

Title: The transfer of functions to the Railway Safety and Standards Board as a result of the abolition of BRB (Residuary) Ltd (Company No. 04146505) and the transfer of its functions, properties, rights and liabilities. IA No: DfT00154 Lead department or agency: Department for Transport Other departments or agencies:	Impact Assessment (IA)		
	Date: March 2013		
	Stage: Final		
	Source of intervention: Domestic		
	Type of measure: Primary legislation		
Contact for enquiries: Malcolm Twite, telephone 0207 944 6008			
Summary: Intervention and Options		RPC: N/A	

Cost of Preferred (or more likely) Option			
Total Net Present Value	Business Net Present Value	Net cost to business per year (EANC Bon 2009 prices)	In scope of One-In, Measure qualifies as One-Out?
£0m	£0m	£0m	No
			NA

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

BRB (Residuary) Ltd (BRBR) is a limited company created in 2001 to manage the majority of the remaining property, rights and liabilities of the British Railways Board (BRB). As a residuary company, it was always the Government's intention that BRBR would be wound up at the appropriate time. The inclusion of BRBR in the Public Bodies Act 2011 will enable the winding up to be effected efficiently. A by-product of abolition will be to remove the overheads associated with running BRBR. It is DfT's responsibility to ensure that BRBR's remaining functions, property, rights and liabilities are transferred to the body best able to manage them. One of those functions is the ownership of certain IPR of drawings currently owned by BRBR.

What are the policy objectives and the intended effects?

The objective of the policy is to enable the abolition of BRBR (thus saving the costs of running BRBR) and to ensure that one of its remaining functions, the ownership of certain rolling stock drawings and the licensing of those drawings to other railway industry bodies is transferred to and managed by the most appropriate body.

A separate Impact Assessment has been prepared in respect of the impact of properties that are to transfer to Network Rail as a result of the abolition (IA Number: DfT00153).

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

0. Baseline - retain the ownership and IPR of the drawings identified in the licence agreement between BRB (now vested in BRBR) and Railway Documentation and Drawing Service (RDDS) dated the 22nd February 1996) in BRBR and continue with the licence arrangement with RDDS.

1. Transfer ownership of the drawings and associated IPR and BRB's rights and obligations under that licence agreement to the Railway Safety and Standards Board (RSSB). This is the preferred option which best fulfils the policy objectives set out above.

2. Transfer ownership of the drawings and associated IPR and BRB's rights and obligations under that licence agreement to the Secretary of State (SoS).

Will the policy be reviewed? It will not be reviewed. If applicable, set review date: Month/Year					
Does implementation go beyond minimum EU requirements?			N/A		
Are any of these organisations in scope? If Micros not exempted set out reason in Evidence Base.	Micro No	< 20 No	Small No	Medium No	Large Yes
What is the CO ₂ equivalent change in greenhouse gas emissions? (Million tonnes CO ₂ equivalent)			Traded: 0	Non-traded: 0	

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 SELECT SIGNATORY: Stephen Hammond Date: 10th May 2013

Summary: Analysis & Evidence

Policy Option 1

Description: Transfer selected IPR to RSSB.

FULL ECONOMIC ASSESSMENT

Price Base Year 2012	PV Base Year 2012	Time Period Years 10	Net Benefit (Present Value (PV)) (£m)		
			Low:Optional	High:Optional	Best Estimate:

COSTS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Cost (Present Value)
Low	0	0	0
High	0	0	0
Best Estimate	0	0	0

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

There are no monetised costs.

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

There are no costs. RSSB would be the owner of the drawings and associated IPR and the rights and liabilities of BRB under the licence agreement between BRBR and RDDS would be transferred to RSSB. RDDS is 100% subsidiary of RSSB and thus ownership of the drawings and the ability to supply copies of the drawings to other railway industry bodies would vest in the same group entity. There would be no increase in costs to RSSB.

BENEFITS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Benefit (Present Value)
Low	0	0	0
High	0	0	0
Best Estimate	0	0	0

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

There are no monetised benefits - the IPR does not generate revenue.

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

As RSSB would own the drawings and associated IPR and would continue to license RDDS to enable it to make copies of the drawings available to other railway industry bodies, uniting the ownership and usage of the IPR would allow for reduced administration. This measure would allow (together with other measures) the abolition of BRBR, meaning the costs of running BRBR (approx £2.4 million pa) would be saved. However, it is not clear how much of the cost savings can be attributed to this particular measure.

Key assumptions/sensitivities/risks	Discount rate (%)	3.5
That the protection afforded by the use of the transfer scheme legislation at the time of privatisation so as to ensure railway bodies continue to have the right to make use of these drawings should be continued.		

BUSINESS ASSESSMENT (Option 1)

Direct impact on business (Equivalent Annual) £m:			In scope of OIOO?	Measure qualifies as
Costs: 0	Benefits: 0	Net: 0	No	NA

Summary: Analysis & Evidence

Policy Option 2

Description: Transfer selected IPR to the Secretary of State

FULL ECONOMIC ASSESSMENT

Price Base Year2012	PV Base Year2012	Time Period Years10	Net Benefit (Present Value (PV)) (£m)		
			Low:Optional	High:Optional	Best Estimate:

COSTS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Cost (Present Value)
Low	0	0	0
High	0	0	0
Best Estimate	0	0	0

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

There are no monetised costs

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

There could be a cost to the SoS in taking on the ownership of the drawings and the continued licencing of the IPR as ensuring that RDDS keeps within the terms of its licence would require additional expert resource. The documents would continue to be managed by RDDS so the resource implications for the SoS would be marginal.

BENEFITS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Benefit (Present Value)
Low	0	0	0
High	0	0	0
Best Estimate	0	0	0

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

There are no monetised benefits.

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

The Secretary of State would have the ownership of the drawings and the benefit of the licence agreement with RDDS, so that the arrangement for the supply of drawings for the benefit of the industry would continue. This measure would allow (together with other measures) the abolition of BRBR, meaning the costs of running BRBR (approx £2.4 million pa) would be saved. However, it is not clear how much of the cost savings can be attributed to this particular measure.

Key assumptions/sensitivities/risks	Discount rate (%)	3.5
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BUSINESS ASSESSMENT (Option 2)

Direct impact on business (Equivalent Annual) £m:	In scope of OIOO?	Measure qualifies as
Costs: 0	No	NA
Benefits: 0		
Net: 0		

Evidence Base (for summary sheets)

Background

BRBR is a limited company wholly owned by the Secretary of State which was created in 2001 to manage the majority of the remaining property, rights and liabilities of BRB. Its responsibilities include the management of a diverse property portfolio inherited from BRB and the settlement of industrial injury claims submitted by former British Rail employees. BRBR currently employs fewer than 40 members of staff and is funded in part through the income generated by property sales and in part through government grant-in-aid.

Prior to the abolition of BRBR, most of BRBR's remaining functions, property, rights and liabilities will be transferred to the Secretary of State for Transport, where they will be managed by a team of engineers based in the Highways Agency (HA) or to London and Continental Railways (LCR), a company wholly owned by the Secretary of State. These transfers will have no impact on business or civil society. They will simply be a machinery of government change and are therefore not the subject of this Impact Assessment. A small number of properties and associated rights and liabilities would also transfer to Network Rail Infrastructure Limited, a subsidiary of Network Rail. This is the subject of a separate Impact Assessment (IA Number: DfT00153).

A number of drawings and maintenance documents currently owned by BRBR and identified in the licence agreement between BRB and RDDS dated the 22nd February 1996 are licensed to RDDS. The drawings and documents in question are old and disparate and have no quantifiable value, though are still of importance to many railway industry bodies who still operate former BR rolling stock. However, the Department is keen to ensure that the protection afforded by the use of transfer scheme legislation at the time of privatisation is continued so that railway bodies continue to have the right to make use of these drawings.

Problem under consideration

Prior to the abolition of BRBR, its ongoing functions, property, rights and liabilities are transferred to those bodies best-placed to manage them.

Rationale for intervention

As a residuary body, it was always the intention that BRBR would be wound-up at an appropriate point in time, and the ongoing functions, property, rights and liabilities transferred to successor bodies. The inclusion of BRBR within the Public Bodies Act 2011 will enable the winding-up of BRBR to be effected in an efficient manner. Secondary legislation will be required to abolish BRBR and transfer its properties, rights and liabilities to successor bodies.

Policy objective

It is DfT's responsibility to ensure that BRBR's functions, property, rights and liabilities are transferred to the entity best able to manage them in order to ensure that all the obligations of BRBR arising from any present or future liabilities or liabilities arising out of past transactions, events and circumstances are properly met.

Description, costs and benefits of options considered

0. Baseline – retain the properties within BRBR

Options 1 and 2 are considered against a baseline option of retaining the ownership of the IPR in BRBR and continuing to license this to RDDS.

1. Transfer ownership and associated IPR to RSSB

RSSB is a not for profit company operating as a centre of excellence for all matters relating to railway safety. It is responsible for the maintenance of Railway Group Standards including those pertaining to all the vehicles that operate on the railways (known as rolling stock). It is the owner of RDDS.

It is proposed that ownership and associated IPR of the drawings identified in the license agreement between BRB and RDDS dated the 22nd February 1996 and the rights and obligations of BRB (now vested in BRBR) under that agreement should be transferred to the RSSB. The intended effect of this is to unite under common group ownership the ownership of the drawings and associated IPR with the ability to supply copies of those drawings to other railway industry bodies and to continue to ensure the continued protection of the rights of other railway industry bodies to make use of this IPR against third parties.

There are no costs to this option – RSSB would not incur any additional costs from ownership of the IPR it already manages.

There are no monetised benefits – the ownership of the drawings and the licensing of the associated IPR does not generate any revenue per se, though the supply of drawings to other railway industry bodies does. There is a potential non monetised benefit arising from this particular BRBR function being managed by the same body that has ownership of the drawings and through its subsidiary being able to supply copies of the drawings to other railway industry bodies. There is also a benefit from enabling the abolition of BRBR, but it is not possible to estimate the size of the benefit that can be attributed to this measure alone and therefore this has not been monetised. However, BRBR abolition is estimated to save a total £2.4 million per annum in running costs. This has been calculated by comparing the costs of delivering the functions within the existing BRBR operation to the cost of the functions being delivered by the successor bodies. The savings are made up of a reduction in staff (saving £1.2m), a reduction in accommodation costs (£0.1m) and other administrative overheads (£1.1m) (e.g. professional fees, IT, insurance and auditing costs that will no longer be incurred as they will be absorbed within existing functions in the successor bodies).

2. Transfer ownership and associated IPR to the Secretary of State

Ownership of the drawings and the associated IPR and the rights and obligations of BRB (now vested in BRB) under the licence agreement dated the 22nd February 1996 would transfer to the Secretary of State in the absence of a transfer to the RSSB. This would preserve the status quo whereby the ownership of the drawings and the associated IPR and the ability to supply drawings to other railway industry bodies rests with two different bodies.

There are no monetised costs to this option. There would be a resource cost to the Department in ensuring that RDDS keeps within the terms of its licence.

There are no monetised benefits to this option. There is a benefit from enabling the abolition of BRBR, but it is not possible to estimate the size of the benefit that can be attributed to this measure alone and therefore this has not been monetised. However, BRBR abolition is estimated to save a total of £2.4 million per annum in running costs (see above for details).

Rationale and evidence that justify the level of analysis used in the IA (proportionality approach)

This is not a regulatory proposal, but a policy solution requiring legislation. No regulatory burden will be imposed on RSSB and they have indicated that they would welcome this change. The benefits of administrative simplification and the costs of ownership have not been monetised – these are believed to be negligible as these are rarely requested documents and access to them has never been contested.

Review

The Impact Assessment accompanied – a targeted public consultation on BRBR abolition. The consultation, which was also made available to the public on the Department's website, was launched on 15 May 2012 and closed on 9 July 2012. The responses were analysed and the Department's response to the consultation published on the Department's website (<http://www.dft.gov.uk/consultations>) and on Gov.UK. This confirmed the decision to proceed with the abolition. As a consequence it has been confirmed that ownership and associated IPR of the drawings identified in the license agreement between BRB and RDDS dated the 22nd February 1996 and the rights and obligations of BRB (now vested in BRBR) under that agreement should transfer to the RSSB. This IA has been updated to reflect the outcome of the consultation.

Risks and assumptions

There is an underlying assumption that it is necessary to protect the rights of the railway industry bodies to make use of these documents and drawings.

Application of “One In Two Out” (OITO)

As the policy is not regulatory it is not within the scope of the “One In One Out” rule.

Direct costs and benefits to business calculations (following OITO methodology)

RSSB is a not-for-profit company owned and funded by major stakeholders in the railway industry, but is independent of any one party. RSSB has around 250 staff, including experts in a wide range of technical disciplines and other professionals such as project managers, meeting facilitators and support staff. RSSB is funded by levies on its members and grants for research from the Department for Transport.

There are no costs to RSSB as it already manages the IPR and taking ownership of the IPR will not result in additional cost.

Wider impacts

It is considered that the abolition of BRBR and the transfer of properties, rights and liabilities will have no impact on the general public other than the transferee bodies and the employees of BRBR. The changes represent a machinery of government change rather than a regulatory change and the impact on business will be neutral, as all of BRB Residuary’s activities will simply continue to be carried out by one of the successor bodies.

The functions of BRBR will transfer to successor bodies but will be performed in much the same way that they are now. There will not be any social impacts or impacts on the environment or the wider economy.

An equality impact assessment (EIA) was carried out for the abolition of BRB Residuary. As it was always intended that BRB Residuary would be wound up at an appropriate time, and its ongoing functions, property, rights and liabilities transferred to successor bodies best able to manage them, there is no equality impact.

In terms of monitoring and review, no further action is required once the Order comes into effect and the BRB Residuary functions, property, rights and liabilities all transfer to the successor bodies. The appointments of the Directors of BRB Residuary will terminate when the Order comes into effect and the BRB Residuary will be abolished. All the successor bodies are mature organisations with well established governance procedures. RSSB is part funded by the Department and their performance will continue to be regularly monitored. Continuing to apply their normal management procedures will ensure that they carry out the functions and activities that have transferred effectively

Summary and preferred option with description of implementation plan

Options 1 and 2 would both achieve the objective of allowing the abolition of BRBR. Only Option 1 achieves the objective of the ownership of the drawings and associated IPR being managed by the most appropriate body. Both of the options have no costs, as the ownership of the IPR will not generate additional costs.