

Statement of National Regulatory Provisions

(SNRP): Passenger

granted to

GB Railfreight Limited

Reference Number: UK 02 2009 0001

Last modified 4 December 2019 to take account of changes to conditions 3, 5 and 6.

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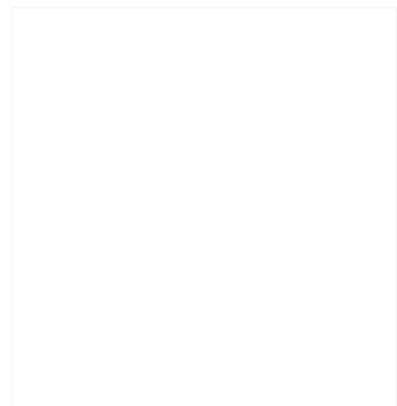
Note: Conditions 4, 13-16 and 18-27 are not used in this SNRP.

Part I - Scope

1. The Office of Rail Regulation (“ORR”), in exercise of the powers conferred by regulation 10 of the Railway (Licensing of Railway Undertakings) Regulations 2005 (“the Regulations”), hereby grants to GB Railfreight Limited, company registration number 03707899, (“the SNRP holder”) an SNRP including the Conditions set out in Part III.
2. This SNRP shall come into force on 23 June 2009 and shall continue in force unless and until revoked in accordance with Part IV.

23 June 2009

Signed by authority of the
Office of Rail Regulation



Part II - Interpretation

1. In this SNRP:

- “comply” is to be interpreted in accordance with ORR’s most recently published licensing guidance.
- “control”
- (a) A person is taken to have control of the SNRP holder if he exercises, or is able to exercise or is entitled to acquire, direct or indirect control over the SNRP holder’s affairs, and in particular if he possesses or is entitled to acquire:
- (i) 30% or more of any share capital or issued share capital of the SNRP holder or of the voting power in the SNRP holder; or
- (ii) such part of any issued share capital of the SNRP holder as would, if the whole of the income of the SNRP holder were in fact distributed among the participators (without regard to any rights which he or any other person has as a loan creditor), entitle him to receive 30% or more of the amount so distributed; or
- (iii) such rights as would, in the event of the winding-up of the SNRP holder or in any other circumstances, entitle him to receive 30% or more of the assets of the SNRP holder which would then be available for distribution among the participators.
- (b) Subsections (4) to (6) of section 416 of the Income and Corporation Taxes Act 1988, and the legislative provisions referred to in those subsections, apply to the interpretation of paragraph (a) in the same way that they apply to the interpretation of subsection (2) of section 416 of that Act.

“licensed activities”	means things authorised to be done by the SNRP holder in its capacity as operator of trains pursuant to its European licence.
“LTUC”	means the London Transport Users Committee and any successor to LTUC which performs the same functions.
“the PRO Regulation”	means Regulation (EC) No. 1371/2007 of the European Parliament and of the Council of 23 October 2007 on rail passengers’ rights and obligations.
“the RPC”	means the Rail Passengers Council ¹ and any successor or delegated body which performs the functions of the RPC.
“RSSB”	means Rail Safety and Standards Board Limited (a company limited by guarantee and registered in England and Wales under number 04655675), and its successors and assigns.

2. Any reference in this SNRP to a numbered paragraph is a reference to the paragraph bearing that number in the Condition in which the reference occurs.
3. In interpreting this SNRP, headings shall be disregarded.
4. Where in this SNRP the SNRP holder is required to comply with any obligation within a specified time limit, that obligation shall be deemed to continue after that time limit if the SNRP holder fails to comply with that obligation within that time limit.
5. Where in this SNRP there is a provision for ORR or the Secretary of State to give consent, such consent may be given subject to conditions.
6. The Interpretation Act 1978 shall apply to this SNRP as if it were an Act.
7. The provisions of section 149 of the Railways Act 1993 (as amended) (“the Act”) shall apply for the purposes of the service of any document pursuant to this SNRP.
8. Unless the context otherwise requires, terms and expressions defined in the Act, the Railways Act 2005, or the Regulations shall have the same meanings in this SNRP.

¹ RPC was renamed Passengers’ Council (PC)

Part III - Conditions

Condition 1: Insurance Against Third Party Liability

1. The SNRP holder shall, in respect of licensed activities, maintain insurance against third party liabilities in accordance with any relevant ORR general or specific approval, as amended from time to time.

Condition 2: Claims Allocation and Handling

1. The SNRP holder shall, except in so far as ORR may otherwise consent, at all times be a party to and comply with such agreements or arrangements (as amended from time to time) relating to:
 - (a) the handling of claims against operators of railway assets; and
 - (b) the allocation of liabilities among operators of railway assetsas may have been approved by ORR.

2. Except with the consent of ORR, the SNRP holder shall not, in relation to any of the agreements or arrangements described in paragraph 1 (the “relevant claims handling arrangements”), enter into any agreement or arrangement with any other party to the relevant claims handling arrangements:
 - (a) under which the SNRP holder agrees not to exercise any rights which it may have under any of the relevant claims handling arrangements; or
 - (b) varying the relevant claims handling arrangementsother than as provided for under the terms of the relevant claims handling arrangements.

Condition 3: Passenger rights

1. Not used.
2. The SNRP holder shall comply with articles 4-10, 15-18 and 28-29 of the PRO Regulation.

Condition 5: Accessible Travel Policy

1. The SNRP holder shall establish and thereafter comply with:
 - (a) a statement of policy; and
 - (b) a detailed body of arrangements, procedures, services and other benefits to be implemented or provided by the SNRP holder,

designed to protect the interests of people who are disabled in their use of trains operated by the SNRP holder and to facilitate such use (together the “ATP”).
2. In establishing the ATP and in making any change to it, the SNRP holder shall have due regard to the code of practice published by the Secretary of State pursuant to section 71B of the Act and to articles 19 to 24 of the PRO Regulation.
3. The SNRP holder shall not establish, or make any material changes (save in respect of paragraph 4(b)), to the ATP unless and until:
 - (a) the PC and, where appropriate, LTUC has been consulted; and
 - (b) the SNRP holder has submitted the ATP, or (as the case may be) the proposed change, to ORR and ORR has approved it.
4. Where ORR requires the SNRP holder to carry out a review of the ATP or any part of it or the manner in which it has been implemented, with a view to determining whether any change should be made to it, the SNRP holder shall:
 - (a) promptly carry out a review and submit a written report to ORR setting out the results or conclusions; and
 - (b) make such changes to the ATP, or the manner in which it is implemented, as ORR may reasonably require after ORR has received a report under paragraph 4(a) and consulted the SNRP holder, the PC and, where appropriate, LTUC.
5. The SNRP holder shall:
 - (a) send a copy of the ATP and of any change to it to ORR and the PC and, where appropriate, LTUC;

- (b) in a place of reasonable prominence at each station at which trains operated by the SNRP holder are scheduled to call, display or procure the display of a notice giving the address from which a current copy of the statement may be obtained; and
 - (c) make available free of charge a current copy of the statement to any person who requests it.
6. Nothing in this condition shall oblige the SNRP holder to undertake any action that entails excessive cost, taking into account all the circumstances including the nature and scale of licensed activities.

Condition 6: Complaints Handling

1. The SNRP holder shall establish and thereafter comply with a procedure for handling complaints relating to licensed activities from its customers and potential customers and shall comply with article 27 of the PRO Regulation (the “Complaints Procedure”).
2. The SNRP holder shall not establish, or make any material change (save in respect of paragraph 3(b)), to the Complaints Procedure unless and until:
 - (a) the PC and, where appropriate, LTUC has been consulted; and
 - (b) the SNRP holder has submitted the Complaints Procedure, or (as the case may be) the proposed change, to ORR and ORR has approved it.
3. Where ORR requires the SNRP holder to carry out a review of the Complaints Procedure or any part of it or the manner in which it has been implemented, with a view to determining whether any change should be made to it, the SNRP holder shall:
 - (a) promptly carry out a review and submit a written report to ORR setting out the results or conclusions; and
 - (b) make such changes to the Complaints Procedure, or the manner in which it is implemented, as ORR may reasonably require after ORR has received a report under paragraph 3(a) and consulted the SNRP holder, the PC and, where appropriate, LTUC.
4. The SNRP holder shall:
 - (a) send a copy of the Complaints Procedure and of any change to it to ORR and the PC and, where appropriate, LTUC;
 - (b) in a place of reasonable prominence at each station at which trains operated by the SNRP holder are scheduled to call, display or procure the display of a notice giving the address from which a current copy of the Complaints Procedure may be obtained; and
 - (c) make available free of charge a current copy of the Complaints Procedure to any person who requests it.

5. Alternative Dispute Resolution:

- (a) The SNRP holder shall become and thereafter remain, a member of the Relevant ADR Scheme;
- (b) the SNRP holder shall comply with its obligations under the Relevant ADR Scheme; and
- (c) if the Relevant ADR Scheme, at any time, ceases to be Compliant, the SNRP holder must:
 - (d) within 14 days after becoming aware that the Relevant ADR Scheme is no longer Compliant, notify ORR of that fact;
 - (i) within no more than 28 days after becoming aware that the Relevant ADR Scheme is no longer Compliant, notify ORR of the arrangements it has put in place to ensure that the interests of passengers are not adversely affected and must, if so directed by ORR at any time, revise those arrangements to take account of any concerns ORR reasonably raises about the protection of passenger interests; and
 - (ii) if the Relevant ADR Scheme continues to be non-Compliant for more than 6 months:
 - take all such steps as are reasonably practicable, including working together with other members of the Relevant ADR Scheme, and Rail Delivery Group, as appropriate, to identify another alternative dispute resolution scheme which is Compliant; and
 - notify such scheme to ORR within not more than 12 months (or such longer period as ORR may agree) after the date on which the Relevant ADR Scheme ceased to be Compliant.

6. For the purposes of this Condition:

“Relevant ADR Scheme” means:

- the alternative dispute resolution scheme procured by Rail Delivery Group (the Rail Ombudsman) or, as the case may be, any Successor Scheme.

“Successor Scheme” means:

- such other alternative dispute resolution scheme as is notified to ORR by the SNRP holder under sub-paragraph (c)(iii) above, and is accepted by ORR as providing suitable protection for the interests of passengers.

“Compliant”, in relation to the Relevant ADR Scheme, means:

- that the scheme is approved by the Designated Competent Authority and meets the requirements of ORR’s Guidance in respect of an alternative dispute resolution scheme.

“Designated Competent Authority” means:

- the relevant Designated Competent Authority under The Alternative Dispute Resolution for Consumer Disputes (Competent Authorities and Information) Regulations 2015.

“ORR’s Guidance” means:

- ORR’s Guidance on the Complaints Handling Procedures as amended from time to time.

Condition 7: Liaison with the RPC and LTUC

1. Whenever reasonably requested to do so by the RPC and LTUC (as relevant), the SNRP holder shall meet with the RPC or LTUC to discuss and review such matters as the RPC and LTUC (as relevant) may wish to consider in connection with its functions under Part I of the Act including the handling of complaints made about an alleged infringement of the PRO Regulation. The SNRP holder shall not under this Condition be obliged to attend more than two meetings with RPC and LTUC (as relevant) in any calendar year.
2. The SNRP holder shall provide the RPC and LTUC (as relevant) with such information as satisfies all the following conditions:
 - (a) the RPC and LTUC (as relevant) reasonably requests the information for the proper performance of its functions under Part I of the Act;
 - (b) no undue burden is imposed on the SNRP holder in procuring or furnishing the information; and
 - (c) the information would normally be available to the SNRP holder, unless the RPC and LTUC (as relevant) considers the information essential to enable it to exercise its functions under Part I of the Act.
3. In every calendar year in which the SNRP holder meets with the RPC and, where appropriate, LTUC pursuant to paragraph 1, the SNRP holder shall be represented by one or more senior executives of the SNRP holder in at least one meeting with the RPC and LTUC (separately or jointly).
4. Where the SNRP holder also holds another SNRP, each number specified as a maximum or minimum in this Condition shall apply jointly to meetings under this Condition and to meetings under any corresponding condition in that other SNRP.
5. Where:
 - (a) the SNRP holder and the RPC or LTUC, or both disagree as to the reasonableness of a request made to the SNRP holder by the RPC or LTUC, or both under paragraph 1 or paragraph 2;
 - (b) either party refers the dispute to the Secretary of State; and
 - (c) the Secretary of State determines that the request is reasonable,the SNRP holder shall promptly thereafter comply with the request.

Condition 8: RSSB Membership

1. If the SNRP holder's annual turnover has never exceeded £1 million and the SNRP holder is not a franchise operator, paragraphs 2 and 3 shall not have effect until the SNRP holder's annual turnover exceeds £1 million for the first time. The SNRP holder shall provide ORR with such information in respect of its annual turnover as ORR may from time to time require.
2. With effect from the date of the coming into force of this SNRP, except where ORR consents otherwise, the SNRP holder shall:
 - (a) become and thereafter remain a member of RSSB;
 - (b) comply with its obligations under the Constitution Agreement and the articles of association of RSSB; and
 - (c) exercise its rights under the Constitution Agreement and the articles of association of RSSB so as to ensure that RSSB shall act in accordance with the Constitution Agreement.
3. With effect from the date of the coming into force of this SNRP, the SNRP holder shall comply with the Railway Group Standards Code prepared by RSSB.
4. When an SNRP holder first becomes subject to the obligations in paragraphs 2 and 3 his rights, obligations and liabilities associated with such membership shall commence on the same day, and the SNRP holder shall complete the formal and legal documentation associated with such membership within three months of that date.
5. In this Condition:

"franchise operator"	includes an operator of last resort, under section 30 of the Act.
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Condition 9: Safety and Standards

- 1. The SNRP holder shall comply with:
 - (a) such Railway Group Standards as are applicable to its licensed activities; and
 - (b) subject to paragraph 2, such Rail Industry Standards (or parts thereof) as are applicable to its licensed activities.

- 2. The SNRP holder is not required to comply with an applicable Rail Industry Standard (or part thereof) where:
 - (a) it has, following consultation with such persons as it considers are likely to be affected, identified an equally effective measure which will achieve the purpose of the standard; and
 - (b) it has adopted and is complying with that measure.

3. In this Condition:

"Railway Group Standards"	means standards authorised pursuant to the Railway Group Standards Code prepared by RSSB; and
"Rail Industry Standards"	has the meaning set out in the Standards Manual, established by RSSB.

Condition 10: Environmental Matters

1. The SNRP holder shall establish a written policy designed to protect the environment from the effect of licensed activities, together with operational objectives and management arrangements (together “the environmental arrangements”).
2. The environmental arrangements shall:
 - (a) take due account of any relevant guidance issued by ORR;
 - (b) be effective within six months beginning with the day on which this SNRP comes into force; and
 - (c) be reviewed by the SNRP holder periodically, and otherwise as appropriate.
3. Nothing contained in paragraph 1 shall oblige the SNRP holder to undertake any action that entails excessive cost taking into account all the circumstances, including the nature and scale of operations of the type carried out by the SNRP holder.
4. The SNRP holder shall, upon establishment and any material modification of the environmental arrangements, promptly send ORR a current copy of the policy together with a summary of the operational objectives and management arrangements.
5. The SNRP holder shall act with regard to the policy and operational objectives and use its reasonable endeavours to operate the management arrangements effectively.

Condition 11: Payment of Fees

1. In respect of the year beginning on 1 April 2009 and in each subsequent year, the SNRP holder shall render to ORR a payment which is the aggregate of the following amounts:
 - (a) the annual fee applicable to this SNRP as determined by ORR; and
 - (b) an amount which shall represent a fair proportion as determined by ORR of the amount estimated by ORR (in consultation with the Competition Commission) as having been incurred in the calendar year immediately preceding the 1 April in question by the Competition Commission in connection with references made to it under section 13 of the Act with respect to this SNRP or any class of SNRP of which ORR determines that this SNRP forms part,
2. The payment shall be rendered by the SNRP holder within such time as ORR may require, being not less than 30 days beginning with the day on which ORR gives notice to the SNRP holder of its amount.

Condition 12: Change of Control

1. The SNRP holder shall, if any person obtains control of the SNRP holder, notify ORR as soon as practicable thereafter.

Condition 17: Restrictions on Activities

1. The licence holder shall not operate any passenger train for the purpose of providing regular scheduled passenger services, except to the extent that ORR may otherwise consent.
2. The licence holder shall not operate any passenger train on behalf of another licence holder, for any purpose, except to the extent that ORR may otherwise consent.

3. In this condition:

“regular scheduled passenger services” means any railway passenger services advertised in any national timetable of railway passenger services published pursuant to the provisions of a network licence; and

“passenger train” means a train used on a network for the purpose of carrying passengers by railway.

Condition 28: Rail Delivery Group

1. The SNRP holder shall:
 - (a) become and thereafter remain a Licensed Member of RDG;
 - (b) comply with its obligations under the RDG Articles; and
 - (c) procure that any member of its Group that is entitled under the RDG Articles to become a Member of RDG:
 - (i) becomes and thereafter remains a Member of RDG; and
 - (ii) complies with its obligations under the RDG Articles.

2. In this condition:

“Group” has the meaning ascribed to it in the RDG Articles;

“Licensed Member” has the meaning ascribed to it in the RDG Articles;

“Member” has the meaning ascribed to it in the RDG Articles;

“RDG” means the Rail Delivery Group (a company limited by guarantee and registered in England and Wales under number 08176197); and

“RDG Articles” means the articles of association of RDG.

Part IV - Revocation

1. ORR may (after having consulted the appropriate franchising authority where the SNRP holder is a franchise operator) revoke this SNRP at any time if agreed in writing by the SNRP holder.
2. ORR may (after having consulted the appropriate franchising authority where the SNRP holder is a franchise operator) revoke this SNRP by not less than three months' notice to the SNRP holder:
 - (a) if a final order has been made, or a provisional order has been confirmed under section 55 of the Act, in respect of any contravention or apprehended contravention by the SNRP holder of any Condition, and the SNRP holder does not comply with the order within a period of three months beginning with the day on which ORR gives notice to the SNRP holder stating that this SNRP will be revoked pursuant to this term if the SNRP holder does not so comply; provided that ORR shall not give any such notice before the expiration of the period within which an application could be made under section 57 of the Act in relation to the order in question or before any proceedings relating to any such application are finally determined;
 - (b) if the SNRP holder has not commenced carrying on licensed activities within six months beginning with the day on which this SNRP comes into force or if the SNRP holder ceases to carry on licensed activities for a continuous period of at least six months;
 - (c) if the SNRP holder is convicted of an offence under section 146 of the Act or regulation 15 of the Regulations in making its application for this SNRP; or
 - (d) if a person obtains control of the SNRP holder and:
 - (i) ORR has not approved such obtaining of control;
 - (ii) within one month of that obtaining of control coming to the notice of ORR, ORR serves notice on the SNRP holder stating that ORR proposes to revoke this SNRP in pursuance of this paragraph unless the person who has obtained control of the SNRP holder ceases to have control of the SNRP holder within

the period of three months beginning with the day of service of the notice; and

- (iii) that cessation of control does not take place within that period.