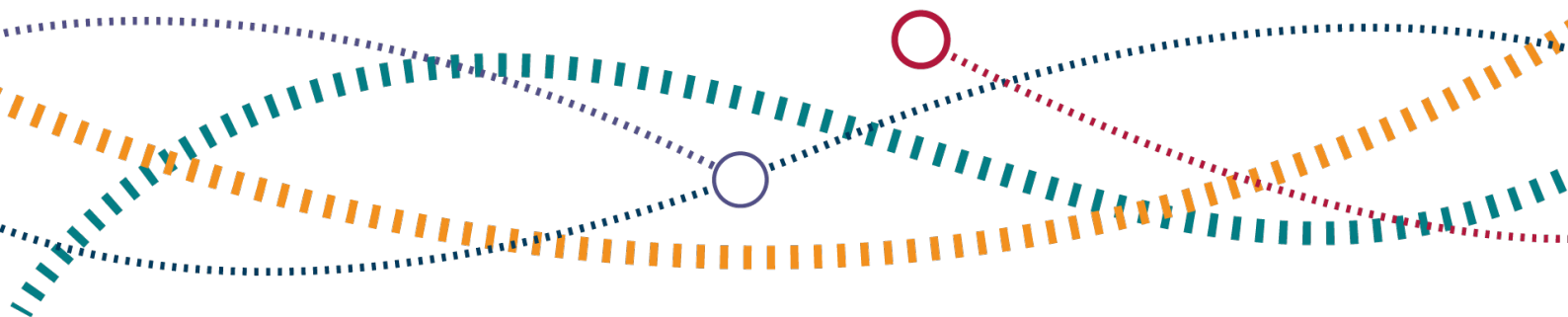




Guidance for international rail operators starting rail operations into Great Britain

28 March 2024



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1. Introduction

- 1.1 This guidance provides a high-level overview of the main factors that prospective railway undertakings need to consider to operate cross-border rail services on the GB mainline, as well as a summary of the main regulatory requirements if they want to operate services through the UK half of the Channel Tunnel Fixed Link. For the French half of the Channel Tunnel Fixed Link and operations in mainland Europe, applicants will need to consult the relevant EU and French legislation.
- 1.2 The guidance focuses on the regulatory requirements under ORR's remit, governing the economic and health and safety regulation. It also sets out, at a high-level, the interoperability and technical standards that will need to be considered for cross border services. It is not a complete guide to each topic, but it is a starting point providing links to more detailed sources of information. There are other areas of regulation that do not fall within ORR's scope of regulation, such as security and customs issues. Parties will need to contact the relevant organisations for further information on such matters. They might include matters involving the organisations listed at paragraphs 1.20 to 1.39.
- 1.3 If you want to operate domestic or international passenger or freight services on the mainline railway in Great Britain you must:
- (a) hold an appropriate railway operator's licence (see [chapter 2](#));
 - (b) hold a safety certificate/safety authorisation and have the relevant safety management systems in place (see [chapter 3](#));
 - (c) hold the relevant vehicle and infrastructure interoperability authorisations (see [chapter 4](#));
 - (d) have a track access contract with the relevant infrastructure manager(s) (see [chapter 5](#)); and
 - (e) have the necessary service facility access agreements (see [chapter 6](#)).
- 1.4 This guidance is not a statement of ORR's policy about how we will carry out our role in regulating access to the network. We will consider any future applications for new or expanded open access services in line with our established policies and guidance, and in line with our full range of statutory duties, on a case-by-case basis.

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- 1.5 We do not seek to cover every aspect of the legislation in this guidance. It is the responsibility of individual businesses to ensure that they are compliant with the law.
- 1.6 Specific regulatory arrangements exist for access to the Channel Tunnel Fixed Link and the HS1 network. This guidance highlights where those requirements differ from the network in the rest of Great Britain operated by Network Rail.
- 1.7 ORR has a different role in Northern Ireland than in Great Britain. If you wish to operate international train services in Northern Ireland, there is a separate chapter addressing Northern Ireland, although many regulatory functions are carried out by the Department for Infrastructure Northern Ireland rather than ORR and you will need to liaise with them accordingly.
- 1.8 With respect to the framework governing health and safety (chapter 3) and interoperability (chapter 4), the Channel Tunnel (Safety) Order 2007 (as amended by the Channel Tunnel (Safety) (Order) 2013) (“CTSO”) sets out the requirements for applicants who want to operate services through the UK half of the Channel Tunnel Fixed Link. The CTSO broadly aligns with 2008/57/EC, the EU’s third railway package. However, applicants should be aware that the CTSO will be superseded by a new legislative agreement that is likely to come into force within the next 12 months or so. Once in force, applicants will need to comply with the requirements of the new agreement, which will seek to align the regulatory requirements of the UK half of the Channel Tunnel Fixed Link with that of the French half. At the same time, a new safety certificate agreement between the UK and France will come into force. This will provide for mutual recognition of safety certificates in the cross-border areas (i.e., between Dollands Moor and Ashford International in the UK, and Calais-Fréthun in France) as per operator licences. Once both new agreements are in force, we will produce guidance on them.
- 1.9 International railway undertakings will have to liaise with several infrastructure managers, such as Eurotunnel, Network Rail, and HS1 Ltd to get access to the infrastructure. The websites of infrastructure managers also have information you will need, and details can be found on our [website](#). One of the key documents they produce is the network statement which provides a single source of information on access conditions to the relevant network. This document is updated every year. [HS1’s network statement](#) contains information for rail services operating on the high speed railway linking London with the Channel Tunnel. [Network Rail’s network statement](#) contains information on the infrastructure network operated by Network Rail. The network statement of Eurotunnel, the infrastructure manager for the Channel Tunnel Fixed Link, can be found at on the Getlink [website](#).

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- 1.10 ORR expects infrastructure managers to liaise and coordinate with each other and respond promptly to enquiries from potential applicants. Potential applicants should also ensure they are familiar with general legal requirements. You can contact the International Rail team at DfT (railinternationalandfreight@dft.gov.uk) to find out more about provisions applicable to international operations, such as security requirements under the Channel Tunnel (Security) Order 1994 (as amended) as well as to establish contact with relevant government departments. Another important area for applicants to consider are the laws to protect consumers.

Requirements and regulatory timescales

- 1.11 Access to the rail network, stations, depots and facilities is governed by the Act. However, access to the rail network, service facilities and services within these facilities is also governed by The Railways (Access, Management and Licensing of Railway Undertakings) Regulations 2016, as amended (the 2016 Regulations) which apply alongside the Act. It is important to understand when the Act applies and when the 2016 Regulations apply, to ensure that you follow the correct procedures.
- 1.12 Our economic regulation decisions are made under our legal duties (known as section 4 duties as they are found in section 4 of The Railways Act 1993 (the Act) and any policies on economic regulation that we have published. Annex B contains a brief summary of the laws and regulations that define our responsibilities. When exercising our powers under the Act we will have regard to our statutory duties, including the duty to promote competition in the provision of railway services for the benefit of users. We will need to be satisfied that proposed contracts or arrangements do not unduly limit competition in the provision of railway services but we will not undertake a full competition assessment as would be required under competition law.
- 1.13 The UK is also a signatory of the [Convention concerning International Carriage by Rail \(COTIF\)](#) which regulates international rail traffic setting out a number of uniform rules and regulations in particular on technical standards and approvals for railway equipment.
- 1.14 Table 1.1 below shows the typical timescales for approval of access applications, safety certificates, interoperability authorisations and licences. It is an indicative guide only – where the typical timescale corresponds with a statutory timescale this has been indicated. We aim to conclude applications promptly. However, in some instances, approval may take longer than the timescales shown as each

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case is different and will depend on the specific circumstances, we are happy to discuss this with you prior to your application. Some of the key drivers affecting timeliness are the quality and completeness of information provided by applicants and the responsiveness of relevant parties, such as infrastructure managers.

- 1.15 Table 1.1 should not be taken as an indication that applications should be made to us in any particular order. The order in which applications are made will depend on the specific circumstances.
- 1.16 Table 1.1 below does not cover the time required for approvals and other processes which require you to liaise with other parties (which will often need to take place before you submit an application to us), for example:
- (a) Fully developing access applications before submission to ORR, which will often require negotiation with third parties such as infrastructure managers and facility owners. Applicants may need up to 18 months to negotiate a track access contract with the infrastructure manager before sending the application to us (for wholly new operations requiring new-build rolling stock procurement, applicants can approach the infrastructure manager and then ORR to seek a track access agreement a number of years in advance of operations).
 - (b) Preparing applications for safety authorisations and safety certificates, and vehicle and infrastructure interoperability authorisations, including any approvals needed in relation to cross-border services using the Channel Tunnel Fixed Link delivered by the Intergovernmental Commission for the Channel Tunnel.
 - (c) Financing for rolling stock and locomotives (for example negotiating leases with rolling stock companies, known as ROSCOs).
 - (d) Any approvals needed for land security processes and UK Border Force requirements.
 - (e) Training staff.
- 1.17 Timescales are further detailed in the separate chapters of the guidance.

Table 1.1 Timescales for types of application to ORR, for GB mainline and Channel Tunnel Fixed Link

Type of application to ORR	GB mainline	Channel Tunnel (UK half of Fixed Link)
Safety certificate and safety authorisation (issue, renew or amend)	Up to 4 months to carry out assessment, from receipt of all information * Statutory timescale	Up to 4 months to carry out assessment, from receipt of all information * Statutory timescale
Interoperability authorisation (sub-system/vehicle)	Within 4 weeks of receiving the complete application for authorisation	4 months to carry out assessment, from receipt of all information *Statutory timescale Note: the timescale may be less than 4 months if an application for an additional authorisation is made under Article 63 of the CTSO
Train driving licence	Within 1 month of receiving all necessary information	Within 1 month of receiving all necessary information
Licence or licence exemption	12 weeks	Not applicable
Track access agreement	12 weeks for a contentious application 6 weeks from receipt of all relevant information *Statutory timescale	Not applicable
Depot access agreement	6 weeks from receipt of all relevant information *Statutory timescale	Not applicable
Station access agreement	6 weeks from receipt of all relevant information *Statutory timescale	Not applicable

Who does what?

Office of Rail and Road (ORR)

- 1.18 ORR is the independent economic and safety regulator for Britain's railways and the monitor of performance and efficiency for England's strategic road network.
- 1.19 There are other bodies besides ORR which have responsibilities covering the operations of international rail services. The main ones are listed below.

Department for Transport (DfT)

- 1.20 DfT, through the authority of the Secretary of State (SoS), is responsible for developing the Government's long-term strategy for railways. This involves specifying funding for the rail industry, including the level of passenger services and the overall size and shape of the railway network in England and much of Wales.
- 1.21 DfT issues concession-style agreements (public service contracts), after a competitive bidding process, to passenger train operators providing domestic services, directly oversees some operators and funds parts of the railways in line with government policy. DfT is also responsible for some consumer protection matters, including through ticketing and passenger benefits, providing services for disabled people and procedures for handling complaints.
- 1.22 The SoS remains the freeholder of the High Speed 1 (HS1) route including the International Stations at St Pancras, Stratford, Ebbsfleet, and Ashford. Temple Mills is a light maintenance depot, leased by Eurostar from the SoS.
- 1.23 DfT is responsible for exercising the UK's rights and obligations, alongside France, as Principals to the Concession Agreement concerning the Channel Tunnel Fixed Link and associated agreements, including those which relate to facilitating cross-Channel services. Unlike for domestic services, DfT does not issue concession-style agreements to international train operators, as these operate on an open access basis. DfT also issues security directions under the Channel Tunnel (Security) Order 1994 that apply to all international operators and international station facility owners operating Restricted Zones for international rail services.

Network Rail Infrastructure Limited

- 1.24 Network Rail owns most of the rail infrastructure network in Great Britain. It is responsible for providing a reliable and efficient railway network to allow train operators to run their services. Network Rail is also responsible for delivering

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major projects relating to the railway network and working with rail operators to develop the national timetable.

High Speed 1 Limited (HS1)

- 1.25 In November 2010, HS1 Ltd was awarded the 30-year concession to operate and maintain HS1, the high speed line between the Channel Tunnel and London, as well as the four stations along the route: St Pancras International, Stratford International, Ebbsfleet International and Ashford International.
- 1.26 HS1 Ltd is responsible for the overall management and operation of the HS1 network. ORR has produced [guidance on HS1 regulation](#).
- 1.27 HS1 was designed to be compliant with both UIC GC loading gauge and relevant European Technical Specifications for Interoperability (TSIs).
- 1.28 Current international passenger services between London and Paris, Brussels and Amsterdam are operated by Eurostar, while domestic passenger services are operated by Southeastern on the HS1 network. Some freight services also run on the HS1 route which includes spurs leading to and from the freight terminal at Dollands Moor (Folkestone).

Eurotunnel

- 1.29 Eurotunnel is the private concessionaire of the cross-Channel Fixed Link (Channel Tunnel Fixed Link) and makes paths available to railway undertakings that are licensed to operate cross-channel rail passenger and rail freight services. Eurotunnel is owned by Getlink SA.
- 1.30 As per Clause 2.2 of the Channel Fixed Link [Concession Agreement](#), the Fixed Link comprises a twin bored tunnel rail link with associated service tunnel under the English Channel between the Pas-de-Calais in France and Cheriton in Kent, England, together with the terminal areas and dedicated facilities for control of, access to, and egress from, the tunnels. The Concession, and Eurotunnel's infrastructure manager role, does not extend to adjacent freight facilities on the national networks at the Fréthun and Dollands Moor frontier yards.
- 1.31 Rail access conditions to the Channel Tunnel Fixed Link are governed by the long-term legal framework of the Treaty of Canterbury, the Channel Tunnel Fixed Link Concession and the Usage Contract. They can be found in Eurotunnel's [Network Statement](#).

The Channel Tunnel Intergovernmental Commission (IGC)

- 1.32 The Intergovernmental Commission (IGC) is a binational Anglo-French body established by the Treaty of Canterbury 1986 to supervise all matters relating to the construction and operation of the Channel Tunnel Fixed Link. It is the conduit for discussion between the public services of both countries on issues involving the Fixed Link. It has the necessary regulatory powers to put a “unified safety regime” in place in the Channel Tunnel. Its members include representatives of the two Governments and the respective national safety authorities of both countries.
- 1.33 Following the UK’s withdrawal from the EU, the role of the IGC has changed when it comes to safety matters. The IGC is currently the National Safety Authority (NSA) for the UK half of the Fixed Link, but since 1 January 2021, EPSF (Établissement public de Sécurité Ferroviaire), the French safety regulator, has been the NSA for the French half of the Fixed Link.
- 1.34 With respect to safety, the IGC is supported by the Channel Tunnel Safety Authority (CTSA) whose delegation members include representatives from both the UK and France. The IGC currently regulates the UK half of the Channel Tunnel Fixed Link according to the Channel Tunnel (Safety) Order 2007 (as amended by the Channel Tunnel (Safety) (Order) 2013) (“CTSO”). However, in the coming months this will be replaced by a new binational framework agreement. Once the new agreement is in force, responsibilities for safety regulation of the UK half of the Fixed Link will transfer from the IGC to ORR. At that point, ORR will become the NSA for the UK half of the Channel Tunnel Fixed Link, including formal responsibility for issuing safety certificates and authorisations. The IGC and CTSA will retain their other functions and responsibilities in accordance with the Treaty of Canterbury.
- 1.35 It is worth highlighting that the UK delegation members of the CTSA (which advises the IGC on safety matters) are ORR personnel. Once ORR becomes the NSA for the UK half of the Fixed Link, it is likely to be the same ORR personnel / positions of responsibility that will continue to do the work under ORR’s own authority.
- 1.36 The IGC has also a [cooperation agreement](#) with ORR and EPSF in the fields of safety and interoperability of railway activities connected to the operation of the Channel Fixed Link and international rail traffic. The agreement is intended to ensure the UK and French authorities work together to make aligned decisions on safety certificates and authorisations relating to international services.

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1.37 Responsibilities for economic regulation of the Channel Fixed Link were transferred from the IGC to the regulatory bodies of the UK and France, ORR and Autorité de Régulation des Transports (ART) respectively, by the Channel Tunnel (International Arrangements) (Charging Framework and Transfer of Economic Regulation Functions) Order 2015. Both regulatory bodies have entered into a cooperation agreement which sets out common processes and joint governance of decisions to ensure an aligned approach to economic regulatory matters in the Tunnel.

European Union Agency for Railways (ERA)

1.38 ERA is an agency of the European Union established by Regulation (EU) 2016/796. Its purpose is to support the development of a Single European Railway Area promoting a harmonised approach to railway safety. Some of its tasks include: providing technical support to the European Commission; setting out the technical and legal framework for removing technical barriers; acting as the system authority for ERTMS and telematics applications; and acting as the European Authority issuing vehicle (type) authorisations and single safety certificates.

Etablissement Public de Sécurité Ferroviaire (EPSF)

1.39 EPSF is the French national safety authority. It ensures that regulations on rail transport safety and interoperability are complied with within the French national rail system. In particular it issues the safety authorisations required to perform railway operations in France as set out in the EU Fourth Railway Package.

Responsible entities with respect to the Channel Tunnel Fixed Link

Table 1.2 Responsible entities with respect to the Channel Tunnel Fixed Link

	UK half of the Fixed Link	French half of the Fixed Link
Safety authority	IGC (supported by the CTSA)	EPSF
Economic regulation	ORR	ART

1.40 This guidance does not cover every aspect that operators will need to consider, nor does it cover topics in detail. It highlights the main areas that operators will need to consider and signposts readers to relevant legislation and, where applicable, to other ORR guidance documents that cover topics in greater detail.

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- 1.41 We will review this document as appropriate, particularly where changes are necessary to reflect changes in legislation, minor clarifications and amendments.

2. Licensing

Background

- 2.1 Licences help ensure operators are ‘fit and proper’ to run a railway. To obtain a licence, applicants must satisfy requirements as to good repute, professional safety competence, financial fitness and insurance cover for civil liabilities.
- 2.2 It is an offence to operate passenger or freight trains without an appropriate licence and each operator must comply with the conditions and authorisation criteria once it is licensed to operate. Although the UK is no longer part of the EU, the licensing criteria that applicants must meet are very similar to those in the EU and we require very similar information for consideration.
- 2.3 Anyone intending to operate international services in Great Britain must hold a licence and a corresponding Statement of National Regulatory Provisions (a “SNRP”) issued by ORR. An EU licence issued by a licensing authority in the EU will not be valid in Great Britain, except in the circumstances described at 2.5.
- 2.4 Notwithstanding the exception at 2.5, railway undertakings providing international services via the Channel Tunnel Fixed Link (that is, providing “Channel Tunnel Services”) and holding a European licence issued by a licensing authority in the EU, must apply to ORR for a *Railway Undertaking licence* to operate in Great Britain.
- 2.5 The exception applies in the cross-border area between Great Britain and France, where European licences granted by a licensing authority in the EU will be valid. Those EU-issued licences will allow:
- (a) the transport of passengers by rail between Calais-Fréthun station in France and Ashford International station in Great Britain; and
 - (b) the transport of goods by rail between Fréthun freight yard in France and Dollands Moor freight yard in Great Britain.

Please refer to the [Railway \(Licensing of Railway Undertakings\) Regulations 2005](#) as amended and, in particular, to the [Railway \(Licensing of Railway Undertakings\) \(Amendment\) Regulations 2021](#) for more detailed information.

- 2.6 This chapter does not cover every aspect of licensing that operators will need to consider, nor does it cover topics in detail. It highlights the main areas that

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operators will need to consider and signposts readers to relevant legislation and, where applicable, to other ORR guidance documents that cover topics in greater detail.

2.7 The table below summarises the licences needed, the licence-awarding entities and the legislation applicable for each type of infrastructure manager.

Table 2.1 The licences needed, the licence-awarding entities and the legislation applicable for each type of infrastructure manager.

	Network Rail infrastructure	HS1 infrastructure	Eurotunnel infrastructure	EU infrastructure
Licence needed for railway undertaking to operate rail services	GB Railway Undertaking licence/SNRP	GB Railway Undertaking licence/SNRP	GB Railway Undertaking licence in UK half of Tunnel and EU licence for French half of the Tunnel	European licence
Approved by	ORR	ORR	ORR and EU Member State licensing authority	EU Member State licensing authority
Applicable legislation	Railway (Licensing of Railway Undertakings) Regulations 2005 and Railway (Licensing of Railway Undertakings) (Amendment) Regulations 2021	Railway (Licensing of Railway Undertakings) Regulations 2005 and Railway (Licensing of Railway Undertakings) (Amendment) Regulations 2021	Railway (Licensing of Railway Undertakings) Regulations 2005 and Railway (Licensing of Railway Undertakings) (Amendment) Regulations 2021 Directive 2012/34/EU of the European Parliament and of the Council of 21 November 2012 establishing a single European railway area (recast)	Directive 2012/34/EU of the European Parliament and of the Council of 21 November 2012 establishing a single European railway area (recast)

ORR's role

- 2.8 ORR is the licensing authority in Great Britain. We have the power to investigate instances where we suspect non-compliance with the obligations we set and to take action where appropriate. Our policy and procedures on enforcement are set out in our [economic enforcement policy and penalties statement](#).
- 2.9 The statement explains that we are able to choose between different enforcement mechanisms where more than one applies. It also sets out our principles for the way in which penalties are calculated.
- 2.10 Through our enforcement powers, if a licensee does not comply with the licensing obligations we impose, we will consider enforcement action. This may ultimately result in the suspension or revocation of the licence.
- 2.11 More information about the licensing process can be found in our general [licensing guidance](#).

Types of licences

Train operators

- 2.12 For the purpose of this chapter, the term operator is used to describe the legal entity that manages a railway asset as defined in the Act. Typically, this is the train operating company running a passenger or a freight train service.
- 2.13 Under the 2005 Regulations, most railway operators who provide passenger or freight train services in Great Britain must obtain from ORR a *Railway Undertaking licence* together with a corresponding Statement of National Regulatory Provisions ([SNRP](#)) which contains certain industry-standard obligations, such as requiring operators to maintain third party liability insurance, binding common arrangements and standards for ticketing, complaints handling, accessible travel policies and passenger information that we can enforce.
- 2.14 However, this does not apply to all train operators for example on historic, stand-alone networks that are separate to the national network. For full details, see exclusions set out in regulation 4 of the 2005 Regulations and the Channel Tunnel Rail Link Act 1996.
- 2.15 Note that most operators of passenger international train services running beyond Ashford International will need a *Railway Undertaking licence*. Most operators of

freight services running beyond Dollands Moor will also need a *Railway Undertaking licence*.

Other types of licences

2.16 There are also other types of railway assets, as defined in the Act:

- (a) networks (operated by infrastructure managers);
- (b) stations;
- (c) light maintenance depots; and
- (d) train services that do not need a *Railway Undertaking licence*.

2.17 Anyone intending to operate these types of assets must hold a *Railways Act licence* (or licence exemption) under section 6 of the Act.

2.18 *Railways Act licences* are issued on the same criteria as *Railway Undertaking licences*. However, the conditions are in the licence itself rather than in a separate SNRP.

The licensing process

Application

2.19 Our application forms explain the information we usually need to process an application. They set out the background information we require so that we have sufficient information to understand the intended activities and allow us to determine whether the licence award criteria have been met.

2.20 Applicants should consider and allow for the time needed to obtain any necessary safety approvals or other permissions, as we need to be satisfied that the applicant meets all our requirements – including our safety requirements – before we grant a licence.

2.21 Licences are not to be held at the top-level of a ‘Group’ corporation and used by its subsidiaries or associated companies within the group.

2.22 For the purposes of the 2005 Regulations, operators do not need to be established in Great Britain, but we will need English translations of any foreign language documents given to us. Your nominated contact should also be able to speak to us and industry bodies on the full range of licensing and operational issues. It is the

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responsibility of individual businesses to ensure that they are compliant with the relevant UK legislation, in particular company law.

- 2.23 [Application forms](#) for *Railways Act licences*, *Railway Undertaking licences* and SNRPs are on our website.
- 2.24 Each applicant must pay an application fee of £250.
- 2.25 We have published template licences and SNRPs on our [website](#). We update these as necessary. These templates act as a starting point. They may need to be tailored to your circumstance if required.

Consideration and consultation

- 2.26 As an application progresses, we will ask for information about how you will comply with impending licence and SNRP conditions.
- 2.27 If we expect to grant a licence, we are required to publish a notice on our website stating that intention and giving our reasons. We normally allow 28 days for any interested party to comment, but occasionally we allow a longer consultation period.

Decision and award

- 2.28 Once the consultation period has ended, we will consider any comments we have received and hold any discussions as are necessary with the applicant and any relevant third parties.
- 2.29 In deciding whether to grant a licence we must be satisfied that the applicant is ‘fit and proper’; that is, of good repute, financially fit, professionally competent and adequately insured.
- 2.30 Insurance is only considered adequate if it has been approved by ORR. Applicants must have sufficient third party liability insurance, or equivalent arrangements, covering liabilities in the event of accidents to passengers, luggage, freight, mail and third parties. Applicants will satisfy this criterion if they are consistent with our [licensing guidance](#).
- 2.31 If we decide to grant the licence, we will normally do so within two weeks of closing our final checks. The process will take longer if the consultation raises significant regulatory or other issues.

Timescales

- 2.32 The timescale for the process of applying for a licence depends on the complexity of the issues involved in the application and any comments we receive during the consultation period.
- 2.33 Applicants must allow at least 12 weeks for ORR to grant a licence. Prospective applicants may find it useful to discuss their planned operations with us before making a formal application. We welcome such early and informal dialogue; we can explain our requirements, help identify other regulatory issues and discuss timescales.
- 2.34 Although we can give early informal guidance, our opinion may change once we have considered a formal application. However, guidance at an early stage can be valuable, saving time and expense.

3. Health and safety

Overview and context

- 3.1 This chapter provides a high-level overview of the main health and safety requirements for operating on the GB mainline, as well as providing a summary of what applicants will need to comply with if they want to operate services internationally through the UK half of the Channel Tunnel Fixed Link. For the French half of the Channel Tunnel Fixed Link and operations in mainland Europe, operators will need to consult the relevant EU and French legislation.
- 3.2 In this chapter, reference to the GB mainline railway includes HS1 infrastructure. The Channel Fixed Link is defined in the glossary. The UK half of the Channel Tunnel Fixed Link stretches from the start of the Channel Tunnel at Cheriton, to the frontier point of the tunnel under the English Channel.
- 3.3 This chapter does not cover every aspect of health and safety that applicants will need to consider, nor does it cover topics in detail. It highlights the main areas for consideration and signposts readers to relevant legislation and, where applicable, to other ORR guidance documents that cover topics in greater detail.
- 3.4 With respect to the GB mainline and the UK half of the Channel Tunnel Fixed Link, this chapter covers the following topics:
- (a) The Railways & Other Guided Transport Systems (Safety) Regulations 2006 (ROGS);
 - (b) Train driver licensing and certification; and
 - (c) Entities in Charge of Maintenance (ECMs).
- 3.5 The [Intergovernmental Commission](#) (IGC) is the safety authority for the UK half of the Channel Tunnel Fixed Link, whilst [EPSE](#), the French National Safety Authority is the National Safety Authority (NSA), for the French half of the Channel Tunnel Fixed Link. The UK half of the Channel Tunnel Fixed Link is governed according to [The Channel Tunnel \(Safety\) Order 2007](#) (as amended by the Channel Tunnel (Safety) (Order) 2013) (CTSO).
- 3.6 It is expected that in the coming months, ORR will replace the IGC as the NSA for the UK half of the Channel Tunnel Fixed Link, whilst the CTSO will be replaced by a new legislative agreement between the Governments of the UK and France.

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That new agreement will align the regulatory requirements of the UK half of the Channel Tunnel Fixed Link with that of the French half. At the same time, a new safety certificate agreement between the UK and France will come into force. This will provide for mutual recognition of safety certificates in the cross-border areas (i.e., between Dollands Moor and Ashford International in the UK, and Calais-Fréthun in France) as per operator licences. Once the new agreements are in force, guidance will be produced to reflect the new regulatory requirements accordingly.

- 3.7 The IGC, ORR and EPSF also have a [cooperation agreement](#) (with [appendices](#)) in the field of safety and interoperability of railway activities connected to the operation of the Channel Tunnel Fixed Link and international rail traffic to ensure cooperation in the execution of their tasks as national safety authorities in relation to the Fixed Link.

ORR's role

- 3.8 The [Health and Safety at Work etc. Act 1974](#) (HSWA) provides the framework for regulating health and safety in Great Britain, including the UK half of the Channel Tunnel Fixed Link. General safety laws which have been developed under HSWA (such as the [Management of Health and Safety at Work Regulations 1999](#)) apply to the railway but there are also other safety laws which apply specifically to the rail industry.
- 3.9 As the independent health and safety regulator for the railway industry, we:
- (a) enforce all health and safety legislation where it applies to the railway industry;
 - (b) provide advice and guidance for the industry on relevant laws and how to keep to them; and
 - (c) assess applications for safety certificates / authorisations and issue certificates / authorisations; and inspect railway operators' arrangements for managing safety.
- 3.10 The [Rail Accident Investigation Branch \(RAIB\)](#) is a separate independent railway accident investigation organisation. RAIB's jurisdiction covers mainline and non-mainline railway infrastructure and includes Northern Ireland Railways infrastructure and the UK half of the Fixed Link. RAIB investigates accidents and incidents on the UK's railways with the aim of improving safety. RAIB is not a prosecuting body and does not apportion blame in its reports. RAIB's powers,

duties, and scope of work are defined by the [Railway \(Accident Investigation and Reporting\) Regulations 2005 \(as amended\)](#). A RAIB report will usually contain recommendations which it addresses to ORR. It is our [role](#) to consider their recommendations and, if appropriate, pass them on to dutyholders who are required to take them into consideration and, where necessary, act upon them.

The Railways & Other Guided Transport Systems (Safety) Regulations 2006 (ROGS)

3.11 Table 3.1 sets out the safety certificate and safety authorisation regulatory requirements for the GB mainline and Channel Tunnel Fixed Link.

Table 3.1 The safety certificate and safety authorisation regulatory requirements for the GB mainline and Channel Tunnel Fixed Link

	GB mainline infrastructure (including HS1 infrastructure)	UK half of the Channel Tunnel Fixed Link	French half of Channel Tunnel Fixed Link and wider French / EU infrastructure
Transport Undertaking requirements	Mainline Safety Certificate; UK Part A and Part B	Mainline Safety Certificate: Additional Fixed Link Part B certificate (using domestic UK part A certificate) or standalone Part B certificate	European Single Safety Certificate*
Infrastructure Manager requirements	Mainline Safety Authorisation. A Safety Authorisation is required for those who operate stations.	Mainline Safety Authorisation held by the Concessionaire for the Fixed Link	Safety Authorisation
Assessing / issuing organisation	ORR	IGC	ERA or EPSF
Applicable legislation	ROGS (as amended)	The Channel Tunnel (Safety) Order 2007 (as amended by the Channel Tunnel (Safety) (Order) 2013 The Channel Tunnel National Technical Rules	Directive 2016/798/ EC (Railway Safety Directive)

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*IGC and ORR issued safety certificates are no longer valid in the French section of the Channel Tunnel Fixed Link. However, operators with an IGC or ORR issued certificate can currently enter into a contractual arrangement with Eurotunnel to operate under Eurotunnel's safety authorisation through the French half of the Tunnel. Paragraph 3.22 provides further details.

GB mainline requirements

- 3.12 [ROGS](#) provides the regulatory regime for railway safety in Great Britain and was introduced to implement the EU safety requirements for transport undertakings and infrastructure managers in Great Britain.
- 3.13 Under ROGS, a *transport undertaking* (any person or organisation that operates a vehicle in relation to any infrastructure) and *infrastructure manager* (any person or organisation that is responsible for developing and maintaining infrastructure (not including a station) or for managing and operating a station; and manages and uses that infrastructure or station, or allows it to be used for operating a vehicle), are collectively referred to as '*transport operators*'.
- 3.14 ROGS applies to the GB mainline railway and this includes HS1 infrastructure up to the start of the UK half of the Channel Tunnel Fixed Link. Under ROGS, you must not operate vehicles or manage infrastructure unless you have the appropriate safety certificate (for transport undertakings) or safety authorisation (for infrastructure managers, including station operators).
- 3.15 ROGS also requires transport operators to maintain a safety management system (SMS). The SMS is the basis for making sure a transport system operates safely and in line with ROGS. When applying for a safety certificate, you must provide evidence that your SMS makes sure the railway can be operated safely. The SMS should demonstrate evidence that there is capability in the organisation to safely manage the operations that the applicant is to carry out. Further information on the SMS can be found in ORR's ROGS [guidance](#).
- 3.16 Under the [Railways \(Access to Training Services\) Regulations 2006](#) (as amended), transport undertakings applying for a safety certificate are also entitled to access training services for train drivers and staff on the train, if the training is necessary to meet the requirements for getting a safety certificate. ORR's ROGS guidance contains further information on this.
- 3.17 ROGS also contains requirements for mainline transport operators to:
- (a) introduce new or altered rolling stock (or infrastructure) safely;
 - (b) carry out risk assessments;

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- (c) send us an annual safety report;
- (d) co-operate with other transport undertakings and infrastructure managers to reduce risks; and
- (e) make sure their employees who carry out tasks where safety issues arise are suitably competent and fit to do so.

3.18 Further information on ROGS can be found in our unofficial [consolidated version of ROGS](#). We also have a ROGS [guidance](#) document which has been updated to reflect the changes made following the UK's exit from the EU. In all instances you should consult the latest version of the legislation, as amended, for a comprehensive understanding of ROGS. We also strongly recommend that you consult our [guidance](#) or approach us with questions before applying for a safety certificate or safety authorisation.

Regulatory requirements for the UK half of the Channel Tunnel Fixed Link

- 3.19 With respect to safety certificates, safety authorisations and SMSs in the UK half of the Fixed Link, Infrastructure managers and railway undertakings will need to comply with the CTSO. Infrastructure managers and railway undertakings are defined in the CTSO.
- 3.20 Railway undertakings need to provide proof to the IGC of the acceptance of a SMS by the Member State in which they first established their activities. Annex I to the Schedule of the CTSO sets out the requirements and elements of the SMS that need to be complied with. As per Chapter 2 to the Schedule of the CTSO, railway undertakings also need to submit an annual safety report relating to their activities within the Channel Tunnel Fixed Link during the previous calendar year.
- 3.21 The CTSO sets out the safety certificate requirements for a railway undertaking, whereby they must hold a Part A certificate and a Part B certificate issued by the IGC. The CTSO details the requirements required to obtain a Part B certificate, which includes, amongst other things, evidence of measures taken to ensure compliance with the specific requirements necessary for safe use by all trains of the Channel Tunnel Fixed Link.
- 3.22 IGC and ORR issued safety certificates are no longer valid in the French half of the Channel Tunnel Fixed Link. It is currently possible for transport undertakings to enter into a contractual arrangement with Eurotunnel to operate under Eurotunnel's safety authorisation through the French half of the Fixed Link, as

permitted under Article 10.9(b) of the Recast EU Railway Safety Directive ([2016/798](#)). It is also possible for transport operators to have an additional Article 10.9(b) arrangement with other transport operators to traverse a short section of French mainline track into the Fréthun freight yard. Article 10.9(b) arrangements are a temporary measure and is expected to be replaced by a safety certificate bilateral agreement (permitted under Article 10.9(a) of [2016/798](#)), which will come into force when the new legislative agreement for the Channel Tunnel Fixed Link comes into force – currently estimated to be at some point within the next 12 months or so. For further information on obtaining a 10.9(b) arrangement, transport operators should speak with the other relevant transport operator or speak with the CTSA (CTSA@orr.gov.uk).

3.23 As such, transport undertakings wishing to operate on the GB mainline and within the Channel Tunnel Fixed Link will need:

- (a) A Part A and Part B safety certificate issued by ORR to operate on the GB mainline network;
- (b) A second Part B safety certificate issued by the IGC for operations in the UK half of the Channel Tunnel Fixed Link. This second Part B certificate may be a standalone document, or may rely on the domestic Part A certificate; and
- (c) A European Single Safety Certificate for the French half of the Channel Tunnel Fixed Link.

3.24 For consistency purposes, the processes outlined in ORR's [assessment manual](#) are followed for Part B safety certificate applications to operate in the UK half of the Channel Tunnel Fixed Link. The IGC assessment process has additional assurance activities that do not apply domestically to GB only applications. Assessment criteria for the UK half of the Channel Tunnel Fixed Link can be found in Annexes 2 and 3 of the guidance to the CTSO. Please contact the CTSA (CTSA@orr.gov.uk) for a copy of this guidance document.

3.25 It is recommended that applicants apply for their Part B Channel Tunnel Fixed Link safety certificate at the same time as they apply for the Part A and Part B safety certificate for the GB mainline. The Part A for operating on the GB mainline should also be comprehensive in nature so that it supports the Part B certificate for the Channel Tunnel Fixed Link. As per the CTSO, if a railway undertaking makes a substantial change to their operations, they will be required to apply for an amended Part B Channel Tunnel Fixed Link certificate.

3.26 Further information on the SMS, safety certificate and safety authorisation requirements for the UK half of the Channel Tunnel Fixed Link can be found in the guidance document to the CTSO, which can be obtained by contacting the CTSA (CTSA@orr.gov.uk).

Train driver licensing and certification

3.27 Table 3.2 and Table 3.3 set out the train driver licensing requirements for the GB mainline and Channel Tunnel Fixed Link.

Table 3.2 Licence and certificate requirements for those train drivers going from the GB mainline, through the Channel Tunnel Fixed Link to mainland France

	GB mainline (incl. HS1 infrastructure), up to the UK half of the Channel Tunnel Fixed Link	Fixed Link, extending to Calais-Fréthun	Mainland France and Europe beyond Calais-Fréthun
Licence and certificate required	1. GB train driving licence 2. Train driving certificate	1. GB train driving licence 2. Train driving certificate	1. EEA train driving licence 2. Train driving certificate
Issuing organisation	1. ORR 2. Driver's employer (railway undertaking)	1. ORR 2. Driver's employer (railway undertaking)	1. Relevant European NSA 2. Driver's employer (railway undertaking)
Applicable legislation	Train Driving Licences and Certificates Regulations 2010 (TDLCR) (as amended)	Train Driving Licences and Certificates Regulations 2010, as amended by the Train Driving Licences and Certificates (Amendment) Regulations 2022	Directive 2007/59/EC of the European Parliament and of the Council

Table 3.3 Licence and certificate requirements for those train drivers coming from France, through the Channel Tunnel Fixed Link to the GB mainline

	Mainland France up to the French half of the Fixed Link	Fixed Link extending to Dolland's Moor or Ashford International	GB mainline beyond Dolland's Moor or Ashford International
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Licence and certificate required	1. EEA train driving licence 2. Train driving certificate	1. EEA train driving licence 2. Train driving certificate	1. GB train driving licence 2. Train driving certificate
Issuing organisation	1. Relevant European NSA 2. Driver's employer (railway undertaking)	1. Relevant European NSA 2. Driver's employer (railway undertaking)	1. ORR 2. Driver's employer (railway undertaking)
Applicable legislation	Directive 2007/59/EC of the European Parliament and of the Council	Directive 2007/59/EC of the European Parliament and of the Council	Train Driving Licences and Certificates Regulations 2010 (TDLCR) (as amended)

GB mainline requirements

- 3.28 The [Train Driving Licences and Certificates Regulations 2010 \(TDLCR\)](#) (as amended) apply to railway undertakings and infrastructure managers who employ train drivers. Under TDLCR, a 'railway undertaking' refers to organisations that hold a safety certificate issued by ORR in accordance with ROGS, or Part B safety certificate issued by the IGC. 'Infrastructure manager' means an organisation that holds a safety authorisation issued by ORR in accordance with ROGS, or a safety authorisation issued by the IGC.
- 3.29 Railway undertakings must ensure that drivers employed to drive on the GB mainline meet the requirements of TDLCR. To drive a train, a person must hold a valid *train driving licence* and a complementary *train driving certificate*.
- 3.30 The *train driving licence* is issued to the railway undertaking by ORR, and it will then be given to the driver and is personal property of the driver until it expires or is suspended or withdrawn. A train driving licence is valid for up to ten years and remains valid even when the driver changes employer. The *train driving certificate* is issued to the train driver by the employer once the driver has been trained in relation to the type of rolling stock and specific infrastructure they are being deployed on. They are also required to be trained in relation to the railway undertaking or infrastructure manager's safety management system safety management system before they can be issued a complementary certificate. A driver must hold both a valid licence and certificate to drive a train.
- 3.31 Further information on train driving licences and certificates, including [guidance](#) for operators, can be found on ORR's [website](#).

Regulatory requirements for the UK half of the Channel Tunnel Fixed Link

- 3.32 For cross-border operations between the stations of Calais-Fréthun in France and Dollands Moor Freight Yard (for freight) and Ashford International Station (for passengers) in Great Britain, the [“Agreement between the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of the French Republic concerning Train Driving Licences and Complementary Certificates in respect of Rail Transport through the Channel Fixed Link”](#) applies.
- 3.33 Under the Agreement, a driver that holds either a UK or EEA train driving licence and complementary certificate issued in accordance with the applicable law of one party, shall be authorised to drive within the territory of the other party, whilst on the stretch of network described in Article 1(2) of the Agreement – i.e., between Calais-Fréthun in France and Dollands Moor Freight Yard or Ashford International Station in Great Britain. For Great Britain, the applicable legislation is the Train Driving Licences and Certificates Regulations 2010, as amended by the Train Driving Licences and Certificates (Amendment) Regulations 2022. For France, the applicable legislation is [Directive 2007/59/EC](#) of the European Parliament and of the Council. For further information on the EEA train driver licensing regime, you should refer to Directive 2007/59/EC and seek guidance from the relevant European national safety authority.
- 3.34 EEA train driving licences and certificates are no longer valid on the mainline in Great Britain. Where a driver is required to proceed onto the GB mainline beyond Dollands Moor Freight Yard or Ashford International Station, they must hold a valid GB licence issued by ORR as well as a valid complementary certificate issued by their employer in Great Britain. Similarly, for sections of the network in France beyond Calais-Fréthun, drivers and operators will need to comply with the relevant EU-derived and French legislation, including making licence applications to EPSF.
- 3.35 Although the UK is no longer part of the EU, the driver licensing and certification arrangement in the UK and EU are currently based on a common regulatory approach.
- 3.36 Guidance on the requirements for cross border train drivers can be found on ORR’s [website](#).

Entities in Charge of Maintenance (ECMs)

- 3.37 When referring to ECMs, ‘transport undertaking’ and ‘infrastructure manager’ have the same meaning as in ROGS (outlined in paragraph 3.13 of this document).

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ECMs are people or organisations who are responsible for the maintenance of vehicles that are used on the mainline railway.

GB mainline requirements

- 3.38 Where a vehicle is used only for domestic service in Great Britain, under [ROGS](#) (regulation 18A), the vehicle cannot be placed into service or used on the mainline railway unless it has an ECM assigned to it in the National Vehicle Register (NVR).
- 3.39 ECMs must ensure that, through a system of maintenance, a vehicle is safe to run on the mainline railway. The system of maintenance is maintenance of a vehicle in accordance with:
- (a) the maintenance file for that vehicle;
 - (b) applicable maintenance rules; and
 - (c) applicable National Technical Specification Notices (NTSNs) as defined in the Railways (Interoperability) Regulations 2011.
- 3.40 All ECMs must comply with the assimilated and corrected versions of [Commission Regulation \(EU\) 1078/2012](#) (“the Common Safety Method (CSM) for monitoring”) and [Commission Implementing Regulation \(EU\) 402/2013](#) (“the CSM for risk evaluation and assessment evaluation”). These were corrected by the [Rail Safety \(Amendment etc.\) \(EU Exit\) Regulations 2019](#).
- 3.41 The requirements apply to passenger rolling stock, locomotives, freight wagons and all other vehicles used on the mainline railway for domestic only services.
- 3.42 Where an ECM has responsibility for freight wagons in domestic only service in Great Britain, the ECM must hold one of the following:
- (a) an ECM certificate issued in accordance with Commission Regulation (EU) 2011/445 before the UK left the EU that is valid on the terms of its original issue;
 - (b) a UK-issued ECM certificate to use freight wagons on the mainline railway in accordance with Schedules 9 and 10 of ROGS; or
 - (c) a cross-border UK-issued ECM certificate to use freight wagons on the mainline railway issued in accordance with the retained version of Commission Implementing Regulation (EU) 2019/779.

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- 3.43 If the vehicle is a freight wagon in domestic only service, the ECM must have an ECM certificate issued by a certification body in accordance with regulation 18A(1)(b) of ROGS.
- 3.44 ECMs for vehicles other than freight wagons do not need an ECM certificate to operate vehicle on the mainline railway. However, voluntary certification can be obtained under Schedules 9 and 10 of ROGS or Commission Implementing Regulation (EU) 2019/779.

Regulatory requirements for cross border services via the Channel Tunnel Fixed Link

- 3.45 All ECMs responsible for vehicles in the Channel Tunnel Fixed Link must hold a valid ECM certificate issued by a certification body. It is possible to obtain an ECM certificate issued under the assimilated version of Commission Implementing Regulation (EU) 2019/779 for the UK section of the Channel Tunnel Fixed Link. These are called 'cross-border UK-issued ECM certificates' to distinguish them from domestic UK-issued ECM certificates issued under regulation 18A and Schedules 9 and 10 of ROGS for the mainline.
- 3.46 The UK is also a signatory of COTIF and is required to follow the requirements of Annex A of Appendix G of COTIF, which is equivalent with the requirements of Commission Implementing Regulation (EU) 2019/779. This means that the UK must recognise the requirements under Commission Implementing Regulation (EU) 2019/779 for vehicles in international traffic, including cross-border services between the UK and other COTIF contracting states e.g., France.
- 3.47 ECMs responsible for the maintenance of vehicles used for cross-border services must comply with regulation 18A(1A), 18A(2) and 18A(3) of ROGS, which applies on the mainline in Great Britain, and the assimilated version of Commission Implementing Regulation (EU) 2019/779, as it applies in the UK section of the Channel Tunnel Fixed Link.
- 3.48 An exemption is made for ECMs that are also transport undertakings or infrastructure managers responsible for the maintenance of vehicles other than freight wagons exclusively for their own operations. These ECMs still need to demonstrate compliance with the requirements of Commission Implementing Regulation 2019/779, in particular Annex II, but can do this as part of safety certification / safety authorisation instead of separately obtaining a cross-border UK-issued ECM certificate.

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- 3.49 In terms of regulation, where a COTIF or international transport undertaking is being facilitated then we rely on a non-domestic ECM body operating under the international arrangements. We do not have jurisdiction over the ECM, but we do have jurisdiction over the transport undertaking who is operating the service. Whilst ORR cannot check the non-domestic ECM, we are able to approach the transport undertaking to establish their satisfaction with the work being carried out by the ECM.
- 3.50 Further information on ECMs can be found on our [website](#), whilst we also have a [guidance document](#) on ECMs covering requirements for both domestic services and cross-border services.

4. Interoperability

Overview and context

- 4.1 This chapter provides a high-level overview of the interoperability requirements for operating on both the GB mainline, as well as for operating services through the UK half of the Channel Tunnel Fixed Link. The chapter does not go into detail, but instead signposts to relevant legislation and guidance documents that cover interoperability requirements in greater detail. For the French half of the Channel Tunnel Fixed Link and operations in mainland Europe, applicants will need to consult the relevant EU and French legislation.
- 4.2 In this chapter, reference to the GB mainline railway includes HS1 infrastructure up to the start of the UK half of the Channel Tunnel Fixed Link. The National Technical Specification Notices (NTSNs) making up the main part of the interoperability standards framework apply to the GB mainline, including HS1 infrastructure. However, with respect to National Technical Rules (NTRs), those NTRs defined for HS1 infrastructure differ to the NTRs for the rest of the GB mainline.
- 4.3 The [Intergovernmental Commission](#) (IGC) is the safety authority for the UK half of the Channel Tunnel Fixed Link. It is supported by the [Channel Tunnel Safety Authority](#) (CTSA), which advises and assists the IGC on all matters relating to safety, construction, and operation of the Channel Tunnel Fixed Link. The role and functions of the CTSA are defined in Article 11 of the [Treaty of Canterbury](#). [EPSF](#), the French National Safety Authority (NSA), is the NSA for the French half of the Channel Tunnel Fixed Link. The UK half of the Channel Tunnel Fixed Link is currently governed according to the [Channel Tunnel \(Safety\) Order 2007](#) (as amended by the [Channel Tunnel \(Safety\) \(Order\) 2013](#)) (CTSO).
- 4.4 In the coming months, ORR will replace the IGC as the NSA for the UK half of the Channel Tunnel Fixed Link, whilst the CTSO is expected to be replaced by a new legislative agreement between the Governments of the UK and France. The new agreement will change the interoperability requirements for the UK half of the Channel Tunnel Fixed Link, aligning them with the regulatory requirements of the French half.
- 4.5 The IGC, ORR and EPSF also have a [cooperation agreement](#) (with [appendices](#)) in the field of safety and interoperability of railway activities connected to the operation of the Channel Tunnel Fixed Link and international rail traffic to ensure

cooperation in the execution of their tasks as national safety authorities in relation to the Channel Tunnel Fixed Link.

Roles and responsibilities

4.6 Table 4.1 shows the main vehicle and interoperability regulatory requirements for the GB mainline and the Channel Tunnel Fixed Link.

Table 4.1 The main vehicle and interoperability regulatory requirements for the GB mainline and the Channel Tunnel Fixed Link

	GB mainline infrastructure (including HS1 infrastructure)	UK half of the Channel Tunnel Fixed Link	French half of Channel Tunnel Fixed Link and wider French / EU infrastructure
Vehicle interoperability authorisations	For new, upgraded or renewed rolling stock	For new, upgraded or renewed rolling stock	For new, upgraded or renewed rolling stock
Infrastructure interoperability authorisations	For new, upgraded or renewed structural subsystems	For new, upgraded or renewed structural subsystems	For new, upgraded or renewed structural subsystems
Approved by	ORR	IGC	ERA or EPSF
Applicable legislation	RIR 2011 (as amended)	The Channel Tunnel (Safety) Order 2007 as amended by The Channel Tunnel (Safety) (Order) 2013 The Channel Tunnel National Technical Rules	EU Directive 2016/797 (Railway Safety Directive)

4.7 The Railways (Interoperability) Regulations 2011 (as amended) (RIR 2011) came into force on 16 January 2012 and implemented the EC Directive 2008/57/EC on the interoperability of the UK rail system. Interoperability in the EU is now based on EC Directive 2016/797/EC which replaced EC Directive 2008/57/EC.

4.8 ORR is responsible for enforcing the interoperability regime in Great Britain. Any 'structural subsystem' that is built, upgraded or renewed as a project within the scope of the RIR 2011 (as amended) must receive an authorisation from ORR before it can be put into service in Great Britain. The person making changes to a

subsystem is known as a 'contracting entity'. The interoperability regime applies to new, major, upgraded or renewed infrastructure and rolling stock. Applicants must follow a technical standards framework and seek an [authorisation](#) from us to place the infrastructure or rolling stock into service. Without the authorisation, an applicant is unable to legally use the infrastructure or rolling stock on the GB railway.

- 4.9 RIR 2011 are likely to affect anyone who wants to build new lines or change the rail network in Great Britain, or anyone who wants to place new, renewed or upgraded rolling stock into use in Great Britain. This could cover infrastructure managers, railway undertakings, rolling stock leasing companies and manufacturers or suppliers of trains.

GB mainline requirements

Overview

- 4.10 RIR 2011 sit alongside UK health and safety legislation to ensure that vehicles and infrastructure are designed, manufactured, and entered into use on the railway in a consistent manner so that they are able to operate in conjunction with each other. RIR 2011 was amended, most significantly, by [The Railways \(Interoperability\) \(Amendment\) \(EU Exit\) Regulations 2019](#). This ensured that, following the UK's exit from the EU, a clear and accessible domestic legal framework was established for interoperability.
- 4.11 A key feature of interoperability is the establishment of *National Technical Specification Notices (NTSNs)*. These are UK standards defining the technical and operational standards that must be met by each subsystem in order to meet the essential requirements for interoperability. Applicants should identify which NTSNs are specific to their process and ensure they use the updated versions. The current NTSNs are published on DfT's [website](#), whilst the Rail Safety and Standards Board ([RSSB](#)) provide more detailed information.
- 4.12 National Technical Rules (NTRs) supplement the NTSNs. The Secretary of State for Transport publishes all national technical rules applying in the UK on the DfT section of the government [website](#). NTRs perform several functions:
- (a) make provisions for country or network specific cases;
 - (b) fill an open point identified in an NTSN; and

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- (c) set requirements to maintain technical compatibility with assets that do not conform to the requirements of NTSNs.
- 4.13 Application of, and compliance with, the relevant NTSNs and National Technical Rules will ensure that the essential requirements specified in RIR 2011 are met. [RIS-8270-RST](#) (at the time of writing, issue 1.1, September 2022, is the latest version) provides a process for the assessment of technical compatibility at route level for both vehicles and infrastructure as described. HS1 has adopted a different standard based on the previous standard GE/RT8270 (Issue 02), and modified it to address requirements on Infrastructure Registers. Further details on standards can be found on the website of [RSSB](#).
- 4.14 Where a vehicle has an authorisation to “place into service” or to “place on the market” issued by an EU Member State or ERA, it is likely that an authorisation will still be required from ORR. However, an exemption from the need to obtain an authorisation from ORR exists where a vehicle has been authorised in another COTIF contracting state and is compliant with Article 3(a) of Appendix G to COTIF. In those cases, the vehicle is deemed to be authorised in Great Britain. However, this exemption applies only to international journeys. International journeys must start outside of the UK – they can continue onto the GB mainline network but must represent continuous journeys that have not stopped. Nevertheless, you should contact and inform us that you intend to operate such a vehicle in Great Britain and provide us with sufficient evidence that the vehicle has received an authorisation and meets the criteria set out in Article 3(a) of Appendix G to COTIF. In most cases, the exemption will only apply to go anywhere (GE) wagons.

Application process

- 4.15 Under regulation 4(1) of RIR 2011, a structural subsystem, as defined in section 1(a) of Schedule 3 of RIR 2011 cannot be put into use unless:
- (a) we have given our authorisation under the interoperability regulations to place the structural subsystem into service; or
 - (b) DfT has decided under regulation 13 that you do not need authorisation for upgrading or renewal of the subsystem.
- 4.16 You need to decide whether the type of project concerned falls within the scope of interoperability regulations – i.e., if it is a new subsystem or one that has undergone a major upgrade or major renewal. regulation 13 of RIR 2011 enables an applicant to make an application to DfT, as the competent authority, when it

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considers itself to meet the definition of an upgrade or renewal project. The purpose of the application is to seek a decision as to whether an authorisation to place into service is required for the work and the extent to which the NTSNs should apply to the project. This is not a mandatory application process, so in most circumstances, the upgrade or renewal project should simply proceed to comply with the NTSNs and seek authorisation if there are not any problems achieving compliance.

- 4.17 Even where you consider that the project does not represent a major renewal or major upgrade, you need to consider whether you need to apply the [CSM REA](#) to your project. This applies when any technical, operational or organisational changes are being made to the rail system that could have an impact on safety.
- 4.18 Where authorisation is required, the applicant should appoint an Approved Body (ApBo) to carry out an independent assessment of the project and certify conformity against any relevant NTSNs. You will also need to appoint a Designated Body (DeBo) to carry out the assessment and certify conformity against any relevant NTRs, following which you, as the applicant, will receive a certification of verification from the ApBo and/or the DeBo.
- 4.19 You must draw up a verification declaration and seek an authorisation from ORR before you can use the vehicle or infrastructure on the railway. We review the technical file to make sure due process has been followed and the subsystem meets the essential requirements of the relevant NTSNs and any NTRs that apply.
- 4.20 After we receive an application for authorisation, we may authorise use of the subsystem or refuse the application. Where the essential requirements have not been met, we expect the applicant to carry out additional work to ensure they meet the essential requirements.

Timescales

- 4.21 You need to appoint an ApBo either before you complete the design stage or before the manufacturing stage.
- 4.22 We strongly recommend that you send us the complete technical file in good time to avoid any delays to getting authorisation. There is no mandatory time limit for us to determine an application for authorisation; however, ORR commits to providing a decision within 4 weeks of receiving the application for authorisation.
- 4.23 You do not need permission from ORR before you carry out tests that are required to support your application for authorisation. You should speak to the relevant duty

holder or infrastructure manager in order to obtain track access for testing purposes.

4.24 Further information on interoperability requirements for GB mainline can be found below:

(a) ORR's interoperability [webpage](#); and

(b) ORR's [guidance](#) for applicants.

Regulatory requirements for the UK half of the Channel Tunnel Fixed Link

4.25 For placing in service a new or substantially modified vehicle within the boundaries of the Channel Tunnel Fixed Link, applicants currently need to comply with the requirements of the CTSO (in particular chapters 2 and 5 to the Schedule). The CTSO, which currently applies to the UK half of the Fixed Link, is broadly based on the EU's third railway package (Directive 2008/57/EC). The IGC is currently the approving body for vehicle and infrastructure interoperability authorisations in the UK half of the Channel Tunnel Fixed Link.

4.26 The CTSO is expected to be replaced by a new legislative agreement between the Governments of the UK and France. The new agreement will change the interoperability requirements for the UK half of the Channel Tunnel Fixed Link, aligning them with the regulatory requirements of the French half. Once the agreement is in force, ORR will replace the IGC as the approving body for vehicle and interoperability authorisations within the UK half of the Channel Tunnel Fixed Link. Guidance will be provided in due course to reflect the new interoperability regulatory requirements.

4.27 The current processes for vehicle interoperability authorisation in the UK half of the Channel Tunnel Fixed Link are similar to that for GB mainline. However, there are some fundamental differences. The IGC authorises vehicles for the UK half of the Channel Tunnel Fixed Link. If a service is operating between the UK and France only, then for the French half of the Channel Tunnel Fixed Link and French mainland, the applicant can have the vehicle authorised by EPSF or ERA. If the service will operate in more than one EU member state, then the vehicle must be authorised by ERA, including for the French half of the Channel Tunnel Fixed Link.

4.28 The Channel Tunnel Fixed Link came into existence before the Technical Specifications for Interoperability (TSIs), and whilst the tunnel is largely TSI

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compliant, there are some notable exceptions, mainly concerning fire safety and evacuation. The Channel Tunnel Fixed Link has some specific technical rules that applicants will need to comply with, and amongst other things, rules for evacuation and vehicle running time within the Channel Tunnel Fixed Link. These can be found on [ERA's Reference Document database](#).

- 4.29 Whilst the legislation is different for the two halves of the Channel Tunnel Fixed Link, technically the processes are very similar. However, given the differences in legislation, plus the differences in process for GB mainline and the UK half of the Channel Tunnel Fixed Link, applicants who are considering operating through the Channel Tunnel Fixed Link should contact the [CTSA](#) at the earliest opportunity to discuss their proposals.
- 4.30 For operations that extend beyond both ends of the Channel Tunnel Fixed Link, applicants will need to make three vehicle or vehicle type authorisation applications: One to ORR for GB mainline; one to IGC for the UK half of the Channel Tunnel Fixed Link; one to EPSF (or ERA) for the French half of the Channel Tunnel Fixed Link and French mainland (plus other EU member states). However, consideration should also be given to Article 62 of the CTSO which sets out when an additional authorisation for placing in service in the Channel Tunnel Fixed Link may not be required.
- 4.31 ORR, EPSF and the IGC have a [cooperation agreement](#) concerning safety and interoperability of railway activities. [Annex II](#) of the agreement concerns vehicle and vehicle type authorisations. Under the agreement, ORR, EPSF and IGC will establish a joint assessment approach in relation to common requirements applying in the respective parts of the cross-border area. The three organisations will strive to align timings and decisions with respect to vehicle and vehicle type authorisation applications. This should improve the efficiency of the authorisation application process, in turn making it less burdensome and more straightforward for the applicant.
- 4.32 Neither ORR nor the IGC currently have a cooperation agreement with ERA. Where an applicant will be seeking a vehicle authorisation from ERA (see paragraph 4.27 for when an applicant needs to seek an authorisation from ERA), as well as an authorisation for the UK half of the Fixed Link and GB mainline, it is recommended that the applicant first seeks an authorisation from ERA.
- 4.33 Once the vehicle has been authorised by ERA for use within EU Member States, the applicant can then apply to ORR for authorisation in GB mainline under regulation 6 of RIR 2011. ORR recognises that authorisations issued by ERA are

valid within European member states. However, those authorisations are not valid within GB and the applicant will still need to apply for an authorisation from ORR to operate on the GB mainline. Regulation 6 sets out the evidence and information that the applicant will need to provide to ORR as part of their application for authorisation on the GB mainline.

- 4.34 The applicant will also need to apply to the IGC for an authorisation in the UK half of the Channel Tunnel Fixed Link in accordance with the CTSO. This application can be made at the same time as the application to ORR for GB mainline. ORR and IGC will work together in accordance with Annex II of the cooperation agreement.
- 4.35 Applicants will also need to consider COTIF, an international treaty which the UK is a signatory of. Regulation 6 of RIR 2011 will need to be considered in conjunction with the COTIF obligations, as regulation 6 of RIR 2011 does not remove the obligations under COTIF. Wagons that meet the relevant conditions under COTIF “shall be deemed as admitted to operation” and would therefore not require an additional authorisation under RIR 2011. However, this only applies to international journeys – i.e., journeys that started outside of the UK and have come through the Channel Tunnel Fixed Link. Those journeys may continue onto the wider GB mainline network, but the journeys need to be continuous for the COTIF provisions to apply. Applicants should consult the COTIF ATMF and the WAG NTSN for the list of conditions.

5. Track access

Background

- 5.1 If you want to operate cross-border rail services on the GB mainline, you must have a track access agreement with the relevant infrastructure manager(s). You will need to consider which infrastructure managers you need a contract with and coordinate your approach with infrastructure managers to ensure timely access to their networks. Access to track is regulated under the Act and the 2016 Regulations and most track access agreements have to be approved by ORR.
- 5.2 For the purposes of this guidance, the term “agreement” will be used to describe either an access contract, an access agreement, or framework agreement (as defined in the 2016 Regulations).
- 5.3 In this chapter, the term ‘railway undertaking’ is used to describe an entity whose principal business is to provide services for the transport of goods and/or passengers by rail.
- 5.4 The vast majority of the rail network in Great Britain is owned and operated by a single infrastructure manager – Network Rail Infrastructure Limited (Network Rail). International services coming from an EU member state will likely use HS1 (which is operated and managed by HS1 Ltd) and the Channel Tunnel Fixed Link (which is operated and managed by Eurotunnel). HS1 was designed to be compliant with both UIC GC gauge and relevant European Technical Specifications for Interoperability (TSIs).
- 5.5 The focus of this chapter is on the infrastructure networks operated by Network Rail, HS1 and Eurotunnel:
- (a) Further information on applying for access to the network managed by Network Rail can be found in Network Rail’s [Network Statement](#). We have also produced a series of [guidance modules](#) on our website describing regulation of access.
 - (b) Further information on applying for access to the network managed by HS1 Ltd can be found in HS1’s [Network Statement](#) and in ORR’s guidance [HS1 Criteria and Procedures](#).

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- (c) Further information on applying for access to the network managed by Eurotunnel can be found in Eurotunnel’s [Network Statement](#). Please refer to paragraphs 5.12 and 5.16 for further details.

5.6 The table below summarises the requirements for railway undertakings who want to operate services on those different networks.

Table 5.1 Summary of the main requirements for railway undertakings that want to operate services on those different networks

	Network on Network Rail infrastructure	Network on HS1 infrastructure	Network on Eurotunnel infrastructure	Network on EU infrastructure
Contracts / authorisations needed	Track access agreement	Track access agreement	Track access agreement	Access agreement
Approved by	ORR	ORR	N/A	N/A
Applicable legislation	Railways Act	2016 Regulations	2016 Regulations Directive 2012/34/EU (recast)	Directive 2012/34/EU (recast)

ORR’s role

5.7 To have access to track on the GB mainline, a railway undertaking must have a track access agreement. Regulated track access agreements and amendments to them are void if we have not approved them. This role of overseeing access agreements provides protection against unfair contract terms. It also provides protection to third parties who might be affected by the terms of an agreement between a railway undertaking and a facility owner.

5.8 Not all track access agreements require ORR approval and not all track access agreements are regulated under the Act. However, if a track access agreement is not regulated under the Act (for instance as shown in table 5.1 and you cannot get fair terms for access, you can appeal to ORR (where the 2016 Regulations apply).

5.9 The access requirements in the Act do not apply to networks that ORR or the Secretary of State have granted a specific exemption to. [The Railways \(Class and Miscellaneous Exemptions\) Order 1994](#) (CMEO) sets out some categories of

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network that are exempt. Other legislation such as Channel Tunnel Rail Link Act 1996 also either exempts or excludes certain other networks and facilities.

- 5.10 We have developed model agreements that contain standard provisions. These can be found on our [website](#).
- 5.11 Using model agreements reduces costs as fewer resources are needed to negotiate each provision and it also ensures consistency. Each model agreement sets out aspects of train operation such as each party's rights and obligations relating to charging and the rights to run services.

Access to the Channel Tunnel Fixed Link

- 5.12 Track access agreements for the Channel Tunnel Fixed Link are not regulated under the Act and we do not have a role in approving them.
- 5.13 International operators using the Channel Tunnel Fixed Link will need to enter into an agreement with Eurotunnel to access the Channel Tunnel. There are general access conditions for high speed rail passenger services and rail freight services through the Channel Tunnel on the Getlink [website](#). Further information can also be found in [Eurotunnel's Network Statement](#).
- 5.14 Eurotunnel may enter into framework agreements with applicants wishing to enter into a commitment for a period exceeding the duration of the working timetable. Eurotunnel has not currently published a model framework agreement.
- 5.15 If you are unable to agree an access agreement relating to the Channel Tunnel Fixed Link, you can appeal to the French and British regulatory bodies (ART-FR and ORR). They have published and agreed Rules of Procedure and Appeals [guidance](#), to establish principles to consult and align on cross border issues. These can be found on our website. They cover appeals concerning the content of the network statement, the allocation process, the charging scheme, the level or structure of infrastructure charges, arrangements for access and access to and charging for services.
- 5.16 Alongside the 2016 Regulations, the Channel Tunnel (International Arrangements) (Charging Framework and Transfer of Economic Regulation Functions) Order 2015 applies in respect of the UK section of the Channel Tunnel.

Access to HS1 network

- 5.17 There are two types of track access agreement for HS1:

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- (a) Track access agreements covering the reservation of capacity for more than one timetable period. These agreements **are** subject to ORR pre-approval and are referred to as Framework Agreements (the term used in the 2016 Regulations).
- (b) Track access agreements covering the reservation of capacity for up to one timetable period, which **are not** subject to ORR pre-approval.

5.18 Information about the processes for dealing with applications and appeals is set out in ORR's guidance, [HS1 Criteria and Procedures](#). Where HS1 Ltd is the infrastructure manager, applications for approval are made to ORR under the 2016 Regulations. We have provided application forms to be completed when submitting an application to us. The process for applying for ORR approval of a framework agreement with HS1 Ltd, including the information that ORR needs, is set out in our guidance document.

5.19 If a railway undertaking has agreed an access agreement with HS1 Ltd, they should apply to ORR for approval. However, if they have not been able to agree terms with HS1 Ltd, they should appeal under the 2016 Regulations.

5.20 HS1 Ltd has also developed standard agreements which are in a form that we are content to approve. These can be found on HS1 Limited's [website](#). These agreements refer to a set of common rules that apply to users of the network (the Network Code). They concern areas where common processes are necessary or desirable, such as regulating changes, environmental damage, performance monitoring, operational disruption and dispute resolution. The Network Code forms part of the track access agreement. HS1's Network Code can be found on HS1's [website](#). The [HS1 Network Code](#) applies to HS1 Ltd and parties who have entered into an agreement for access to HS1.

5.21 If a railway undertaking wants to make changes to their access agreement, they will need ORR approval. The process for obtaining approval for the different types of amendment is set out in more detail in [HS1 Criteria and Procedures](#). HS1 has been declared Specialised Infrastructure under regulation 25 of the 2016 Regulations. This means that ORR has to have regard to the effect of the declaration in consideration of access applications. The effect of the declaration is that HS1 is designated for use by specified types of rail service and may give priority to that specified type of rail service in the allocation of capacity.

Access to the Network Rail network

- 5.22 Access agreements for access to the Network Rail network are regulated under the Act and do require ORR approval.
- 5.23 There are several model track access agreements with Network Rail, in particular for passenger services; charter services; freight services; and freight customers.
- 5.24 Model agreements refer to a set of common rules that apply to users of the network, the Network Code. They concern areas where common processes are necessary or desirable, such as regulating changes, environmental damage, performance monitoring, operational disruption and dispute resolution. The Network Code forms part of the track access agreement. Network Rail's Network Code can be found on Network Rail's [website](#).
- 5.25 Applications are made to ORR under the Act. 'Agreed' applications to approve new agreements are under section 18 of the Act, and 'agreed' applications to approve amendments to agreements are under section 22 of the Act. 'Disputed' applications for new agreements are made under section 17 and 'disputed' applications for amendments to agreements are made under section 22A. Applications under section 22A to amend an agreement can only be made if you want to use the network or facility more extensively.
- 5.26 We have published application forms for railway undertakings to use, and the process of applying for approval of a track access agreement with Network Rail is set out in our guidance module: [making an application](#).
- 5.27 Sections 18(1)(c) and 22(3) of the Act enable ORR to give its prior approval for certain types of new access agreements and to certain types of amendment to existing agreements. This prior approval is known as a General Approval and we have issued General Approvals for passenger and freight railway undertakings. Railway undertakings may find that new track access contracts, or an amendment to an existing track access contract, could be approved in this way.
- 5.28 We do not routinely check the accuracy of agreements and amendments to agreements made using the General Approval. It is the responsibility of the parties concerned to make sure their agreements are suitable and comply with the relevant legislation and the terms of the General Approval.
- 5.29 The General Approval does not apply where HS1 or Eurotunnel is the infrastructure manager.

- 5.30 Changes to a regulated agreement need ORR approval. The process for obtaining approval for an amendment is set out in more detail in our guidance on [making an application](#).

General considerations for track access applications to ORR

- 5.31 In summary, railway undertakings first need to negotiate the terms of a track access agreement with the relevant infrastructure manager. If terms are agreed, the relevant infrastructure manager will then consult with those who could be affected by the requested access rights, and will try to resolve any issues arising from that consultation. In most cases, the infrastructure manager expects to complete its consultation in the six weeks before a railway undertaking sends an application to us for approval. If significant issues arise in the consultation, this period may be longer.
- 5.32 Generally, the railway undertaking and the infrastructure manager successfully negotiate most track access contracts and any 'supplemental agreements' (agreements which change the original access agreement).
- 5.33 However, if the terms of the agreement cannot be agreed you can apply to us and ask us to direct the infrastructure manager to enter into an agreement. This is either an application under section 17 of the Act or an appeal under regulation 32 of the 2016 Regulations (covered in more detail in Chapter 8 of this guidance).
- 5.34 You can still ask the infrastructure manager to carry out the consultation and then apply directly to ORR and, if no satisfactory consultation has been carried out, ORR will consult people who might be affected by the new agreement, as well as carrying out the consultation we must carry out according to our own legal obligations.
- 5.35 We will consider any application in line with our policy and guidance and taking account of our duties (mostly set out in section 4 of the Act). For applications that raise significant issues, ORR may hold a hearing or meetings with the railway undertaking, the infrastructure manager or those likely to be affected by the proposed agreement.
- 5.36 The 2016 Regulations require ORR, at the request of a competent authority or interested railway undertaking, to determine whether the principal purpose of a new passenger service is to carry passengers between stations located between the United Kingdom and a Member State. ORR has published [guidance](#) on how

we intend to carry out this assessment. Similarly, at the request of a relevant party, we will assess whether, based on evidence, we expect a new international passenger service competing with a public service contract to compromise that public service contract's economic equilibrium. This issue is only likely to arise if an international operator proposes to run services which could affect an operator providing services under a public service contract awarded by DfT; currently, the only existing public service contract on the HS1 network that may be impacted by international service is a domestic-only service, held by Southeastern.

- 5.37 The duration of access agreements is regulated by the 2016 Regulations. The vast majority of track access agreements in Great Britain are for a duration period of five years, but we can approve a longer term in some circumstances. Regulation 21(8) states that track access agreements for a period longer than five years must be justified by the existence of commercial contracts, specialised investments or risks.
- 5.38 Usually, railway undertakings apply for track access agreements and exercise the rights contained in the track access contract themselves. However, there are circumstances where others, such as a logistics company or terminal owner, may want to enter into an access agreement but nominate a railway undertaking to move their goods by rail. In these circumstances, ORR has published a model freight customer track access agreement and a model freight customer specific track access agreement for freight railway undertakings, which can be found on our [website](#). Further detail can be found in our guidance.

Timescales

- 5.39 The time we require to consider an application will depend on its impact on the network and other railway undertakings, its complexity and the extent to which it departs from the relevant model agreement. Even an agreed supplemental agreement concerning relatively few services can raise significant issues where, for example, network capacity is constrained.
- 5.40 To give us time to give proper consideration to an application before reaching and publishing our decision, and allow us to manage our workload, applicants should allow up to:
- (a) twelve weeks from receipt for a contentious contract (including those that are not agreed and those meeting any of our criteria for focused regulatory scrutiny which can be found in our guidance on [making an application](#); and

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(b) six weeks from receipt for a more straightforward application (one that does not meet any of our criteria for focused regulatory scrutiny).

5.41 Where we are dealing with major applications from multiple applicants which potentially compete for the same capacity, our review may take significantly longer.

5.42 These timescales are indicative only. We may be able to complete our review and come to a decision sooner than the timescales mentioned above. But there will inevitably be applications that require longer, particularly if a hearing is required.

5.43 For applications that are not agreed, we have a statutory requirement under the 2016 Regulations to make our decision within six weeks of receipt of all relevant information. Our policy is to reach decisions on all access decisions (including agreed applications) in the same timescale. It will be for ORR to decide when we have all relevant information.

6. Access to service facilities

Background

- 6.1 To operate international rail services in Great Britain, you will not only need access to the track network, but also to come on and off the network to access other rail related facilities and services, such as stations, light maintenance depots, freight terminals, ports and stabling points. Collectively, these are all referred to as service facilities in this chapter.
- 6.2 Access to service facilities is generally regulated by the Act. Where the Act does not apply, it is governed by the 2016 Regulations which apply alongside the Act. Specific exemptions are provided for in relation to both the Act and the 2016 Regulations.
- 6.3 The Act does not apply to the stations on the HS1 network and some other service facilities are exempt (mainly through [the Railways \(Class and Miscellaneous Exemptions\) Order 1994](#) (the CMEO). A railway undertaking seeking access to a service facility needs to consider whether access to the service facility is governed by the Act. For example, access to Temple Mills Depot is governed by the Act.
- 6.4 Please note that, ‘privately owned’ facilities do fall within the scope of the legislative requirements.
- 6.5 For services provided in a competitive market, alongside our powers under the Act and the 2016 Regulations, we may also consider our powers under the Competition Act 1998, potentially to direct access. For further information, please refer to our [guidance](#).
- 6.6 For the purposes of this guidance, the term “agreement” is used to describe either an access contract or an access agreement.
- 6.7 The table below summarises the applicable legislation in Great Britain for access to the main service facilities. It also indicates whether ORR approval is required.

Table 6.1 The applicable legislation and ORR pre-approval for access to the main service facilities

	International stations on Network Rail Network	International stations on HS1 Network	Light Maintenance Depots	Rail Freight Terminals and other rail related facilities
Applicable legislation	The Act and 2016 Regulations	2016 Regulations	The Act and 2016 Regulations	The Act and 2016 Regulations
ORR pre-approval under the Act	Yes	No	Yes	Yes

6.8 There are no stations or light maintenance depots on the Channel Tunnel Fixed Link. For details of specific services available on the Channel Tunnel Fixed Link, please refer to the Eurotunnel Network Statement.

Access to service facilities under the Act

6.9 If you want your trains to call at a service facility and use the specified facilities or services, you will need to enter into an access agreement with the relevant service facility owner. This access agreement defines, among other things, the conditions, standards and charges under which access is provided. This agreement must be approved by us before you can enter the relevant facility or use the relevant services.

6.10 The Act sets out the regulatory framework for access agreements. Sections 17, 18, 22 and 22A of the Act set out an approval role for ORR in relation to access to railway facilities. This covers all of Network Rail’s mainline network, other infrastructure managers’ networks as well as the facilities connected to them like ports and terminals.

6.11 In this section of the guidance, we have used the term ‘facility owner’, which is defined in the Act as:

“any person –

(a) who has an estate or interest in, or right over, a railway facility; and

(b) whose permission to use that railway facility is needed by another before that other may use it”

ORR's role

- 6.12 Our role in overseeing and approving access agreements provides protection against unfair contract terms. It also protects third parties who might be affected by the terms of a contract.
- 6.13 ORR approval under the Act is required for service facility access agreements and amendments to them to be legally valid.

Consideration and approval of access agreements under the Act

- 6.14 If you can agree a new access agreement with the facility owner, you should send this to us for consideration for our approval under section 18 of the Act.
- 6.15 If you cannot agree a draft agreement, you can ask us to give directions that require the facility owner to enter into an access agreement with you under section 17.
- 6.16 If you and the facility owner agree amendments to an existing access agreement, we approve those under section 22.
- 6.17 If you cannot agree amendments to an existing access agreement which will permit more extensive use of the facility in question, you can ask us to direct the facility owner to make amendments to the agreement under section 22A of the Act. Please note that section 22A cannot be used to extend the duration of an access agreement.
- 6.18 When we consider applications to approve access agreements, we must take account of our duties set out in section 4 of the Act. We will generally have to make sure that the agreements set clear and appropriate obligations, remedies and incentives.
- 6.19 In the cases of section 18 and section 22 applications, you may find that a [General Approval](#) applies to your application (see below).
- 6.20 When we consider applications for specific approval under sections 18 or 22 of the Act, we will pay particular attention to any differences from our model agreements, any charges proposed (for example, for exclusive services), and any potential effect on third parties.

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6.21 For section 17 and section 22A applications there are additional requirements set out in Schedule 4 to the Act. Further information about ORR's approval process is set out in our guidance documents, which can be found on our website.

General approval

6.22 Sections 18(1)(c) and 22(3) of the Act enable us to give our prior approval for new access agreements and to the amendment of existing agreements. This prior approval is known as a General Approval and you may find that your access agreement, or an amendment to an existing access agreement, could be approved in this way.

6.23 We rely on the industry to ensure the documentation it submits for approval is accurate and within the scope of the General Approval. We regularly audit submissions made to us under the General Approval.

6.24 An access agreement that does not fall wholly within the terms of the General Approval must be submitted to ORR for consideration under our specific approval.

6.25 For further detail, please refer to:

- (a) [The General Approval for stations \(2017\)](#) and [General Approval for stations \(2017\) Guidance](#);
- (b) [The General Approval for depots \(2017\)](#) and [General Approval for depots \(2017\) Guidance](#); and
- (c) [The General Approval for Facility Access Agreements](#).

Timescales

6.26 On receipt of all relevant information, we will reach a decision on whether to approve an agreement within six weeks, although we will always try to complete the approval process in as short a time as possible.

Access to stations on Network Rail network

6.27 Access agreements for stations on the Network Rail network require our pre-approval under the Act.

6.28 Network Rail owns the freehold to most of the railway stations in Great Britain. However, it leases most of these to railway undertakings. The party who operates a station, and whose permission is needed for access to the station, is known as the station facility owner. Network Rail is the station facility owner and licensed operator for some of the biggest and busiest stations in Great Britain.

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- 6.29 We have produced a number of model station access agreements to reflect a variety of access relationships. These model agreements can be found on our [template documentation](#) webpage.
- 6.30 Each station access agreement includes relevant station access conditions and annexes specific to each station. The station access conditions are standard rules which govern the relationship between all those who have station access contracts for the station, covering matters such as the process for agreeing changes to the station, and the remedies available when things go wrong. It is usually the National Station Access Conditions (for [England and Wales](#) or [Scotland](#)) that are in the contract, but other access conditions can be agreed if necessary. At the stations where Network Rail is the station facility owner, the Independent Station Access Conditions apply.
- 6.31 The station annexes cover the details relevant to the specific station (such as a station plan and a description of the station's facilities). At stations where Network Rail is the landlord but not the station facility owner, the annexes also include a copy of a standard collateral agreement under which the beneficiary of a station access contract can enforce Network Rail's obligations to it.
- 6.32 Further information, including details of the process for applying for approval of station access agreements is set out in our [criteria and procedures for the approval of station access agreements](#).
- 6.33 The Stations and Depots team are happy to discuss any station access queries and can be contacted at StationsandDepots@orr.gov.uk.

Access to light maintenance depots under the Act

- 6.34** Access agreements for light maintenance depots (LMDs) must be pre-approved by us, under the Act.
- 6.35 The Act defines “light maintenance services” as “services of any of the following descriptions, that is to say – (a) the refuelling, or the cleaning of the exterior, of locomotives or other rolling stock; (b) the carrying out to locomotives or other rolling stock of maintenance work of a kind which is normally carried out at regular intervals of twelve months or less to prepare the locomotives or other rolling stock for service” (section 82(2)).
- 6.36 The operator of a LMD is known as a depot facility owner (DFO). Other railway undertakings, or third parties procuring depot services on behalf of a railway

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undertaking (known as beneficiaries), who want to use the LMD must enter into an access agreement with the depot facility owner.

6.37 ORR has published the following LMD access template documents:

- (a) a standard Depot Access Agreement which covers general access;
- (b) a non-TOC beneficiary Depot Access Agreement, for use when a third party is procuring depot services on behalf of another party;
- (c) Depot Access Conditions; and
- (d) Depot Specific Annexes.

These and other template documents can be found on ORR's website [here](#).

6.38 Each LMD Access Agreement contains LMD access conditions and annexes specific to each LMD. The LMD access conditions are standard rules which govern the relationship between all those who have access contracts for the LMD, covering matters such as the process for agreeing changes to the LMD, and the remedies available when things go wrong. It is usually the National Depot Access Conditions that are in the contract, but other access conditions can be agreed if necessary. LMD access agreements (depot access agreements) approved by ORR can be found on ORR's [public register](#).

6.39 The annexes specific to an LMD cover the details relevant to the specific LMD (such as an LMD plan and a description of the LMD's facilities).

6.40 The majority of LMDs in Great Britain are owned by Network Rail and leased to another party to operate as DFO. The template documents listed in paragraph 6.37 are drafted to capture the ownership and operation arrangements that apply at most LMDs. ORR does not regulate leases.

6.41 When preparing modified versions of LMD access documentation, we request that parties start from the existing published templates and make only those modifications that are required and necessary to reflect the ownership and operation arrangements at the LMD(s) in question. This includes, for example, annotating unused provisions as "not used" rather than deleting them. In our experience, this ensures that all LMD access documents follow broadly the same format and include broadly the same provisions. In turn, this facilitates ease of use and understanding for all parties negotiating access.

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- 6.42 Agreeing modified LMD access documents is an iterative process. The time required to finalise the documents will depend on the number and nature of the modifications proposed.
- 6.43 Many international operators will use the HS1 network and will need details of LMDs on (or connecting to) the HS1 network, including contact details for the relevant facility owners of those LMDs. Before seeking access to such depots you will need to consider technical compatibility with the relevant service facilities. Please refer to the [HS1 Network Statement](#) and [HS1 new operator guide](#) for information.
- 6.44 There are currently two LMDs available to passenger trains using HS1. For further information on technical compatibility and detailed access conditions to these depots, you should contact the relevant facility owner.
- (a) Temple Mills is operated by Eurostar International Limited and is regulated under the Act. Applicants will be required to enter into a depot access agreement with Eurostar. Such an agreement is likely to contain additional provisions covering compatibility with Temple Mills infrastructure, technical security requirements, agreed specification of services etc.
- (b) Ashford Depot is operated by Southeastern, for rolling stock complying with GB loading gauges.
- 6.45 For further information please refer to our [criteria and procedures for the approval of depot access agreements](#)
- 6.46 The Stations and Depots team are happy to discuss any depot access queries and can be contacted at StationsandDepots@orr.gov.uk.

Access to other rail related service facilities such as freight terminals, ports and stabling points

- 6.47 We do not produce a model agreement for access agreements for these facilities, rather parties have discretion to draft agreements that match their needs.
- 6.48 For further information about our approach to approving facility access agreements, please see our [guidance on facility access agreements \(non-Network Rail networks\)](#). This guidance contains further details about our expectations regarding essential elements of the agreement (such as charging and capacity allocation), and advice on issues such as duration, disputes, and new facilities.

6.49 Further information on how to move freight on the Network Rail network can be found on Network Rail's [website](#).

Stations on the HS1 Network

6.50 Station access agreements for stations on HS1 are not regulated under the Act and are not subject to approval by us. Access to the stations and services within the stations (as described in Schedule 2(2) of the 2016 Regulations) is governed by the 2016 Regulations.

6.51 HS1 Ltd owns and is the service provider for the following stations:

- (a) St Pancras International Station (except the lower level platforms 1-4 which are leased by the UK government to Network Rail Infrastructure). This station houses Eurostar's international services as well as domestic services from Southeastern, East Midlands Railway and Thameslink. Annex 10 of the HS1 St Pancras International Station Access Conditions (available on the HS1 Limited [website](#)) sets out the common station amenities and services provided in the International Zone of the station.
- (b) Stratford International Station;
- (c) Ebbsfleet International Station; and
- (d) The international section of Ashford International Station (except the tracks passing through the international section of Ashford International Station, which are part of the Network Rail network). This station serves the Eurostar departures and arrivals on the high speed line and is connected to the Ashford station on the domestic line. Depending on how you access Ashford International Station, you may also need a track access agreement with Network Rail (see section 5 above).

6.52 As service provider HS1 Ltd is responsible for the maintenance, repair, renewal of station buildings and facilities, cleaning and security at those stations.

6.53 HS1 Ltd station access conditions and annexes can be found on its [website](#). Further information about the services provided at the HS1 Stations and other arrangements can also be found in [HS1 New Operator Guide](#) and [HS1 Network Statement](#). You should contact HS1 Ltd for more information.

6.54 There are specific security requirements at international rail stations. You should ensure that you comply with these security requirements for international services.

For example, the Channel Tunnel (Security) Order 1994 requires passengers, staff and their luggage to be screened. Details can be found in the [HS1 new operator guide](#).

Service facilities and the 2016 Regulations

6.55 Where the Act does not apply, access to service facilities is governed by the 2016 Regulations. You will still need to enter into an agreement with the relevant service facility provider, ORR does not pre-approve such agreements.

6.56 The general legal requirements of the 2016 Regulations also apply where access is primarily governed by the Act. Paragraphs 6.55 to 6.69 summarise some of the key elements of these requirements; for further information please refer to our guidance on the [2016 Regulations](#).

6.57 In this section of the guidance, we have used the term ‘service provider’, which is defined in the 2016 Regulations as:

“a body or undertaking that supplies any of the services:

(a) to which access is granted by virtue of regulation 6; or

(b) listed in paragraphs 2,3 or 4 of Schedule 2,

or which manages a service facility used for this supply, whether or not that body or undertaking is also an infrastructure manager”.

6.58 Although this chapter focuses on service providers, it should be noted that the 2016 Regulations also describe obligations on infrastructure managers which relate to service facilities, such as in relation to the publication of the network statement.

6.59 Service providers must provide the infrastructure manager with sufficient information on access conditions in respect of their relevant service facility (covering technical, access and charging arrangements) to be included in the infrastructure manager’s network statement, or details of a website where such information is available free of charge in electronic format.

6.60 Regulations 6(2) to 6(12) of the 2016 Regulations deal with access to, and the supply of, services for railway undertakings. Service providers are required to supply non-discriminatory access to all railway undertakings. This includes track access, and access to service facilities and the supply of services described in paragraph 2 of Schedule 2 which includes refuelling, passenger stations (including

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buildings and other facilities such as travel information display and a suitable location for ticketing services), marshalling yards, storage sidings and freight terminals.

- 6.61 Railway undertakings seeking access to a service facility should consider whether it falls within the scope of the 2016 Regulations. Further information can be found in chapter 4 of our guidance on the 2016 Regulations.
- 6.62 We are aware that applicants may wish to access facilities which are not explicitly listed in paragraph 2 of Schedule 2. It is likely that some such facilities may fall within the scope of the 2016 Regulations and other facilities (for example if they are entirely unconnected to the operation of the freight or passenger service) may fall outside of the scope of the 2016 Regulations. We encourage early dialogue with us about such issues, as we will need to consider each matter on a case-by-case basis, in light of our legal duties and the relevant legislation. We are currently exploring this issue to see where we can provide more guidance.
- 6.63 The 2016 Regulations provide that service providers may only refuse access to a service facility where a viable alternative exists. The definition of a viable alternative is “access to another service facility which is economically acceptable to the railway undertaking, and allows it to operate the freight or passenger services concerned”. Our approach to viable alternative is further detailed in our guidance on the [2016 Regulations](#).
- 6.64 In most cases we would expect service providers to provide access where they are able to accommodate requests for their services (taking into account technical compatibility). This reflects the underlying market opening principles and purpose of the 2016 Regulations. In the case of conflicting requests, service facility providers must attempt to meet all requests as far as possible.
- 6.65 Service providers are not obliged to invest in their facilities in order to meet all requests. Accordingly, where there is a non-conflicting request which would require such investment, we consider that a service provider may refuse a request without having to consider if a viable alternative exists.
- 6.66 Requests for access to service facilities, and the supply of services must be answered within a reasonable time limit as set by ORR. We consider a reasonable time limit to be ten working days in most cases, commencing on the first working day after the request has been made. However, where there is a short-notice request (such as ad hoc requests for unplanned access), we would expect service

providers to deal with such requests within a shorter timescale where it is reasonable to do so.

- 6.67 The 2016 Regulations require a service provider to justify, in writing, a decision to refuse a request for access to, and the supply of, services in specified situations. We expect all service providers to ensure refusals for any of the services referred to in paragraph 2 of Schedule 2 of the 2016 Regulations are in writing, fully reasoned and objectively justified. Therefore, whenever a service provider is refusing access, we expect the service provider to explain why it is refusing access and, where applicable, why it considers the alternative facility it has identified is a viable alternative for the railway undertaking. This is because all such decisions are subject to appeal to ORR and may be subject to our scrutiny in due course.
- 6.68 Regulation 32 of the 2016 Regulations provides all applicants for access with a general right of appeal to ORR if they feel they have been unfairly treated, discriminated against or are in any other way aggrieved. Such an appeal may be in relation to facilities that are otherwise exempt from the access regulation provisions of the Act, provided that these facilities have not themselves been identified as excluded from the scope of the 2016 Regulations (as outlined in regulation 4 of the 2016 Regulations). Further information about appeals under the 2016 Regulations can be found in Chapter 8 and in ORR’s updated guidance.
- 6.69 “Applicants” are defined as: a railway undertaking or an international grouping of railway undertakings or other persons or legal entities, such as competent authorities under [the Public Service Obligations in Transport Regulations 2023](#) and shippers, freight forwarders and combined transport operators, with a public service or commercial interest in procuring infrastructure capacity. In effect, this means any person with a demonstrable interest in obtaining access to the infrastructure or a service facility may have a right of appeal. You do not need to be a licensed operator or an existing holder of access rights in order to appeal.

7. Appeals and disputes

- 7.1 Parties can appeal to ORR if they are unhappy with the decision taken by an infrastructure manager, facility owner or service provider if they feel that they have been unfairly treated or discriminated against.
- 7.2 There are several appeal mechanisms available;
- (a) A party can appeal to us under the infrastructure manager's Network Code against any determination made by an infrastructure manager or the relevant panel of the Access Disputes Committee which it considers to be wrong or unjust because of serious procedural or other irregularity.
 - (b) An applicant can appeal to us under the 2016 Regulations if it believes it has been unfairly treated, discriminated against or is in any other way aggrieved. In particular it can appeal against decisions of an infrastructure manager, allocation body, charging body, service provider or a railway undertaking.
 - (c) Where the matter of an appeal is one where directions may be sought from ORR under the Act, an application must be made under the provisions of the Act, rather than the appeal mechanisms available under the regulation 32 of the 2016 Regulations.
- 7.3 Once we have all the information we need we will make a decision on the appeal based upon the evidence and information provided by the parties, and any information or evidence gathered by ORR. To the extent relevant, we will consider our section 4 duties under the Act when we make our decision on the appeal.

Network Code appeals

- 7.4 Infrastructure managers' Network Code contains the Access Dispute Resolution Rules (the ADRR), which set out the process for dispute resolution to be used by the parties. Separate [guidance](#) on Network Code appeals is also available on our website.
- 7.5 The dispute process is managed by the Access Disputes Committee. Under the ADRR, beneficiaries can either refer a dispute through mediation and early neutral evaluation, or through determinative processes such as the timetabling panel (TTP), access disputes adjudication (ADA), expert determination and arbitration. These are all in addition to the option of referring the dispute to court. Further information can be found on the Access Dispute Committee [website](#).

7.6 Where the matter of an appeal is one where directions may be sought from ORR under the Act, an application must be made under these provisions, rather than the appeal mechanisms available under the regulation 32 of the 2016 Regulations.

2016 Regulations

7.7 Regulation 32(1) of the 2016 Regulations provides applicants (a term defined in the Regulations) with a general right of appeal to ORR if they feel they have been unfairly treated, discriminated against or are in any other way aggrieved.

7.8 In particular, an applicant can appeal against decisions of an infrastructure manager, allocation body, charging body, service provider or a railway undertaking concerning any of the following matters (see regulation 32(1) and 32(2)):

- (a) the network statement in its provisional and final versions;
- (b) the information that must be included in the network statement;
- (c) the allocation process and its results;
- (d) the charging scheme, the charging system and the Channel Tunnel Fixed Link charging framework;
- (e) the level or structure of railway infrastructure charges which the applicant is, or may be, required to pay;
- (f) the arrangements for access; and
- (g) access to and charging for services.

7.9 We have published [guidance](#) on the 2016 Regulations, which focuses on access to infrastructure and service facilities, infrastructure managers' responsibilities and appeals to ORR. The guidance describes in particular how to make an appeal under regulation 32, the process we will follow once we have accepted an application for appeal, the information we expect to receive in connection with the appeal, and some appeal specific issues.

Consideration and decision

7.10 Once we have accepted an application for appeal under regulation 32, we will then follow the process set out in our [guidance](#). This includes, as appropriate, initiating a consultation with relevant parties and requesting representations from the respondent, requesting further written representations from the applicant, and

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inviting any further information, clarification, or representations from the parties involved. In complex cases involving several parties we may decide it is necessary to hold a hearing.

- 7.11 Once we are satisfied that we have received all relevant information, we will, within a predetermined and reasonable time, and, in any case within six weeks of the date of receipt of all relevant information:
- (a) make a decision;
 - (b) inform the relevant parties of our decision and our reasons for that decision;
 - (c) where appropriate, issue a direction to the infrastructure manager, allocation body, charging body, service provider or, as the case may be, railway undertaking, to remedy the situation from which the appeal arose; and
 - (d) publish the decision.
- 7.12 The applicant can withdraw its appeal at any time by writing to us with a short explanation. We will inform all other relevant parties that the appeal has been withdrawn.

Appeals regarding the Channel Tunnel Fixed Link

- 7.13 We are also part of the IGC and together with the French regulatory body (Autorité de Régulation des Transports - ART), we act, as an appellate body in the terms of Article 56(1) of Directive 2012/34/EU for matters regarding the Channel Tunnel Fixed Link. ORR and ART have developed a [Cooperation Agreement](#) which sets out how both regulators will cooperate for their respective half of the Fixed Link, deliver shared investigation and determination of any appeal submitted from parties who believe they have suffered unfair treatment, discrimination or any other impairment of their access to the Channel Tunnel Fixed Link. Together with ART we will strive to reach two decisions that have an aligned legal and practical effect across the entirety of the Channel Tunnel Fixed Link. A guidance on joint appeals can be found on our [website](#).

8. Northern Ireland

- 8.1 If you wish to operate international services in Northern Ireland, a key document is the Northern Ireland Railways [Network Statement](#). This document is updated every year and provides a single source of information on access conditions on the Northern Ireland Railways network.

Northern Ireland Department for Infrastructure

- 8.2 The Department for Infrastructure in Northern Ireland is responsible for railway transport issues. The Department also provides capital grant to Translink for Northern Ireland Railways to operate rail services.

Translink

- 8.3 Translink is Northern Ireland's main public transport provider and the trading name for the Northern Ireland Transport Holding Company (NITHC). NITHC is a Public Corporation and the parent company which owns and controls seven private limited subsidiary companies including Northern Ireland Railways Company Limited ('NIR'), and Translink (NI) Limited.
- 8.4 NITHC was established under the Transport Act (Northern Ireland) 1967. Under this Act it is the duty of Northern Ireland Railways to provide or secure the provision of railway services in Northern Ireland with due regard to efficiency, economy and safety of operation. NIR Networks Limited, in conjunction with NIR, act as infrastructure manager. Further details on Translink can be found at [Translink's website](#) and NIR [Network Statement](#).

ORR's role

Licensing in Northern Ireland

- 8.5 We do not have a role in licensing railways in Northern Ireland. Operators intending to obtain a licence to operate train services between Northern Ireland and the Republic of Ireland should seek information from the [Northern Ireland Department for Infrastructure](#).

Rail safety in Northern Ireland

- 8.6 The [Northern Ireland Department for Infrastructure \(Dfi\)](#) is the National Safety Authority in Northern Ireland and is responsible for ensuring railway operators'

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compliance with the rail safety and regulatory framework. DfI exercises its functions in accordance with the Railway Safety Act (Northern Ireland) 2002 and associated regulations. We have provided operational input, support, and advice to DfI for several years. This has included operational support on authorisations, interoperability, and inspections, as well as providing advice on safety certificates and safety authorisations.

Track access in Northern Ireland

8.7 We do not have a role in approving track access agreements in Northern Ireland. Operators should refer to the Translink [website](#), the Northern Ireland Railways [Network Statement](#), or the [Northern Ireland Department for Infrastructure](#) for information. Translink has published a model track access agreement on its [website](#).

Access to service facilities in Northern Ireland

8.8 We do not have a role in approving access agreements to service facilities in Northern Ireland. Please refer to the [Northern Ireland Department for Infrastructure](#) for information on access to service facilities in Northern Ireland.

Appeals in Northern Ireland

8.9 In Northern Ireland, the Railways Infrastructure (Access, Management and Licensing of Railway Undertakings) (Northern Ireland) 2016) apply (The NI Regulations). The NI Regulations also allow an applicant (as defined in the NI Regulations) to appeal to ORR if they believe they are being unfairly treated, discriminated against or they are in any other way aggrieved. Please see our separate [guidance](#).

Annex A: Legal framework

Railways Act 1993

We were established under this [Act](#), which contains most of our economic duties. Specifically, this Act contains the legal framework related to licensing, access, the review of access charges and enforcing Network Rail's network licence. Section 4 of this Act also contains most of the statutory duties which shape our decision making. Where the Act applies, service providers should follow the established ORR procedures, such as for contesting access to a rail facility under section 17 of the Act.

Railways Act 2005

This [Act](#) transferred railway safety roles from the Health and Safety Executive (HSE) and Health and Safety Commission (HSC) to us. This safety function is in addition to our duty to take safety issues into account when exercising our general duties. The Act also transferred certain consumer-protection roles to us from the former Strategic Rail Authority.

Railways (Access, Management and Licensing of Railway Undertakings) Regulations 2016

[The Railways \(Access, Management and Licensing of Railway Undertakings\) Regulations 2016](#) apply alongside the Railways Act 1993 (the Act). The 2016 Regulations describe entitlements and obligations in respect of access to the rail network and service facilities, infrastructure management and appeals. The 2016 Regulations reflect most rules introduced by Directive 2012/34/EU. The 2016 Regulations were amended several times to account for the departure of the UK from the European Union.

Health and Safety at Work etc Act 1974 (HSWA)

This [Act](#), and the health and safety regulations made under it, provides the framework for the regulation of work-related health and safety in Great Britain. The Railways Act 2005 made us responsible for developing health and safety policies for the railways.

Health and Safety (Enforcing Authority for Railways and Other Guided Transport Systems) Regulations 2006 (EARR 2006)

These [regulations](#) make us responsible for enforcing the provisions of HSWA on the railways. Under these regulations, we have authority to serve enforcement notices and prosecute those who break health and safety law affecting the railways.

Railways and Other Guided Transport Systems (Safety) Regulations 2006 (ROGS)

These [regulations](#) introduce certain EU safety requirements to transport undertakings and infrastructure managers operating in Great Britain. Under these regulations, rail operators must maintain a safety management system and hold a safety certificate or authorisation, to show that we have accepted their safety management system, before they are allowed to operate. The regulations also cover the safe design of new vehicles and network, and place controls on work where there is a significant risk to safety.

The Railways (Interoperability) (Amendment) (EU Exit) Regulations 2019 (RIR 2019)

These [regulations](#) amend the RIR 2011 which had governed rail interoperability deriving from EU directives. Under these regulations, we are responsible for enforcing NTSNs.

Competition Act 1998

This act makes any agreement, business practice or action which has a damaging effect on competition in the United Kingdom, including abusing a dominant position, illegal. The CMA is the main competition regulator for the UK. However, if an agreement or conduct relates to the railways, we can take action under the Act. More information on the Competition Act is given on our [website](#).

Binational regulations for use of the Fixed Link

There are a number of binational regulations governing use of the Channel Tunnel Fixed Link, including [The Channel Tunnel \(International Arrangements\) \(Charging Framework and Transfer of Economic Regulation Functions\) Order 2015](#) and the [Channel Tunnel \(Safety\) Order 2007](#) (as amended by the [Channel Tunnel \(Safety\) \(Order\) 2013](#)) (CTSO).

Enterprise Act 2002

[This Act](#) gives us the power to refer a railway market to the CMA if we think that there are signs that the market is not running effectively. The CMA will then carry out a Market Investigation. If it finds any damaging effects on competition it will order or propose remedies which it considers to be reasonably possible. '[ORR's Approach to Reviewing Markets](#)' provides more information on our monitoring responsibilities under the Enterprise Act and other railways specific legislation.

COTIF

[COTIF](#) is a multilateral convention that regulates the international carriage of goods, passengers and dangerous goods by rail developed by the Intergovernmental Organisation for International Carriage by Rail (OTIF). It is in force in over 50 countries worldwide. The UK is a signatory of the appendices to COTIF (the CIV, CIM, RID, CUV, CUI, APTU and ATMF Uniform Rules). https://otif.org/en/?page_id=172

Annex B: ORR responsibilities and statutory duties

ORR's responsibilities include:

- (a) Regulating the safety procedures for railways, metro systems, tramways and heritage railways.
- (b) Setting HS1 and Network Rail's income every five years through an access charges review. Further information relating to [Network Rail](#) and [HS1](#) can be found on our website .
- (c) Making sure Network Rail complies with its network licence and modifying it if necessary.
- (d) Issuing licences to operators of passenger and freight services, stations, light maintenance depots and network (see chapter 2).
- (e) Making sure the requirements of interoperability are met (see chapter 4)
- (f) Approving access granted in Great Britain to track, light maintenance depots, stations and other facilities, except where an exemption applies (see chapters 5 and 6).
- (g) Acting as the appeal body for applicants who believe they have been unfairly treated, discriminated against, or are in any other way aggrieved, including regarding any information included in network statements (see chapter 7).
- (h) Making sure that the different markets for railways are working for the benefit of rail users and taking action where we find competition rules have been broken.
- (i) Controlling the matters referred to in the network statements of relevant infrastructure managers on our own initiative, and checking that they do not contain discriminatory clauses or create discretionary powers for the infrastructure manager that may be used to discriminate against applicants.
- (j) Acting as the concurrent competition authority for the railway industry (see ORR's website) alongside the Competition and Markets Authority (more information on the CMA's role on competition and consumer law can be found on its [website](#)).

Section 4 of the Railways Act 1993

Section 4 of the [Railways Act 1993](#) (as amended by other acts) sets out a number of general duties that we have to consider when we exercise our economic duties under the Act. These duties are the basis of all of our decisions under the Act and the relevant parts of the 2016 Regulations, making sure the railway is regulated in line with the public interest and the taxpayer gets value for money. These duties do not apply when we are acting under the Competition Act unless they cover matters which the CMA could take into account when it acts as a competition authority. The section 4 duties do apply to us using our discretion when we decide whether to refer markets to the CMA under the Enterprise Act.

Safety regulation

Our duties under section 4 of the Act were altered by the Railways Act 2005 to take account of our new rail safety duties. We will continue to make it a requirement to consider safety alongside our other section 4 duties.

The Railways Act 2005 transferred safety duties under the Health and Safety at Work etc Act 1974 to us where they relate to railways. This duty is in addition to our section 4 duty to take safety issues into account when exercising our general duties. Our section 4 duties do not apply to exercising any safety duty transferred to us under the Railways Act 2005.

Other statutory duties

We also have an overriding duty, under section 21(1) of the Channel Tunnel Rail Link Act 1996, to make sure that our decisions would not affect the performance of any development agreement.

Our consultation and decisions

Where possible, any policies we develop go through a consultation process so we can be certain that they are well-informed and based on evidence. To do this we involve a full range of interested parties. Depending on the issue, this may include representatives of rail users and employees, Network Rail and other facility owners, train operators and franchisees, industry suppliers, providers of private finance and public-sector funders.

As economic regulator of the railways, we make a number of decisions which will affect facility owners and train operators. When making these decisions we always make sure they are consistent with our statutory duties under section 4 of the Act. We will also make

these decisions in line with any published policies that we have. Before making a decision, we expect to have detailed discussions with all interested parties.

Confidentiality and the public register

We are required by section 72 of the Act to maintain a public register. Section 72 sets out what we must enter in the register. This includes every direction to enter into an access contract, every access contract and every amendment of an access contract under the Act. We must have regard to the need for excluding from the register, so far as practicable, any matter which relates to the affairs of an individual or body of persons, where publication would, or might, in our opinion, seriously and prejudicially affect the interests of that individual or body.

Although the Act does not apply to regulation of HS1, and we have no statutory duty to do so, we would still expect to enter all framework agreements and amendments to framework agreements into the public register, in the interests of openness and transparency, with any appropriate redactions having been made.

Applicants must provide relevant reasons to support any request for excluding any confidential material from entry on the public register or publication generally.

Once an agreement has been entered into, the parties will, if necessary, be invited again to identify any parts of the agreement they want us to redact from the copy we will enter into the public register. We will not redact material we have already published. However, subject to being satisfied with the justification provided, in appropriate cases we may be prepared to redact certain material derived from what has already been published. Any enquiries regarding this publication should be sent to us at [orr.gov.uk/contact-us](https://www.orr.gov.uk/contact-us).

Annex C: Glossary of terms

Term	Definition
2016 Regulations	The Railways (Access, Management and Licensing of Railway Undertakings) Regulations 2016 (as amended).
Access contract	<p>The Act defines access contract as:</p> <p><i>“(a) a contract under which—</i></p> <p><i>(i) a person (whether or not the applicant), and</i></p> <p><i>(ii) so far as may be appropriate, any associate of that person,</i></p> <p><i>obtains permission from a facility owner to use the facility owner’s railway facility; or</i></p> <p><i>(b) a contract conferring an option, whether exercisable by the applicant or some other person, to require a facility owner to secure that—</i></p> <p><i>(i) a person (whether or not the applicant or that other), and</i></p> <p><i>(ii) so far as may be appropriate, any associate of that person, obtains permission from the facility owner to use his railway facility;”</i></p>
Access agreement	For the purposes of this guidance, the term ‘agreement’ is used to describe either an access contract (as defined in section 17(6) of the Act), an access agreement (as defined in section 83(1) of the Act), or a framework agreement (as defined in the 2016 Regulations).
Act	The Act refers to the Railways Act 1993 and any subsequent amendments
Applicant	<p>In this guidance the term ‘applicant’ is used broadly to describe the party making an application to ORR. However, for certain specific functions you will need to consider whether you fall within the defined category of applicants in the 2016 Regulations</p> <p>The 2016 Regulations defines applicant as <i>“a railway undertaking or an international grouping of railway undertakings or other persons or legal entities, such as competent authorities under The Public Service Obligations in Transport Regulations 2023 and shippers, freight forwarders and combined transport operators, with a public service or commercial interest in procuring infrastructure capacity”</i>.</p>

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Term	Definition
Beneficiary	A person who obtains permission from a facility owner to use a railway facility or has the benefit of an option to require a facility owner to secure the same.
Channel Tunnel Fixed Link	This guidance uses the term 'Channel Tunnel Fixed Link' to mean the Fixed Link as defined in as defined in Article 1(2) of the Treaty and as described Clause 2.2 of the Eurotunnel Concession Agreement. The Fixed Link comprises of a twin bored tunnel rail link with associated service tunnel under the English Channel between the Pas-de-Calais in France and Cheriton in Kent, England, together with the terminal areas and dedicated facilities for control of, access to, and egress from, the tunnels.
CMEO	The Railways (Class and Miscellaneous Exemptions) Order 1994 (CMEO) sets out some categories of facilities that are excepted from the access regime in the Railways Act 1993.
Cross-border section	<p>The 'cross border section' is defined in Appendix 1 to the Agreement between the National Safety Authorities of the French Republic and of the United Kingdom and the Channel Tunnel Intergovernmental Commission concerning cooperation in the field of safety and interoperability of railway activities 7 January 2021, a copy can be found on ORR's website.</p> <p>The cross-border section is also referred to as the cross-border area.</p>
Depot facility owner	The depot facility owner operates the depot. Most depots are operated by a train operating company operating in accordance with an agreement awarded by DfT or Scottish Ministers. Some depots, however, are operated by train manufacturers or other third parties.
Duty holder	In this guidance, the person responsible for carrying out a particular duty under the various regulations
Facility owner	<p>The Act defines facility owner as:</p> <p><i>“any person –</i></p> <p><i>(a) who has an estate or interest in, or right over, a railway facility; and</i></p> <p><i>(b) whose permission to use that railway facility is needed by another before that other may use it”.</i></p>
Framework agreement	The 2016 Regulations use the term framework agreement to describe both access contracts regulated under the Act; and other legally binding agreements setting out the rights and

Term	Definition
	<p>obligations of an applicant and the infrastructure manager or, as the case may be, allocation body in relation to the infrastructure capacity to be allocated and the charges to be levied over a period in excess of one working timetable period.</p> <p>In this guidance, we have used the term ‘access agreement’ to describe both access contracts and framework agreements.</p>

GB mainline

Where this guidance document refers to the GB mainline, it includes both the Network Rail network and the HS1 network.

Railways & Other Guided Transport Systems (Safety) Regulations 2006 defines mainline. All railways are mainline railways unless:

- ORR determines that it falls within one or more of these categories:
 - metros and other light rail systems;
 - networks that are functionally separate from the rest of the mainline railway system and intended only for the operation of local, urban or suburban passenger services, as well as transport undertakings operating solely on these networks;
 - heritage, museum or tourist railways that operate on their own networks; or
- ORR determines that heritage vehicles that operate on the mainline railway and comply with national safety rules are deemed not to operate on the mainline railway; or
- it is privately owned infrastructure that exists solely for use by the infrastructure owner for its own freight operations.

General Approval	Sections 18(1)(c) and 22(3) of the Railways Act 1993 enable ORR to give its prior approval for new access agreements and to the amendment of existing agreements. This prior approval is known as a General Approval. Details of the General Approvals can be found on ORR’s website.
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Infrastructure

This guidance uses the term ‘infrastructure’ in different contexts. There are two main definitions of infrastructure to be aware of:

Term	Definition
	<p>The 2016 Regulations define railway infrastructure as “the items described as “network”, “station” and “track”, in section 83 of the Act, but excludes such items—</p> <ul style="list-style-type: none"> (a) which consist of, or are situated on, branch lines and sidings whose main operation is not directly connected to the provision of train paths; (b) within a maintenance or goods depot, or a marshalling yard; (c) within a railway terminal, port, factory, mine, quarry, nuclear site or site housing electrical plant; (d) which consist of, or are situated on, networks reserved mainly for local, historical or touristic use; and (e) within a military establishment;” <p>ROGS defines infrastructure as “fixed assets used for the operation of a transport system which shall include, without prejudice to the generality of the foregoing—</p> <ul style="list-style-type: none"> (a) its permanent way or other means of guiding or supporting vehicles; (b) any station; and (c) plant used for signalling or exclusively for supplying electricity for operational purposes to the transport system;”.
<p>Infrastructure manager</p>	<p>This guidance uses the term ‘infrastructure manager’ in different contexts. There are several definitions to be aware of:</p> <p>Infrastructure manager is defined in the 2016 Regulations as:</p> <p>“<i>“infrastructure manager” means any body or undertaking that is responsible in particular for—</i></p> <ul style="list-style-type: none"> (a) the establishment, management and maintenance of railway infrastructure, including traffic management and control-command and signalling; and (b) the provision with respect to that infrastructure of network services as defined in section 82 of the Act, but, notwithstanding that some or all of the functions of the infrastructure manager on a network or part of a network may be allocated to different bodies or undertakings, the obligations in respect of those functions remain with the infrastructure manager except where the functions and obligations pass to an allocation or charging body by virtue of regulations 19(4) and 14(9) respectively;”

Term	Definition
	<p>For the purposes of the 2016 Regulations, we consider that infrastructure managers include in particular: Network Rail Infrastructure Limited, HS1 Limited (in respect of High Speed 1), and Eurotunnel in respect of the Channel Tunnel Fixed Link.</p> <p>In the context of health and safety, ROGS defines an infrastructure manager as any person or organisation that:</p> <ul style="list-style-type: none"> • is responsible for developing and maintaining infrastructure (not including a station) or for managing and operating a station; and • manages and uses that infrastructure or station, or allows it to be used for operating a vehicle. <p>Under the Train Driving Licences and Certificates Regulations 2010 (TDLCR) infrastructure manager means an organisation that holds a safety authorisation issued by ORR in accordance with ROGS, or a safety authorisation issued by the IGC.</p>
Light maintenance depot (LMD)	<p>The Act defines light maintenance depot as “<i>any land or other property which is normally used for or in connection with the provision of light maintenance services, whether or not it is also used for other purposes</i>”.</p> <p>“Light maintenance services” mean “<i>services of any of the following descriptions, that is to say – (a) the refuelling, or the cleaning of the exterior, of locomotives or other rolling stock; (b) the carrying out to locomotives or other rolling stock of maintenance work of a kind which is normally carried out at regular intervals of twelve months or less to prepare the locomotives or other rolling stock for service</i>”.</p>
Mainline railway system	<p>ROGS defines mainline railway system as “<i>the mainline railway and the management and operation of the mainline railway as a whole</i>”.</p>
Member State	<p>A country that is a member of the European Union.</p>
Network	<p>Where this guidance uses the term network it is referring to the definition in the 2016 Regulations unless stated otherwise.</p> <p>Network is defined in the 2016 Regulations as meaning: “<i>Except in those cases where the context otherwise requires, the entire railway infrastructure managed by an infrastructure manager</i>”.</p>

Term	Definition
	<p>The effect of this definition is to capture for the purposes of the 2016 Regulations:</p> <ul style="list-style-type: none"> • All of the items included in the definition of network under the Act (as set out below); and • Every other item included in the definition of ‘railway infrastructure’. Network is therefore a broad concept under the 2016 Regulations. <p>Network is defined in the Act as:</p> <p><i>“(a) any railway line, or combination of two or more railway lines, and</i></p> <p><i>(b) any installations associated with any of the track comprised in that line or those lines,</i></p> <p><i>together constituting a system of track and other installations which is used for and in connection with the support, guidance and operation of trains.”</i></p>
Operator	<p>The Act defines operator in relation to any railway asset, as, <i>“the person having the management of that railway asset for the time being”</i>.</p> <p>In Chapter 2 of this guidance, the term operator is used to describe the legal entity that manages a railway asset as defined in the Act. Typically, this is the train operating company running a passenger or freight train service.</p>
Rail system	<p>The Railways (Interoperability) Regulations 2011 define rail system as <i>“the structure composed of lines and fixed installations of the existing rail system in the United Kingdom plus the vehicles of all categories and origin travelling on that infrastructure”</i>.</p>
Railway asset	<p>The Act defines railway asset as</p> <p><i>“(a) any train being used on a network, whether for the purpose of carrying passengers or goods by railway or for any other purpose whatsoever;</i></p> <p><i>(b) any network;</i></p> <p><i>(c) any station; or</i></p> <p><i>(d) any light maintenance depot”</i></p>
Railway facility	<p>The Act defines railway facility as any track, station, or light maintenance depot.</p>
Railway undertaking	<p>The 2016 Regulations use the term railway undertaking to describe <i>“any public or private undertaking licensed</i></p>

Term	Definition
	<p><i>according to the Railway (Licensing of Railway Undertakings) Regulations 2005 , the principal business of which is to provide services for the transport of goods and/or passengers by rail with a requirement that the undertaking ensure traction; this also includes undertakings which provide traction only”.</i></p> <p>Under the Train Driving Licences and Certificates Regulations 2010 (TDLCR) a railway undertaking refers to organisations that hold a safety certificate issued by ORR in accordance with ROGS, or Part B safety certificate issued by the IGC.</p>
ROGS	The Railways & Other Guided Transport Systems (Safety) Regulations 2006.
Service facility	Service facility is defined in the 2016 Regulations as: <i>“the installation, including ground area, building and equipment, which has been specially arranged, as a whole or in part, to allow the supply of one or more of the services listed in paragraph 2, 3 or 4 of Schedule 2”.</i>
Service provider	<p>The 2016 Regulations define service provider as <i>“a body or undertaking that supplies any of the services:</i></p> <p><i>(a) to which access is granted by virtue of regulation 6; or</i></p> <p><i>(b) listed in paragraphs 2,3 or 4 of Schedule 2</i></p> <p><i>or which manages a service facility used for this supply, whether or not that body or undertaking is also an infrastructure manager;”</i></p>
Station facility owner	The party who operates a station and whose permission is needed for access to the station. Generally, this is the leaseholder or if there is no leaseholder, the freeholder.
Structural subsystem	Rolling stock, infrastructure, energy or control and command and signalling.
Subsystem	A categorisation of the rail system into separate elements for convenience in the context of interoperability. The term is used to refer to the whole, or any part of ‘structural’ or ‘functional’ subsystems.
Supplemental agreement	An agreement which amends an existing access agreement.
Transport operator	ROGS defines ‘transport operator’ as any transport undertaking or infrastructure manager.

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Term	Definition
Transport system	Transport system mainly means a railway (mainline or non-mainline), a tramway, or any other guided transport system used wholly or mainly to carry passengers. The exceptions to this are listed in ORR's Guide to ROGS.
Transport undertaking	ROGS defines transport undertaking as any person or organisation that operates a vehicle in relation to any infrastructure. People or organisations that only carry out work in 'engineering possessions' (this means sections of track that are closed to normal traffic for maintenance work) are not included in the term transport undertaking.
TSIs	Technical specifications for interoperability (TSIs) define the technical standards required to satisfy the essential requirements set out in the Directive to achieve interoperability. These requirements include safety, reliability and availability, health, environmental protection and technical compatibility along with others specific to certain subsystems. The development process for TSIs are managed and published by the European Rail Agency (ERA) and they are governed by European Union law.
UK half of the Channel Tunnel Fixed Link	The UK half of the Channel Tunnel Fixed Link stretches from the start of the Channel Tunnel at Cheriton, to the frontier point of the tunnel under the English Channel.
Viable alternative	The 2016 Regulations define viable alternative as <i>“access to another service facility which is economically acceptable to the railway undertaking and allows it to operate the freight or passenger services concerned”</i> .



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