

MANAGING NON-SAFETY RELATED CHANGES TO THE PARTICULARS OF LEVEL CROSSING ORDERS

Purpose of this guidance note

This guidance note clarifies the position regarding certain organisational and practical changes to level crossings and their potential effect on compliance with the relevant Level Crossing Orders (Orders).

ORR is the safety regulatory for Britain's railways. We exercise powers on behalf of the Secretary of State for Transport, by agreement, in making Orders under the Level Crossing Act 1983. This Note has been agreed within ORR and the approach discussed with the Department for Transport.¹

The Level Crossings Act 1983 allows for Orders to be made where a level crossing crosses a highway or road to which the public has access or, in the case of Scotland, a road within the meaning of the Roads (Scotland) Act 1984. There are currently more than 2000 Orders in place, each of which makes specific provisions for the safety and convenience of users of individual level crossings. Order provisions can only be varied or revoked by way of a subsequent Order, which requires a notice and consultation period.

Background to the issue

The issue addressed in this guidance note has arisen following recent practical changes (organisational and technical) relating to level crossings covered by existing Orders. Whilst these changes do not create safety concerns for the crossing itself, the specific wording contained in the Orders make the level crossing potentially non-compliant with its requisite Order, which can constitute a criminal offence.

For example, there are many Orders which specify the local signal box which must control the level crossing. Due to the introduction of Rail Operating Centres (ROCs), the local signal box is no longer required. Whilst this has not altered the safety of the level crossing, it would technically be non-compliant with its Order.

Similarly, Orders can specify the type of active warning at crossings, including the change of yodel tone when a second train is coming, but at many crossings the second train coming warning has changed to a verbal warning.

Additionally, there are examples of minor typos that emerge with no straightforward way of amending them. For example highway authorities are responsible for maintaining the vertical profile and surface of the carriageway approaching the crossings but in some Orders it says "over" the crossing.

¹ ORR manages the Order making process on behalf of the Secretary of State for Transport and has relevant enforcement responsibilities for any breach of specific requirements set out in Orders – the Level Crossings Regulations 1997 make it a criminal offence for an operator not to comply with an Order

Approach

In light of the above, ORR considers it unnecessarily burdensome for industry to undertake a process to amend the many Orders that may be affected by such practical changes to level crossings, where such changes are administrative and do not create safety risks. We consider a more proportionate approach is to be clear that ORR will not take enforcement action in relation to technical breaches included on the attached schedule where safety is not compromised.

Governance

This guidance note has been placed on ORR's website and a copy sent to Network Rail and the Heritage Railway Association so that it can be brought to the attention of crossing operators.

This guidance note and the attached schedule will be reviewed periodically, particularly if further, similar examples of changes emerge that could be managed in this way.



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Schedule:

Item No:	Detail:	Date Added:
1	In instances where Rail Operating Centres (ROCs) have been introduced, any references to specific signal boxes in the Order that are no longer active should be ignored and the crossing covered by that Order should be deemed compliant in this respect, as if the Order itself had been amended to remove the specific references to signal boxes and replace them with reference to the relevant ROC	23 March 2016
2	In cases where the active warning at a crossing has been changed to a verbal warning, reference in the Order to a change of tone when a second train is coming should be ignored and the crossing covered by the Order should be deemed compliant in this respect, as if the Order itself had been amended to refer to a verbal warning.	23 March 2016
3	<p>In the case of Schedule 2, Part I where there is reference to the position of the barriers in the raised position, the paragraph which refers to the following:</p> <ol style="list-style-type: none">1. barriers being 'above 5 metres',2. the edge of the footway 'further' from the carriageway and3. omits the words 'by less than 150mm' at the end of the paragraph <p>should be ignored and the crossing covered by the Order should be deemed compliant in this respect as if the references above had been amended and replaced with the wording 'When in the fully raised position, the barriers shall be inclined towards the carriageway at an angle of between 5 and 10 degrees from the vertical. No part of any barrier or of any attachment thereto which is less than 5 metres above the level of the carriageway shall be horizontally displaced from the nearer edge of the carriageway by less than 450mm, and no part of any barrier or of any attachment thereto which is less than 2 metres above the level of the footway shall be horizontally displaced from that edge of the footway furthest</p>	23 March 2016

	from the carriageway by less than 150mm.'	
4	In the case of the paragraph in Schedule 3 Part II where there is reference to the vertical profile of the carriageway, the reference to the surface over the crossing should be ignored and the crossing covered by the Order should be deemed compliant in this respect as if this reference had been amended and replaced with the wording 'The vertical profile and surface of the carriageway and footway(s) approaching the crossing shall be maintained and, with the co-operation of the operator, kept consistent with the surface of the crossing to ensure good and even passage of road traffic and pedestrians over the crossing.'	23 March 2016
5	In cases where minor, obvious typos emerge that would not impair the understanding of the requirements of the Order, these should be treated as if they had in fact been amended. If there is any doubt about the extent of the typos and the potential for misunderstanding or misinterpretation, the crossing operator should discuss this with ORR.	23 March 2016
6	Specifically, in respect of the <i>Network Rail Heatherbell Level Crossing Order 2014</i> and the <i>Network Rail Greenfoot Level Crossing Order 2014</i> paragraph 15 stating 'The carriageway over the crossing shall be marked with a yellow 'box' marking of the size, colour and type shown in Diagram 1045 in the Regulations' should be ignored.	23 March 2016