

Application to the Office of Rail Regulation for a passenger track access agreement, or amendment to a passenger track access agreement under sections 17-22A of the Railways Act 1993

1. Introduction

Please use this form to apply to the Office of Rail Regulation (ORR) for:

- directions under section 17 of the Railways Act 1993 for a new track access contract. Section 17 allows companies who want the right to use a railway facility (including Network Rail's network) to apply to ORR for access if they are not able (for whatever reason) to reach agreement with the facility owner.
- approval under section 18 of the Railways Act 1993 for a new track access contract. Section 18 allows companies to apply for approval if they have agreed terms with the facility owner.
- approval of a proposed amendment (agreed by both parties) under section 22 of the Railways Act 1993 to an existing track access contract.
- directions under section 22A of the Railways Act 1993 for an amendment to an existing track access contract. Section 22A allows anyone seeking an amendment to an existing track access contract which allows the operation of more extensive services to apply for a compulsory amendment if they are not able (for whatever reason) to reach agreement with the facility owner.

If it is the facility owner, Network Rail will carry out a pre-application consultation. In this case fill in this form up to section 7.3. You should fill in the rest of the form after the consultation and before applying to ORR. If you are unhappy with the facility owner carrying out the consultation, you should ask ORR to do so. If this is the case, you should complete this form in full before submitting it to us.

The form sets out ORR's standard information requirements for considering applications. It cross-refers throughout to our criteria and procedures (C&Ps) and, where appropriate, to the Industry Code of Practice for track access application consultations (the Code of Practice). The C&Ps explain the process, timings and the issues we will expect to consider. You should use the published model passenger track access contract as your starting point when drafting the contract or amendments you want. Please read the C&Ps and the Code of Practice before applying.

We are happy to talk to you before you apply. Please contact us here.

You can download a copy of this form, and of ORR's model track access contract, from the ORR website: www.rail-reg.gov.uk.

2. The application

2.1 Title of proposed contract or supplemental agreement:

Twenty Third Supplemental Agreement

2.2 Contact details (Company and named individual for queries):

Facility Owner

Company: Network Rail Infrastructure Limited

Contact individual: Richard Taylor

Job title: Customer Relationship Executive

Address: Carolyn House

22-26 Dingwall Road

Croydon

Surrey CR9 3RT

Telephone number: 0207 023 2918

Fax number: 0207 023 2918

E-mail address: Richard.taylor@networkrail.co.uk

Beneficiary

Company: Southern Railway Limited

Contact individual: Kai Hills

Job title: Head of Franchise & Access Contracts

Address: Go Ahead House

26-28 Addiscombe Road

Croydon

Surrey CR9 5GA

Telephone number: 0208 929 8707

Fax number: 0208 929 8864

E-mail address: kai.hills@southernrailway.com

2.3 Licence and railway safety certificate: please state whether you intend to operate the services yourself or have them operated on your behalf.

Does the proposed operator of the services (a) hold a valid train operating licence under section 8 of the Railways Act 1993 or an exemption under section 7, and (b) hold a valid safety certificate under the Railways and Other Guided Transport Systems (Safety) Regulations 2006. If the answer to (a) or (b) is no, please state the point reached in obtaining a licence, exemption and/or safety certificate.

C&Ps paras 3.9-3.15

Southern Railway Limited "Southern" holds a valid licence to operate passenger train services under section 8 of the Railways Act 1993.

Southern has a safety certificate and safety authorisation under the Railways and Other Guided Transport Systems (Safety) Regulations 2006.

3. The proposed contract or amendment

3.1 Executive summary: please provide an executive summary of the proposed contract or amendment. This should cover the services, the commercial terms, and the reasons for making the application in the terms proposed. This information should be laid out clearly and concisely, and fully highlight the changes from the previous version of the contract (in the case of an amendment).

C&Ps para 3.22-3.28

Please also explain any important safety risks that have been identified arising from the proposal and how these will be controlled (by reference to the facility owner's safety authorisation and the train operator's safety certificate). **C&Ps paras 4.9-4.11**

Please also state the commencement and end dates for the proposal, and for new agreements or extensions to existing agreements, provide justification for the proposed length of the application, with reference to the Railways Infrastructure (Access and Management) Regulations 2005. If you are a franchised operator, please state the expiry date of your franchise. **C&Ps paras 4.72-4.79**

This application seeks to amend Appendix 7D of Schedule 7 as Southern intend to switch from modelled to on train metering of traction electricity consumption for billing purposes for its Class 377 (28 x 3 car sets) from 13 January 2014. Southern have installed meters previously on Class 377 rolling stock.

Network Rail were formally advised of Southern's intention on 15 October 2013 to which there has been no objection.

The process for collecting energy consumption data and other related data from metering equipment installed on trains, and the process to apply where such data is missing or incomplete will be undertaken in compliance with the EC4T Metering Rules.

Appendix 2 Power Factor Correction and Appendix 4 Tolerance Factors of the EC4T Metering Rules will not need to be amended as the values are as already specified for Class 377s.

3.2 Terms not agreed with the facility owner (for applications under sections 17 or 22A only): please set out here any areas of the application which have not been agreed, the reasons for the failure to agree and the reasons for seeking these provisions. **C&Ps para 3.102**

Not applicable.

3.3 Departures from ORR's model passenger track access contract: please set out and explain here any:

- areas where the drafting of the application changes ORR's published template passenger track access contract (as appropriate, cross-referencing to the answers below). Please also explain why these departures have been made. **C&Ps paras 2.34-2.37**
- instances where the proposal departs from the charging and/or performance regimes established by ORR's latest periodic review (or subsequent interim reviews) as reflected in ORR's model passenger track access contract, including the financial implications (e.g. establishment of an access charge supplement or rebate). **C&Ps paras 5.1-5.44**
- new processes (e.g. a self-modification provision) which have been added. Please also demonstrate fully how this new process is robust and complete. **C&Ps paras 6.2-6.3**

Not applicable

4. The expression of access rights and the use of capacity

4.1 Benefits: please set out what specific benefits the proposal will achieve. Please provide full descriptions of any new rights required, as compared to the previous contract (in the case of an amendment). Please also describe any significant changes in the pattern of services, their benefits to passengers and any impact on other operators, including freight operators. Please provide a fully marked-up version or document comparison of any tables in Schedule 5 which are being modified as a result of this application. **C&Ps paras 4.26-4.35**

Moving from modelled to on train metering enables the Train Operator to plan its business with greater certainty and implement consumption efficiency initiatives to reduce overall traction electricity consumption.

The move to metered billing also enables greater transparency of the level of distribution losses on the network providing new incentives for efficient infrastructure investment.

4.2 Adequacy: please set out how you have satisfied yourself that there is enough network capacity for the services in the proposal. Please also set out whether there are any implications for overall network performance and the facility owner's maintenance and renewal activities. **C&Ps paras 4.12-4.45**

Not applicable.

4.3 Flexing rights: please provide a general description of the extent of any limitations on the facility owner's flexing rights in the proposal. Please provide the rationale for the extent of any limitation on the flex provided, including any changes to pre-existing services, and the extent to which the provisions have been agreed with the facility owner. **C&Ps paras 2.27-2.33**

Not applicable.

4.4 Protections and limitations: please describe whether the proposal contains:

- any protected rights and/or protected obligations (i.e. protection from subsequent amendment of the Network Code under Condition C8), and explain the reasons for this, with reference to ORR's criteria; and/or, **C&Ps paras 4.70-4.71**
- any other restrictive obligations on the facility owner (e.g. regular service intervals, clockface departures etc.), and explain the reasons for this, with reference to ORR's criteria. **C&Ps paras 4.68-4.69**

Not applicable.

4.5 Journey time protection: please describe whether the proposed contract gives journey time protection to any services (by establishing maximum journey times, fastest key journey times or maximum key journey times), and explain the reasons for this, with reference to ORR's criteria. **C&Ps paras 8.90-8.103**

Not applicable.

4.6 Specified equipment: please give full details of any changes to specified equipment (rolling stock), including timescales, and how much of the vehicle and route acceptance procedure in the Network Code (Part F) has been completed. Please explain whether you have, or will have, the rolling stock necessary to exercise the rights being sought. **C&Ps paras 8.87-8.90**

Not applicable.

4.7 Franchise obligations: please explain whether the proposed services are necessary to fulfil obligations under a franchise or concession agreement. **C&Ps paras 4.3-4.4**

Not applicable.

4.8 Public funding: please state whether (and if so to what extent) the proposed services are subject to financial support from central or local government (other than the Department for Transport or Transport Scotland), including Passenger Transport Executives. Please also provide a point of contact at that body. **C&Ps paras 3.52, 4.25, 4.35-4.39**

Not applicable.

4.9 Passenger Focus: please state whether (and if so to what extent) the proposed services have been discussed with Passenger Focus. Please also provide copies of any relevant correspondence. **C&Ps para 4.39**

Not applicable.

4.10 Route utilisation strategies (RUSs): if applicable, please state which RUSs (including the Freight RUS) are considered relevant to this application and whether the proposed rights are consistent with that RUS. If the proposed rights are not consistent, please explain the reasons for this. *C&Ps paras 4.5-4.8*

Not applicable.

5. Incentives

5.1 Train operator performance: please describe any planned projects associated with the operation of the proposed services aimed at improving your performance. *C&Ps paras 4.26-4.36*

Not applicable.

5.2 Facility owner performance: please describe any planned projects associated with the operation of the proposed services aimed at improving the facility owner's own performance. *C&Ps paras 4.26-4.36, 5.1*

Not applicable.

5.3 Monitoring of services: would all proposed services be monitored for performance throughout their journeys, consistent with our policy in paragraph 5.50 of the criteria and procedures? If not, please state the reasons for this is in line with the permissible circumstances described in paragraph 5.51 of the criteria and procedures. *C&Ps paras 5.50-5.56*

Not applicable.

5.4 Performance regime changes (for applications under sections 17 or 22A only): where applicable, please provide justification for any changes to Schedule 8 of the track access contract in the proposal. If necessary, please provide any relevant information in support of the changes proposed. *C&Ps para 5.38-5.40*

Not applicable.

6. Enhancement

6.1 Enhancement details: where the proposal provides for the delivery of any network enhancements, or the services in the proposal are subject to any planned network enhancements, please give full details of the relevant enhancement schemes, including a summary of outputs from the scheme, timescales and the extent to which the network change procedure in the Network Code (Part G) has been completed (where appropriate, by reference to submissions made under ORR's enhancement reporting framework). *C&Ps paras 4.80*

Not applicable.

6.2 Enhancement charges: please confirm that the arrangements for the funding of any network enhancements are consistent with ORR's [Policy Framework for Investments](#), and summarise the level and duration of payments, and the assumed rate of return (see chapter 3 of the Conclusions document). **C&Ps paras 5.6, 5.12-5.14**

Not applicable.

7. Other

7.1 Associated applications to ORR: please state whether this application is being made in parallel with, or relates to, any other current or forthcoming application to ORR (e.g. in respect of track, station or light maintenance depot access contracts). **C&Ps paras 3.18-3.19**

Not applicable.

7.2 Supporting information, side letters and collateral agreements: please:

- state here any relevant information in support of the proposal, including a list and explanation of any other material being submitted (and supply copies with the application). **C&Ps para 4.33**
- confirm here that the whole of the proposal between the parties has been submitted with this application and that there are no side letters or other documents which affect it. **C&Ps paras 6.12-6.16, 6.21**

Twenty Third Supplemental Agreement.

7.3 Confidentiality exclusions: please list any parts of your application which you have excluded on the grounds of confidentiality, from the version of the proposed contract sent to consultees for any pre-application consultation process, and provide reasons. If there has been no pre-application consultation, you should state any parts of the application and proposed contract you want us to exclude from publication. **C&Ps paras 3.29-3.34, Code of Practice: 18-22**

None.

Note: Where a pre-application consultation is to be undertaken in line with the Code of Practice, the remainder of this application should not be completed until after that consultation has been completed

8. Pre-application consultation

8.1 The consultation: has a pre-application consultation been carried out in line with the Code of Practice? If yes, please:

- state who conducted the consultation;
- list all train operators, franchising authorities and any other parties that were consulted, stating which parties responded and attach their responses and any associated documentation to this form; and
- state the period allowed for the consultation. If this was less than 28 days, please explain the reasons for this.

If a pre-application consultation has not been carried out, please explain the reasons and whether any informal discussions have been held with any third parties who might be affected by this application and the nature of any concerns which they raised. **Code of Practice: 11-15,**

Network Rail consulted with the following companies and bodies between November 13th and 28th 2013:

Department for Transport, London Travelwatch, Passenger Focus, Transport for London.

Chiltern, Firstgroup, Virgin Trains, DB Schenker, Eurotunnel, High Speed 1, South West Trains, Colas Rail, Cross Country Trains, London Midland, Southeastern Railway, LOROL.

British American Rail Services, GO-OP, Pre-Metro Operations, Harsco Rail, Alliance Rail, Freightliner, Direct Rail Services Ltd, Roadways Container Logistics, Rail Freight Group, MDS Transmodal, West Coast Railway Company, Hutchison Ports, GB Railfreight.

As agreed with the ORR, the consultation was reduced to two weeks.

8.2 Resolved issues: please set out any issues raised by consultees which have been satisfactorily resolved. You may wish to refer to responses attached to this form. Please explain any changes as a result of the consultation. **Code of Practice: 47-48**

N/A

8.3 Unresolved issues: please set out any issues raised by consultees which have not been satisfactorily resolved, including any correspondence with that consultee. You may wish to refer to responses attached to this form. Please explain why you think these issues should not stop ORR approving the application. **Code of Practice: 45**

N/A

9. Certification

*Warning: Under section 146 of the Railways Act 1993, any person who, in giving any information or making any application under or for the purposes of any provision of the Railways Act 1993, makes any statement which he knows to be false in a material particular, or recklessly makes any statement which is false in a material particular, is guilty of an offence and so liable to criminal prosecution **C&Ps para 3.40***

I certify that the information provided in this form is true and complete to the best of my knowledge

Signed



Date

03 December 2013

Name (in caps)

RICHARD TAYLOR

Job title

CUSTOMER RELATIONSHIP
EXECUTIVE

For (company)

NETWORK RAIL

10. Submission

10.1 What to send: please supply, in hard copy, the signed application form, one copy of the proposed contract or amendment, with copies of any documents incorporated by reference (other than established standard industry codes or other documents) and any other attachments, supporting documents or information. **C&Ps para 3.39**

Please also supply the application form, the proposed contract or amendment and, where possible, any other supporting information, in electronic form, by e-mail or on disc, **in plain Microsoft Word format** (i.e. excluding any macros, auto-para or page numbering, or other auto-formatting). **C&Ps para 3.37-3.38**

10.2 Where to send it:

Manager, Track Access Team
Directorate of Railway Markets and Economics
Office of Rail Regulation
One Kemble Street
London
WC2B 4AN