

2014 PERIODIC REVIEW

NOTICE IMPLEMENTING THE CONTRACTUAL CHANGES TO THE REVIEW PROVISIONS FOR FREIGHT OPERATORS

TO:

(1) High Speed One (HS1) Limited (“**HS1 Ltd**”);

“the **Addressee**”.

1 General

- 1.1 This notice (the “**Notice**”) is given in accordance with paragraph 5 of Part 3 of Section 7 of the HS1 Freight Access Terms.
- 1.2 A Periodic Review, carried out pursuant to Schedule 10 of the Concession Agreement, shall be implemented and have effect by ORR giving a notice to the Parties:
 - 1.2.1 stating its conclusions on the periodic review and the reasons why it reached those conclusions;
 - 1.2.2 specifying the changes made to the Review Provisions; and
 - 1.2.3 stating, in relation to each of the relevant changes, the date on which it comes into operation.
- 1.3 ORR, in accordance with paragraph 7 of Schedule 10 of the Concession Agreement, has undertaken a review of:
 - (a) the level of OMRC needed to provide OMR in accordance with HS1 Co’s General Duty; and
 - (b) the charges in respect of:
 - i. fixed and common costs, payable to HS1 Ltd irrespective of the level of HS1 usage; and

ii. costs directly incurred as a result of operating Train Services payable by a Train Operator to HS1 Ltd under a Track Access Agreement.

1.4 ORR's conclusions on the Periodic Review, and its reasons for those conclusions, are:

(a) set out in a document entitled "[2014 High Speed 1 Periodic Review \(PR14\) ORR's Approval of HS1 Ltd's Five Year Asset Management Statement](#)" (the "**Approval Document**"); and

(b) hereby incorporated into this Notice.

1.5 By publishing this Notice and serving it on the Addressee, ORR is implementing the Periodic Review.

2 Review Provisions

2.1 For or in connection with giving effect to ORR's conclusions on the Periodic Review, the parties to a Track Access Agreement are required to incorporate the amended terms of the HS1 Freight Access Terms as set out in Part 1 of Annex 1 to this Notice (the "**relevant changes**").

2.2 ORR proposes that, subject to paragraph 3, the relevant changes will come into operation on and from 1 April 2015.

3 Regulated Amendments

3.1 If, before the relevant changes come into operation in relation to any Track Access Agreement, such Track Access Agreement is amended in a manner which is approved by ORR under Regulation 18 of the Railways Infrastructure (Access and Management) Regulations 2005 (each a "**regulated amendment**"), then:

(i) the relevant changes shall come into operation in relation to that Track Access Agreement subject to the regulated amendments; and

- (ii) if there is any conflict between the proposed relevant changes and the regulated amendments, the regulated amendments shall take precedence.

4 Objections

4.1 In implementing this Periodic Review, the ORR has:

- (i) consulted the parties, and any other interested persons, on:
 - (a) its process for conducting that periodic review in accordance with paragraph 7.4 of Schedule 10 to the Concession Agreement;
 - (b) its decision to approve the Five Year Asset Management Statement pursuant to paragraph 8.2 of Schedule 10 of the Concession Agreement; and
 - (c) its draft conclusions including the details of any proposed changes to the Review Provisions.

and has taken into account any objections or representations that the parties have made to it (and not withdrawn) during such period as it has specified for such purpose.

5 Definitions and Interpretation

5.1 In this Notice, unless the context otherwise requires:

- (a) “Concession Agreement” means the agreement dated 14 August 2009, as amended and restated on 16 July 2010, between the Secretary of State for Transport and HS1 Ltd granting a concession for the design, construction, operation, financing, repair and maintenance of HS1;
- (b) “HS1 Freight Access Terms” means the HS1 Ltd Freight Access Terms incorporated into the Track Access Agreements;
- (c) references to “this Notice” include the Annexes to this Notice;

(d) references to the singular include the plural and *vice versa*;

(e) words and phrases defined in:

(i) the Railways Infrastructure (Access and Management) Regulations 2005; or

(ii) the model Track Access Agreement; or

(iii) the Concession Agreement

shall have the same meanings in this Notice; and

(f) any general rules of interpretation contained in the model Track Access Agreement shall also apply to this Notice.

Alan Price

Director of Railway Planning and Performance

FOR AND ON BEHALF OF

THE OFFICE OF RAIL REGULATION

Dated

ANNEX 1

PART 1

RELEVANT CHANGES TO THE HS1 FREIGHT ACCESS TERMS

Explanatory Note:

*In order to give effect to ORR's conclusions on the Periodic Review, this Part 1 of Annex 1 sets out the relevant changes to be made to the HS1 Freight Access Terms, incorporated into each Track Access Agreement (the "**standard amendments**").*

ANNEX 1

PART 2

CONSOLIDATED VERSION OF THE HS1 FREIGHT ACCESS TERMS