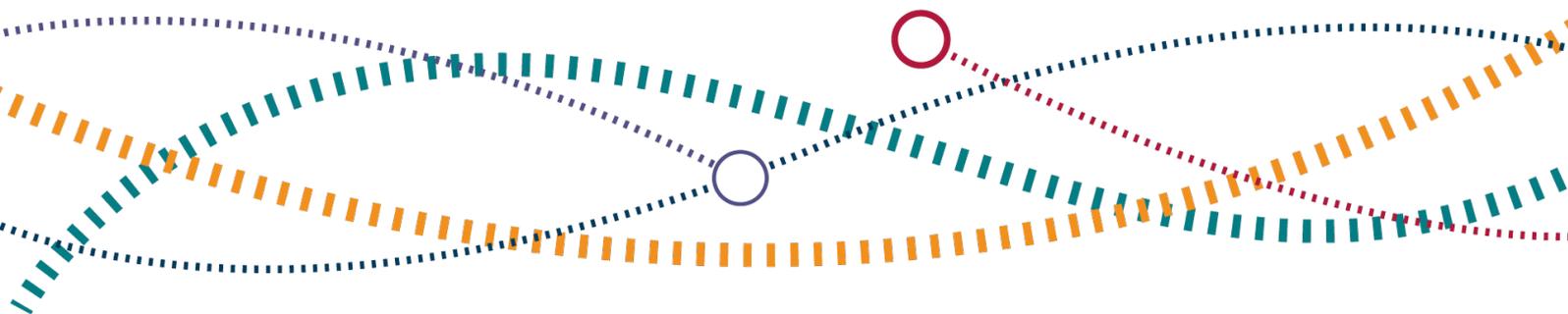




Consultation on making the ORR General Approval available to non-Network Rail infrastructure managers

Proposal for change

21 July 2023



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Background and context

In 2022, [ORR consulted](#) rail industry colleagues on a review of the scope and definitions of the General Approval for Passenger Track Access. We aimed to: simplify the process of amending a Track Access Contract (TAC) in circumstances where the proposed revisions are low-risk and low-impact; to clarify the circumstances in which the General Approval can be used, and; to anticipate the need for greater flexibility in the future access application process. Following the consultation, we issued a new General Approval document in May 2023 with many of the proposed changes incorporated.

We received feedback during this consultation that we should consider making the General Approval provision available to infrastructure managers other than Network Rail. As well as simplifying the access application process for minor, low-risk changes, this may also assist in the alignment of access rights in cases where Network Rail infrastructure connects with or crosses that of other infrastructure managers. We are therefore [now consulting](#) on this proposal to gauge wider industry support and to ensure that the provisions within the General Approval are appropriate for and applicable to infrastructure managers other than Network Rail.

It is also noted that the General Approval provision is allowed under the terms of the Railways Act 1993 and so can only be used by infrastructure managers who are subject to this legislation.

We have drafted a [proposed General Approval](#) entitled Passenger Access (Infrastructure Managers Other Than Network Rail Short Term Timetable and Miscellaneous Changes) General Approval 2023.

Proposal

Changes made to the Passenger Access (Short Term Timetable and Miscellaneous Changes) General Approval 2023

We have approached the drafting of this document by [making changes to the relevant clauses](#) in the Passenger Access (Short Term Timetable and Miscellaneous Changes) General Approval 2023 so that it will be suitable for use by other infrastructure managers. This entailed:

- (i) Amendment of all references to “Network Rail” to read “the Infrastructure Manager”;
- (ii) Removal of paragraph 1.(3) which refers to the revocation of previous versions, which does not apply in this case;
- (iii) Adding a definition of “Infrastructure Manager” has been added, namely: “Infrastructure Manager” means any body (other than Network Rail Infrastructure Limited) which is a party to a track access agreement for the purposes of the Railways Act 1993, other than in the role of beneficiary;
- (iv) Removal of both paragraph 16, which allows for the alignment of a TAC with the published model contract, and of the definition of “Model Contract”;
- (v) Amendment of the definition of “Network Code” to mean “the document of that name, which is relevant to the particular Infrastructure Manager, incorporated by reference in any access agreement, where applicable”;
- (vi) Amendment of all subsequent references to the Network Code to read “the relevant Network Code” to make it clear that there are multiple Codes;
- (vii) Amendment of the definition of “Vehicle Change” to “has the meaning ascribed to it in Part F of the relevant Network Code, where it is preceded by the name of the Infrastructure Manager where applicable”;
- (viii) Amendment of Paragraph 3 to read “**Where both parties agree**, the parties to an access agreement may make to that agreement any amendment of the description specified in paragraphs 4 to 16 below subject to any restrictions stated therein”;
and
- (ix) In the explanatory note, the following phrase has been added: “Please note that, as the General Approval provision is allowed under the terms of the Railways Act 1993, it may only be used by infrastructure managers who are subject to this legislation.”

Seeking your views and next steps

We are keen to hear your views on the ideas in this consultation document. A draft of the proposed General Approval is available separately.

When you are considering your response, please refer to the full list of questions in the consultation proforma. We strongly encourage you to use this in your submission, but if you prefer to respond in another way we would still ask that you ensure you have provided all the information that the proforma requires. Please also make any colleagues aware of this consultation if you think they would be interested in adding to the discussion.

The deadline for responses is 21 August 2023.

The questions on the response form are:

- 1. Do you agree with the proposal to make the General Approval provision available to infrastructure managers other than Network Rail?**
- 2. If you disagree with the proposal, please tell us why, citing economic, contractual, legal, operational, regulatory or performance-based reasoning to support your position.**
- 3. Do you think that the drafting of the proposed General Approval is such that the provision would be suitable/appropriate for use by non-Network Rail infrastructure managers? If not, what changes do you think would be required to make it suitable?**

The last question is primarily intended to identify any clauses from the original Network Rail General Approval that are not appropriate to other infrastructure managers, and which have not already been identified and amended by ORR. However, we also welcome any comments on the viability and appropriateness of the amendments that we have made.



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