

David Robertson
Head of Track Access
Telephone 020 7282 3852
Fax 020 7282 2043
E-mail david.robertson@orr.gsi.gov.uk

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Dear colleague

Updates and Revisions to the Passenger Model Contract

1. The Office of Rail Regulation (“ORR”) has today issued an updated version of the model passenger track access contract. This letter is to bring this to your attention, describe the changes which we have made, and explain how these changes may be implemented in existing passenger track access contracts.

Background

2. Section 21 of the Railways Act 1993 (the Act) provides for ORR to prepare and publish model clauses for inclusion in access contracts and, from time to time, to revise and re-publish them. It also provides that we shall encourage and may require the use of model clauses wherever we consider it appropriate.

3. We published the first model passenger track access contract on 25 June 2003, following consultation with industry parties. The most recently available version was published in October 2004.

Nature of the Amendments

4. Since October 2004 there have been several changes within the industry that have necessitated changes to the model passenger track access contract. These include the abolition of the Strategic Rail Authority, the change from the Rail Regulator to the Office of Rail Regulation and various amendments to legislation. For the most part, the revisions made in the updated model passenger track access contract reflect these changes, and also correct some typographical errors.

5. A more significant amendment is to the provisions in Schedule 4 which relate to compensation for Significant Restrictions of Use. These revised provisions have been developed following consultation with the industry and are explained in a separate letter which we have also published today.

6. It had been our intention to include revised drafting relating to the Traction Electricity Charge in this updated version of the contract. However, since there are still some issues to be resolved, we now expect to make those particular amendments during the next few weeks and will issue a separate General Approval which will enable those changes to be made to existing track access contracts.

Implementation of the updated model contract

7. In addition to this letter and the decision letter on Significant Restrictions of Use, we have today published four documents on our web site. These are: the new version of the model contract; a marked-up copy of the new version showing the changes from the October 2004 version; a table briefly explaining each of the individual changes that have been made; and a General Approval which will allow these changes to be made to existing passenger track access contracts.

General Approval

8. Section 22(3) of the Act enables ORR to give approval in advance to the making of certain types of amendments to access agreements. As long as an amendment falls wholly within the terms and conditions of a General Approval, the parties to the access agreement in question may amend it without seeking ORR's specific approval.

9. The General Approval published today covers all the changes between the October 2004 version of the model passenger track access contract and the updated version published today. This means that any supplemental agreement making any of those changes – as illustrated in the mark-up and explained in the table of changes – will not require our specific approval. Some of these changes will already have been made to some existing passenger track access contracts either by amendments approved by ORR under section 22, or directions given under section 22A or Schedule 4A to the Act. The General Approval may be used to effect any amendments which have not already been made to an existing contract.

ORR's public register

10. Under section 72(5) of the Act, a copy of all amendments of access agreements, including amendments approved under this General Approval, must be sent to ORR within 14 days of being made. Subject to the requirement in section 72(3) of the Act to have regard to the need for excluding certain information, such copies will be entered into the public register.

Conformed copy of the revised contract

11. In accordance with clause 18.2.4 of the model passenger track access contract, Network Rail should also produce a conformed copy of each amended contract and send copies to the relevant train operator and ORR within 28 days of the amendments being made.

Future Modifications

12. In future, it is our intention to update and re-issue the model passenger track access contract as and when changes are required in order to ensure that, so far as is reasonably practicable, the version of the model contract on our website will be completely up to date.

Model Freight track access contract

13. Having completed updating the model passenger track access contract, we will now be looking similarly to update the model freight track access contract which we will publish in due course.

Yours sincerely

David Robertson