

**AGENCY AGREEMENT BETWEEN THE SECRETARY OF STATE FOR
TRANSPORT AND THE OFFICE OF RAIL AND ROAD**

This **AGREEMENT** is made between the Secretary of State for Transport ("the Secretary of State") and the Office of Rail and Road ("ORR") under paragraph 7 of Schedule 3 to the Railways Act 2005. It relates to functions which ORR has agreed to perform on behalf of the Secretary of State, being functions which, in the opinion of the Secretary of State, can appropriately be performed by ORR in connection with its safety functions. The functions to be undertaken are those which are reserved matters. Where functions of the Secretary of State have been devolved, they are not covered by this agreement.

IT IS HEREBY AGREED that:

1. Subject to the provisions of this Agreement, the functions specified in the Schedule shall be performed on behalf of the Secretary of State by ORR.
2. ORR and the Secretary of State shall each provide the other with such information as they may at any time reasonably require in connection with the performance of the functions specified in the Schedule.
3. This Agreement shall come into effect on 1 March 2023 and shall terminate at a time agreed by both parties or on the expiry of 28 days following receipt of a written notice given by either party to this Agreement to the other.
4. Both parties will review the terms of the Agreement every 5 years after it comes into force. It may also be amended at any time outside of the 5 years, with the agreement of each party. Any such amendment must be in writing and signed by all the parties.

Signed by

Signed by

Jeremy Hotchkiss

John Larkinson

Deputy Director, Rail Industry Standards
and Capability
on behalf of the Secretary of State for
Transport

Chief Executive
on behalf of the Office of Rail and Road

Date... 10 February 2023

Date... 8 February 2023

SCHEDULE

FUNCTIONS OF THE SECRETARY OF STATE TO BE PERFORMED BY THE OFFICE OF RAIL AND ROAD

1. The function under section 1 of the Level Crossings Act 1983 ("the 1983 Act") of making any order in relation to a level crossing, except in cases where:
 - a) the crossing operator has not requested an order or has requested an order in compliance with a notice given to him by ORR under the powers in section 1(6A) of the 1983 Act; or
 - b) a draft order raises issues relating to:
 - (i) the designation or otherwise of rights of way; or
 - (ii) the safety or convenience of road users other than the users of the level crossing; or
 - c) ORR and the Secretary of State agree that the interests of those affected by an order would be best served by the Secretary of State making the order.
2. The function under section 42 of the Road and Rail Traffic Act 1933 of giving of any direction in relation to a level crossing.
3. The function under section 64(2) of the Road Traffic Regulation Act 1984 of authorising the erection or retention of a traffic sign other than one specified in Regulations made under section 64(1) of that Act, (to the extent that such functions have not been devolved) provided that:
 - a) the sign is at or near a level crossing;
 - b) the road in question is a road to which the public have access; and
 - c) the sign is one which is prescribed (albeit for another purpose) in Regulations made under section 52 of the Transport and Works Act 1992.
4. Functions in any private Act authorising the construction of a transport system (where "transport system" is defined in accordance with regulation 2 of the Railways and Other Guided Transport Systems (Safety) Regulations 2006) with regard to the –
 - a) approval of plans, sections and other details of proposals with respect to any works, plant or equipment;

- b) giving of permission for the use of any part of such a system and the prescribing of conditions for the safety of persons using such a system.

- 5. Functions under any order made under the Light Railways Act 1896 to approve, consent to or allow any matter or thing or to prescribe or lay down any condition or requirement (however expressed) in relation to the safety of a light railway.

- 6. Functions under any order made under the Transport and Works Act 1992 relating to, or to matters ancillary to, the safe operation of a transport system of a kind specified in section 1 of that Act including –
 - a) approvals for the use of motive power on the railway or tramway; and
 - b) approvals in connection with barriers and protective equipment at or near level crossings.