

**David Reed**  
Senior Executive, Access & Licensing



8 November 2024

Suzanne Murray  
Customer Manager  
Network Rail Infrastructure Ltd  
151 St Vincent Street  
Glasgow, G2 5NW

John Kerr  
Regulated Contracts Manager  
ScotRail Trains Ltd  
Atrium Court, 50 Waterloo St  
Glasgow, G2 6HQ

Dear Suzanne and John,

**Approval of the 47th supplemental agreement to the track access contract between Network Rail Infrastructure Limited (Network Rail) and ScotRail Trains Limited (ScotRail) dated 3 March 2016**

We have today approved the above supplemental agreement submitted to us formally on 8 November 2024 under section 22 of the Railways Act 1993 (the Act). This follows an earlier informal submission of a draft agreement for our consideration. ORR's approval of this application means ScotRail can run additional services from the Principal Change Date (PCD) in December 2024, including between Edinburgh Waverley and Inverkeithing, Lanark and Glasgow Central High Level, and Rutherglen and Dalmuir. This letter explains the reasons for our decision. It also explains ORR's position on the concurrent application that ScotRail has submitted in accordance with section 22A of the Act.

**Concurrent section 22A application**

On 24 April 2024 ORR [wrote to industry](#) to set out a process for access applications for the December 2024, May 2025 and December 2025 timetable changes. In that letter we asked industry to comply with a deadline of 20 May 2024 for applications for additional rights (or amended rights that change capacity parameters) for these timetable changes that met specific criteria. ScotRail Limited submitted three such applications on 20 May 2024.

In reaching a decision on this supported 47th supplemental agreement, it is important to clarify that:

- ORR has reached its decision in the full knowledge of ScotRail's concurrent section 22A applications;

Head Office: 25 Cabot Square, London E14 4QZT: 020 7282 2000 [orr.gov.uk](http://orr.gov.uk)



- ScotRail’s section 22A applications remains “live” and we continue to try to progress them. However, ORR cannot reach a decision on those applications as Network Rail has not yet completed its analysis. We continue to press Network Rail to complete its analysis as quickly as possible; and
- most importantly, the approval of the 47th supplemental agreement ensures that ScotRail has approved access rights in the December 2024 timetable.

### **Purpose of 47th supplemental agreement**

The purpose of the 47th supplemental agreement is to grant ScotRail the rights necessary to operate its proposed December 2024 timetable. The changes include additional services between Edinburgh Waverley and Inverkeithing, Lanark and Glasgow Central High Level, and Rutherglen and Dalmuir.

Network Rail noted that it could only agree to the requested additional access rights between Edinburgh Waverley and Inverkeithing, Lanark and Glasgow Central High Level, Rutherglen and Dalmuir and Rutherglen and Exhibition Centre until the Subsidiary Change Date (SCD) in 2025 due to potentially competing applications from other train operators and existing rights for Grand Union Trains Limited from SCD 2025, and that there could be no presumption of the continuation of these additional rights beyond SCD 2025.

### **Industry consultation**

Network Rail undertook the usual industry consultation. Transport Focus and CrossCountry responded noting that they had no objections to the proposals.

### **ORR review**

Our review of the application raised no operational, performance or economic concerns. We identified some minor drafting issues and these were resolved when the agreement was formally submitted.

We noted Network Rail’s position on the continuation of additional rights on services between Edinburgh Waverley and Inverkeithing, Lanark and Glasgow Central High Level, Rutherglen and Dalmuir and Rutherglen and Exhibition Centre until the SCD in 2025 due to potentially competing applications from other train operators and existing rights for Grand Union Trains Limited from SCD 2025. In light of this, our usual policy of a strong presumption of the continuation of existing rights will not apply for these additional rights beyond SCD 2025.



## **Our duties under section 4 of the Act and our decision**

We have concluded that approval of this supplemental agreement strikes the appropriate balance in discharging our statutory duties under section 4 of the Act; in particular, those relating to protecting the interests of users of railway services (section 4(1)(a)), promoting the use of the railway network for the carriage of passengers (section 4(1)(b)) and enabling persons providing railway services to plan their businesses with a reasonable degree of assurance (section 4(1)(g)).

## **Conformed copy of the track access agreement**

Under clause 18.2.4 of the track access contract, Network Rail is required to produce a conformed copy, within 28 days of any amendment being made, and send copies to ORR and the Train Operator. Please send the conformed copy to me at ORR.

## **Public register and administration**

Electronic copies of this letter, the approval notice and the agreement will be sent to the Department for Transport and Network Rail's Policy and Access Team. Copies of the approval notice and the agreement will be placed on ORR's public register (website) and copies of this letter and the agreement will be placed on the ORR website.

Yours sincerely

A handwritten signature in black ink, appearing to read 'David Reed', written in a cursive style.

**David Reed**