

General Approval

for facility access agreements

1. The Office of Rail and Road (ORR) makes this general approval under sections 18(1)(c), 18(9)(aa) and 22(3) of the Railways Act 1993 (the Act). This general approval comes into force on 19 February 2018. It replaces the Freight Facility (Ports and Terminals) General Approval 2011 dated 9 December 2011, which is revoked from the same date.
2. In accordance with section 18(1)(c) of the Act, ORR approves any facility access agreement between a Relevant Facility Owner and an access beneficiary which is made following compliance with paragraphs 4 and 5 of this general approval and meets the requirements in paragraph 6 of this general approval.
3. In accordance with section 22(3) of the Act, ORR approves any amendment to an existing facility access agreement between a Relevant Facility Owner and an access beneficiary which is made following compliance with paragraphs 4 and 5 of this general approval and where the amended facility access agreement meets the requirements in paragraph 6 of this general approval.
4. The Relevant Facility Owner must:
 - a. carry out a consultation, in accordance with any guidance issued by ORR for track access consultations;
 - b. make all relevant information (including the proposed terms and conditions of the facility access agreement or the amendment to an existing facility access agreement) available to all consultees, except for any information which, in the opinion of the Relevant Facility Owner, would or might be likely to prejudicially affect the commercial interests of a party to the contract (or a relevant third party) if made public; and
 - c. give all consultees a reasonable opportunity to raise any comments or objections in respect of the proposal and ensure that there are no outstanding objections raised by any consultee before the agreement is entered into.
5. The facility access agreement must not have a duration longer than five years.
6. The facility access agreement must contain:
 - a. a condition precedent to the permission to use and other operative provisions coming into effect that a copy of the signed facility access agreement shall be sent by the Relevant Facility Owner to ORR within 14 days of the agreement being entered into; and
 - b. a clause which provides that no amendment to it shall have effect until a signed copy of the agreement making the amendment has been sent by the Relevant Facility Owner to ORR.

7. In this general approval:

“Railway Facility” means any network which is not used by trains for the carriage of passengers by railway and is not a light maintenance depot;

“Relevant Facility Owner” means an owner of a Railway Facility who is not an infrastructure manager;

“facility access agreement” means an agreement entered into between a Relevant Facility Owner and an access beneficiary under which an access beneficiary obtains permission from a Relevant Facility Owner to use its Railway Facility for the purpose of the operation of trains and/or the provision of services;

“existing facility access agreement” means a facility access agreement which was entered into pursuant to directions under section 17 of the Act or approved by ORR under section 18 of the Act (including any such facility access agreement which has been amended in accordance with section 22 of the Act); and

unless the context otherwise requires, terms defined in the Act, and the Railways (Access, Management and Licensing of Railway Undertakings) Regulations 2016 shall have the same meanings in this general approval.



Robert Plaskitt

Signed by authority of ORR

7 February 2018

