements into European law a Social Partners' Agreement (SPA) concluded on 27 January 2004 between the European Transport Workers' Federation (ETF) and the Community of European Railways (CER) - respectively the social partners representing unions and employers in the rail sector - setting minimum requirements for certain aspects of the working conditions of mobile workers assigned to interoperable cross-border services. The intended effect is to protect the health and safety of those workers.

### What policy options have been considered? Please justify any preferred option.

1. Do nothing
2. Do the minimum needed to give effect to the Directive in Great Britain. This is the preferred option as it meets our Community obligations while minimising the impact on industry.

**When will the policy be reviewed to establish the actual costs and benefits and the achievement of the desired effects?** The European Commission and the Social Partners have undertaken to review the provisions of the Directive in 2010.

**Ministerial Sign-off** For final proposal/implementation stage Impact Assessments:

***I have read the Impact Assessment and I am satisfied that, given the available evidence, it represents a reasonable view of the likely costs, benefits and impact of the leading options.***

Signed by the responsible Minister:

..... Date:

## Summary: Analysis & Evidence

Policy Option: 2

Description: Do the minimum needed to give effect to the Directive in Great Britain.

<b>COSTS</b>	<b>ANNUAL COSTS</b>		Description and scale of <b>key monetised costs</b> by 'main affected groups'
	<b>One-off</b> (Transition)	<b>Yrs</b>	
	£		
	<b>Average Annual Cost</b> (excluding one-off)		
	£		<b>Total Cost (PV)</b> £
Other <b>key non-monetised costs</b> by 'main affected groups' No significant costs arising from domestic transposition.			

<b>BENEFITS</b>	<b>ANNUAL BENEFITS</b>		Description and scale of <b>key monetised benefits</b> by 'main affected groups' Implementation of the proposal into national law is unlikely to have any particular benefits for industry stakeholders. It will, however, avert the high risk of the Government being fined for failure to implement European legislation.
	<b>One-off</b>	<b>Yrs</b>	
	£		
	<b>Average Annual Benefit</b> (excluding one-off)		
	£		<b>Total Benefit (PV)</b> £
Other <b>key non-monetised benefits</b> by 'main affected groups' No significant benefits arising from domestic transposition. It will in theory mean that overseas undertakings operating into GB are put on a level footing with GB operators overseas.			

**Key Assumptions/Sensitivities/Risks** Only two domestic rail operators currently directly affected by this Directive. Enforcement will be for breaches within GB only.

Price Base Year	Time Period Years	<b>Net Benefit Range (NPV)</b> £	<b>NET BENEFIT (NPV Best estimate)</b> £
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What is the geographic coverage of the policy/option?		Great Britain	
On what date will the policy be implemented?		27 July 2008	
Which organisation(s) will enforce the policy?		ORR	
What is the total annual cost of enforcement for these organisations?		£ n/a	
Does enforcement comply with Hampton principles?		Yes	
Will implementation go beyond minimum EU requirements?		No	
What is the value of the proposed offsetting measure per year?		£	
What is the value of changes in greenhouse gas emissions?		£	
Will the proposal have a significant impact on competition?		Yes/No	
Annual cost (£-£) per organisation (excluding one-off)	Micro	Small	Medium      Large
Are any of these organisations exempt?	Yes	Yes	N/A      N/A

<b>Impact on Admin Burdens Baseline</b> (2005 Prices)		(Increase - Decrease)	
Increase of    £	Decrease of    £	<b>Net Impact</b>	£ NIL

Key:      Annual costs and benefits: Constant Prices      (Net) Present Value

## Evidence Base (for summary sheets)

[Use this space (with a recommended maximum of 30 pages) to set out the evidence, analysis and detailed narrative from which you have generated your policy options or proposal. Ensure that the information is organised in such a way as to explain clearly the summary information on the preceding pages of this form.]

Council Directive 2005/47/EC implements an Agreement of the Social Partners (representing unions and employers in the rail sector) setting minimum requirements for certain aspects of the working conditions of mobile workers assigned to interoperable cross-border services. These are defined as "services for which at least two safety certificates as stipulated by Directive 2001/14/EC are required from the railway undertakings". The provisions are optional for local and regional cross-border passenger traffic and cross-border freight traffic travelling no further than 15km beyond the border.

For the workers concerned, the Directive establishes the following particular working conditions:

- Daily rest at home must be a minimum of 12 consecutive hours per 24-hour period, although it may be reduced to a minimum of nine hours once every seven-day period. In this case, the difference between the reduced period and 12 hours is to be added to the next daily rest at home. A significantly reduced daily rest is not to be scheduled between two rests away from home;
- The minimum daily rest away from home must be eight consecutive hours per 12-hour period. The Agreement rules that a daily rest away from home is to be followed by a daily rest at home (in other words, crews are not to be scheduled to be away from home for more than one night at a time) although it opens the possibility of renegotiation on this condition.
- The maximum driving time over a two-week period is limited to 80 hours.

There are also provisions on the length and timing of breaks, on the weekly rest period entitlements, on limits on driving time and on the keeping of records.

For Great Britain the Directive currently applies only to English, Welsh and Scottish Railways Ltd (EWS) and Eurostar (UK) Ltd (EUKL). It will also affect Europorte 2 if this company undertakes operations that extend more than 15km on to the domestic network.

Eurotunnel drivers and crews are not within the scope since the company operates within the scope of a single safety authorisation.

Although EUKL is theoretically covered by the Directive, it is unlikely in fact to be affected, since the principal provisions relate to lengths of shift and number of nights away from home.

Eurostar services "shuttle" between London and Paris or Brussels with a maximum scheduled journey time under three hours, and do not operate overnight, so it should be relatively simple for the company to manage the shift patterns ensure that its drivers and crews return to their base every evening.

The main impact will be on freight operators seeking to operate "long-haul" rail freight services across Europe. The requirement to repatriate crews every twenty-four hours, unless renegotiated, is likely to put rail at a significant disadvantage compared to road haulage where no such restrictions apply. The rules on driving time are also likely to increase the existing disparity with road haulage. A related impact may occur due to train drivers limited to 80 hours driving time in any 14 day period. Under the Working Time Directive, train drivers can currently work to a maximum 48 hours per week. The new Directive may, therefore, potentially cut drivers' scheduled maximum driving time by 16 hours a fortnight. Possible implications are that employers may have to employ other drivers to work these hours, if any drivers are currently working more than the 80 hours a fortnight.

In their response to the consultation, Rail Freight Group stated that if operators have to employ more drivers or mobile staff, this will lead to more costs to the employer and a potential loss of rail competitiveness in perverse effect on modal-share and sustainability.

However, it is important to distinguish between the global impact of the Directive, and the impact of transposing it into UK law which is the subject of this Assessment. From the GB perspective the domestic implementation of this Directive will not place any significant additional burden on the freight operators since their need to comply with the provisions will arise from their operations overseas, and any likely challenges to their crews' working conditions will also arise in respect of operations overseas (for which there are no domestic enforcement powers).

The intention of this transposition is therefore to give effect to this Directive solely to the extent necessary to avoid infraction and to ensure that any inbound cross-border operators are bound by the same rules on working conditions within GB that apply to domestic operators on the European rail network.

In the event that the other member states, particularly France, transpose the legislation, there will be no incremental costs to the UK. There may be a small benefit, although it is not possible to monetise it, from ensuring that overseas firms with operations in the UK are subject to the same rules as UK firms operating abroad.

However, if the legislation is not transposed by the other member states then there will be some small incremental costs to the UK, which will fall on one or two firms that operate international rail services. The benefits of the legislation in these circumstances are unclear and therefore it is likely that there would be a small net cost to the UK. It is not possible to provide a monetised estimate of the costs or benefits under these circumstances at this stage.

In neither case would there be any costs to government.

### **Legal Aid**

The Directive and its implementing Regulations are likely to have no effect on the legal aid budget, as cross-border workers' working conditions that were previously covered by the Working Time Directive will move over to the new Directive.

### **Competition assessment**

The proposed legislation will affect the only two current cross border rail firms - one passenger operator and one freight operator. The effects on the passenger operator are believed to be very small and to have no impact on competition. In the rail freight sector, the legislation will not directly or indirectly limit the number or range of suppliers or reduce suppliers' incentives to compete vigorously. There may be a small reduction in the ability of the freight firm affected to compete with other modes, as it may have a small increase in wage costs as a result of limiting drivers' hours. This increase in costs will depend on the number of extra drivers required, which is currently unknown. However, this increase in cost is believed to be small and will be just one of many factors influencing the comparative prices of rail and other modes of freight transportation and therefore the ability of the rail freight operator to compete. Overall there is not expected to be a significant impact on competition.

### **Small firms impact test**

The proposed legislation will affect two firms, both of which are large rail operators. No impact on small firms is expected.

## Specific Impact Tests: Checklist

Use the table below to demonstrate how broadly you have considered the potential impacts of your policy options.

**Ensure that the results of any tests that impact on the cost-benefit analysis are contained within the main evidence base; other results may be annexed.**

Type of testing undertaken	<i>Results in Evidence Base?</i>	<i>Results annexed?</i>
Competition Assessment	Yes	No
Small Firms Impact Test	Yes	No
Legal Aid	Yes	No
Sustainable Development	No	No
Carbon Assessment	No	No
Other Environment	No	No
Health Impact Assessment	No	No
Race Equality	No	No
Disability Equality	No	No
Gender Equality	No	No
Human Rights	No	No
Rural Proofing	No	No

## Annexes

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