

Gerry Leighton
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8 May 2014

To the addressees listed at Annex A

Modification by ORR to the National Station Access Conditions 2013 (England & Wales) and National Station Access Conditions 2013 (Scotland)

Purpose

1. The purpose of this consultation is to seek your views on a proposed modification to the National Stations Access Conditions 2013 (England and Wales) and to the National Station Access Conditions 2013 (Scotland), together the “NSACs”. This, therefore, is a formal Conditions Change Proposal consultation in accordance with Condition B6 of the NSACs on a proposal to change those Access Conditions.

Modification of the NSACs by ORR

2. ORR may make modifications to the NSACs where certain procedural requirements regarding consultation have been fulfilled. In addition, ORR must be content that either or both of the following conditions has been satisfied:
 - (i) the modification in question is or is likely to be reasonably required in order to promote or achieve the objectives specified in section 4 of the Railways Act 1993; and
 - (ii) the interests of any relevant person or persons would be unfairly prejudiced if the modification in question were not made, and the need to avoid or remedy such unfair prejudice outweighs or is likely to outweigh any prejudice which will or is likely to be sustained by any other relevant person or persons if the modification is made, having due regard to the need to enable relevant persons to plan the future of their businesses with a reasonable degree of assurance.

Background

3. On 20 December 2013, ORR began the formal implementation of the Periodic Review 2013 (“PR13”). We did this by serving review notices and publishing them on our website pursuant to paragraph 4 to Schedule 4A to the Railways Act 1993.

4. The PR13 review notice for stations directed a number of changes to be made to the Station Access Conditions, including changes to the NSACs. In particular, Appendix A to Annex 4 to the stations review notice directed changes to Part F of the NSACs to amend the indexation provisions.

Reasons for the proposed modifications

5. We have noted an error in Appendix A to Annex 4 of the stations review notice; Condition F11.2.1(ii) in the notice reads as follows:

“ (ii) in relation to any relevant year (including, where applicable, the relevant year commencing on 1 April 2014) in which the value specified in paragraph 3 of Annex 9 is altered, otherwise than as a result of a review notice given by ORR under paragraph 42.4.1.2 in respect of the value to apply from 1 April 2014, St shall have the value specified in paragraph 3 of Annex 9 (as so altered) and in relation to the next following relevant year St-1 shall have the same value.”

6. The cross-reference in Condition F11.2.1(ii) to “paragraph 42.4.1.2” (highlighted above) is incorrect. It should read “Condition F11.4.1.2”.
7. We are therefore of the view that the test set out in Condition B6.2.2 (a) and/or (b) is satisfied, and that it is necessary to modify Condition F11.2.1 of the NSACs to rectify the error contained in the PR13 stations review notice and subsequently imported into the NSACs with effect from 1 April 2014.

Consultation

8. This letter begins the formal consultation under Condition B6.3.1 of the NSACs to seek your views on the modification ORR proposes to make to Condition F11.2.1 of the NSACs. A revised draft of Condition F11.2.1 of the NSACs can be found at Annex B and a comparative version showing the modification can be found at Annex C.
9. Please send any representations to the Stations and Depots team as soon as possible and by no later than **17:00HRS on 4 July 2014**. You can send representations either by e-mail to stations.depots@orr.gsi.gov.uk or in hard copy to:

Stations and Depots Team
Office of Rail Regulation
One Kemble Street
London
WC2B 4AN

10. Please note, when sending documents to us in electronic format that will be published on our website, we would prefer that you email us your correspondence in Microsoft Word format. This is so that we are able to apply web standards to content on our website. If you do email us a PDF document, where possible please:

(a) create it from the electronic Word file (preferably using Adobe Acrobat), as opposed to an image scan; and

(b) ensure that the PDF's security method is set to no security in the document properties.

11. We shall publish all responses on our website and we may quote from them. If you wish all or part of your response to remain confidential, you should set out clearly why this is the case. Where you do make a response in confidence, please attach a summary excluding the confidential information, which we can use as outlined above. We will publish the names of respondents in future documents or on our website, unless you indicate that you wish your name to be withheld.

12. If you have any questions regarding this consultation, please contact Gerry Leighton on 020 7282 2030 or by email at gerry.leighton@orr.gsi.gov.uk.

Next steps

13. Once we have considered all of the responses that we receive, we will issue our final conclusions setting out the changes we will make to the NSACs and giving our reasons for making those changes. We will then take the necessary steps to formally modify the NSACs. Please note that any modifications that we make to the NSACs will not become effective until a period of 180 days has elapsed from the date that we issue a notice to approve the modifications.

Yours sincerely



GERRY LEIGHTON

Annex A

Abellio Greater Anglia Limited
Access Disputes Committee
Arriva Trains Wales / Trenau Arriva Cymru Limited
Association of Train Operating Companies
Bombardier Transportation UK Limited
c2c Rail Limited
DB Reggio Tyne & Wear Limited
DB Schenker Rail (UK) Limited
Department for Transport
Direct Rail Services Limited
East Coast Mainline Company Limited
East Midlands Trains Limited
Eurostar International Limited
First Capital Connect Limited
First Greater Western Limited
First ScotRail Limited
First/Keolis Transpennine Limited
Freightliner Heavy Haul Limited
Freightliner Limited
GB Railfreight Limited
Glasgow Prestwick International Airport Limited
Grand Central Railway Company Limited
Heathrow Express Operating Company Limited
Hitachi Europe Limited
HS1 Limited
Hull Trains Company Limited
London & Birmingham Railway Company Limited
London & Continental Railways Limited
London & North Western Railway Company Limited
London & South Eastern Railway Limited
London Overground Rail Operations Ltd
London Underground Limited
Merseyrail Electrics 2002 Limited
Network Rail Infrastructure Limited
North Yorkshire Moors Railway Enterprises plc
Northern Rail Limited
Rail Delivery Group
Rail Express Systems Limited
Rail Freight Group

Southern Railway Limited
Stagecoach South Western Trains Ltd
Stobart Rail Limited
The Chiltern Railway Company Limited
Transport for London
Transport
Venice Simplon-Orient-Express Limited
Welsh Government
West Coast Railway Company Limited
West Coast Trains Limited
XC Trains Limited
Advantage West Midlands
Ashwell Property Group plc
Ask Developments
Ballymore Group
Bridgend County Borough Council
British Land Company plc
Centro
Chelsfield plc
Cibitas Investments Limited
County Councils Network
Cross London Rail Links Limited
Delancey
Derbyshire County Council
East Sussex County Council
Eversholt Rail
Gloucestershire First
Grainger plc
Hammerson plc
Hertfordshire County Council
Hines
Home Builders Federation
John Laing plc
JPM Parry & Associates
Kenmore
Kier Property
Local Government Association
London TravelWatch
Merseytravel
Metro
MTR Corporation Ltd
Muse Developments

Neptune Developments Limited
Nexus
Northgrove Land Limited
Nottinghamshire County Council
Passenger Focus
Passenger Transport Executive Group
Peel Holdings Limited
PMG
Pre Metro Operations Limited
Railway Forum
Railway Industry Association
Sellar Property Group
SLC Rail
South Yorkshire Passenger Transport
St Mowden Properties plc
Stanhope plc
Strathclyde Partnership for Transport
Targetfollow
Taylor Wimpey plc
Terramond
Transport for Greater Manchester
Westfield UK

Modified Condition 11.2.1 to Part F of the National Station Access Conditions (England & Wales) and the National Station Access Conditions (Scotland)

11.2.1 Calculation

During each relevant year t (and so in proportion for any period comprising less than a full relevant year), the Long Term Charge shall be such amount as is calculated in accordance with the following formula:

$$LTC_t = S_t + L_t$$

where

LTC_t means the Long Term Charge in relevant year t;

S_t means an amount which is derived from the following formula:

$$S_t = S_{t-1} \cdot \left(1 + \frac{(RPI_{t-1} - RPI_{t-2})}{RPI_{t-2}} \right)$$

where:

RPI_{t-1} means the RPI published or determined with respect to November in relevant year t-1;

RPI_{t-2} means the RPI published or determined with respect to November in relevant year t-2; and

L_t means an amount (whether of a positive or negative value) allowed in respect of the financial consequences to Network Rail in relevant year t following a relevant change of law, calculated in accordance with Condition F11.3,

but so that

(i) subject to paragraph (ii) below, in relation to the relevant year commencing on 1 April 2014, S_t shall have the value specified in paragraph 3 of Annex 9 multiplied by the Initial Indexation Factor and in relation to the next following year, S_{t-1} shall have the same value; and

(ii) in relation to any relevant year (including, where applicable, the relevant year commencing on 1 April 2014) in which the value specified in paragraph 3 of Annex 9 is altered, otherwise than as a result of a review notice given by ORR under Condition F11.4.1.2 in respect of the value to apply from 1 April 2014, S_t shall have the value specified in paragraph 3 of Annex 9 (as so altered) and in relation to the next following relevant year S_{t-1} shall have the same value.

Modified Condition 11.2.1 to Part F of the National Station Access Conditions (England & Wales) and the National Station Access Conditions (Scotland) – comparite version

11.2.1 *Calculation*

During each relevant year t (and so in proportion for any period comprising less than a full relevant year), the Long Term Charge shall be such amount as is calculated in accordance with the following formula:

$$LTC_t = S_t + L_t$$

where

LTC_t means the Long Term Charge in relevant year t;

S_t means an amount which is derived from the following formula:

$$S_t = S_{t-1} \cdot \left(1 + \frac{(RPI_{t-1} - RPI_{t-2})}{RPI_{t-2}} \right)$$

where:

RPI_{t-1} means the RPI published or determined with respect to November in relevant year t-1;

RPI_{t-2} means the RPI published or determined with respect to November in relevant year t-2; and

L_t means an amount (whether of a positive or negative value) allowed in respect of the financial consequences to Network Rail in relevant year t following a relevant change of law, calculated in accordance with Condition F11.3,

but so that

(i) subject to paragraph (ii) below, in relation to the relevant year commencing on 1 April 2014, S_t shall have the value specified in paragraph 3 of Annex 9 multiplied by the Initial Indexation Factor and in relation to the next following year, S_{t-1} shall have the same value; and

(ii) in relation to any relevant year (including, where applicable, the relevant year commencing on 1 April 2014) in which the value specified in paragraph 3 of Annex 9 is altered, otherwise than as a result of a review notice given by ORR under [paragraph 42.4.1.2 Condition F11.4.1.2](#) in respect of the value to apply from 1 April 2014, S_t shall have the value specified in paragraph 3 of Annex 9 (as so altered) and in relation to the next following relevant year S_{t-1} shall have the same value.