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To holders of European passenger licences and SNRPs

Cc: Department for Transport, Transport Scotland, Transport for Wales, Transport Focus, London TravelWatch, Rail Delivery Group, Transport for London, Rail North, CAHA Registrar, Eurostar

## **Licence Modifications: Rail Passengers' Rights and Obligations Regulation**

The provisions of the Rail Passengers' Rights and Obligations Regulation (Regulation 1371/2007/EC)<sup>1</sup> (the "European Regulation") are effectively implemented in Great Britain through the Rail Passengers' Rights and Obligations Regulations 2010<sup>2</sup> (the "RPRO 2010"). The current domestic exemption in place for all but the core obligations of the European Regulation will expire on 3 December 2019. ORR therefore needs to make changes to some existing licence conditions.

These changes will affect train operators holding passenger statements of national regulatory provisions (SNRPs), which are granted by ORR alongside European passenger licences, or anyone intending to apply for one. The changes will also affect any station licence you hold.

When the current exemption expires on 3 December 2019, these changes become mandatory by law. In accordance with the RPRO 2010, we can make these changes without the consent of licence holders. However, we are informing licence holders of our proposed approach to making the amendments and are inviting your views and comments on the drafting.

The required amendments to the conditions affected are set out in **Annex A** (passenger SNRP) and **Annex B** (station licences). RPRO 2010 changes are marked in red.

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<sup>1</sup> The Rail Passengers' Rights and Obligations Regulation 1371/2007/EC - <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32007R1371&from=EN>

<sup>2</sup> The Rail Passengers' Rights and Obligations Regulations 2010 - [http://www.legislation.gov.uk/ukxi/2010/1504/pdfs/ukxi\\_20101504\\_en.pdf](http://www.legislation.gov.uk/ukxi/2010/1504/pdfs/ukxi_20101504_en.pdf)



We are writing separately to holders of affected station licences who are not themselves passenger SNRP holders. A copy of that letter is available [here](#) for your information.

## Background

The European Regulation came into effect on 4 December 2009. By means of the RPRO 2010, the Government specified ORR as the enforcement body for the European Regulation and gave us the powers to modify the relevant licences and SNRPs so that we can use the licensing system as the main enforcement mechanism.

The European Regulation has some core requirements that became mandatory in 2009, and other 'non-core' elements that can be exempted for a limited period. DfT made use of the exemption facility for all domestic passenger train and station operators for the periods 2009-2014, renewed for 2014-2019. However, DfT has decided not to renew the exemption for a further five years and accordingly it will expire on 3 December 2019.

## GB Passenger SNRP holders

Passenger train operators, including charter operators, holding European passenger licences and passenger SNRPs are within scope of the European Regulation<sup>3</sup>, although they are currently exempt from the non-mandatory provisions for domestic services. We will therefore need to make the relevant changes to both SNRP holders and (where held) station licence holders' conditions to include the newly applicable obligations.

The RPRO 2010 contains a schedule which lists the articles of the European Regulation to be enforced through licensing and SNRP conditions. In **Annex C** of this letter we have set out a list of the specific articles which now require amendments to SNRPs and station licences.

## Licence modification

Our approach to modifying the passenger SNRP and station licence is to replicate the structure and the wording relating to references to the articles from the European Regulation used in the Eurostar International Limited's ("Eurostar") passenger SNRP<sup>4</sup> and station licence (now revoked<sup>5</sup>), as it is already subject to the European Regulation in full.

We have considered alternatives (such as inserting a new condition for each article) but we consider that our approach will require the most minimal drafting and structural changes and will meet the necessary requirements once the exemption falls away.

The changes to the passenger SNRPs and station licences are highlighted in [red, underlined text](#) in **Annex A** (for passenger SNRPs) and **Annex B** (for station licences).

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<sup>3</sup> Ticket vendors (such as third party ticket retailers licensed by the Rail Delivery Group) and tour operators are also within scope of the European Regulation and we will be writing separately to them to set out how the change will affect them.

<sup>4</sup> Eurostar is an international operator so the domestic exemptions are not applicable. The full European Regulation has applied to Eurostar since it was implemented in 2009  
[https://orr.gov.uk/data/assets/pdf\\_file/0008/5021/Eurostar\\_eu\\_snrp.pdf](https://orr.gov.uk/data/assets/pdf_file/0008/5021/Eurostar_eu_snrp.pdf)

<sup>5</sup> Eurostar's station licence was revoked in November 2013.

## **Impact assessment**

The changes to reflect full European Regulation implementation are necessary under European and domestic law. The changes we are proposing for licences and SNRPs do not impose any additional costs to those required by law.

## **Next Steps**

We would be grateful if you could give us your views on the drafting of the proposed modifications in this letter by 19 November 2019. Please email your replies to us at [licensing.enquiries@orr.gov.uk](mailto:licensing.enquiries@orr.gov.uk). I attach a form that you can use for your response at **Annex D**.

Please indicate clearly whether we can publish your reply on our website. If you would like your response to be treated confidentially, please also supply a non-confidential version for publication.

Subject to considering any responses received, we will modify all the appropriate passenger SNRPs and station licences to reflect the European Regulation in accordance with the RPRO by 3 December 2019.

If you would like clarification on any point or further information, please contact [licensing.enquiries@orr.gov.uk](mailto:licensing.enquiries@orr.gov.uk).

Yours sincerely

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

**Marcus Clements**

## Annex A – modifications to be made to all passenger SNRPs

The following modifications are to be made to the passenger SNRPs held by each licence holder:

- 1 Amend Condition 3 (Passenger Rights, Through Tickets and Network Benefits), paragraph 2 as follows:
  - “2. The SNRP holder shall comply with articles [s 4-10, 15-18 and 28-29](#) of the PRO Regulation.”
- 2 Amend Condition 5 (Accessible Travel Policy), paragraph 2<sup>6</sup>, as follows:
  - “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 [s 19 to 24](#) of the PRO Regulation.”
- 3 Amend Condition 6 (Complaints Handling)<sup>7</sup>, paragraph 1, as follows:
  - “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”).”

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<sup>6</sup> Please note - all references to “Disabled People’s Protection Policy” and “DPPP” were replaced with “Accessible Travel Policy” and “ATP” on 29 July 2019.

<sup>7</sup> This does not apply to Rail Express Systems Ltd, as it does not have this condition.

<b>Annex B – modifications to be made to the station licence of all passenger SNRP holders</b>
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The following modifications are to be made to the station licences of all passenger SNRP-holders:

- 1 In the Table of Contents, under the heading “Part III – Conditions”, insert a reference to a new Condition 3 as follows:

“Condition 3: Passenger Rights”

- 2 Insert a new condition 3 as follows:

“Condition 3: Passenger Rights<sup>8</sup>

1. The licence holder shall comply with articles 18 and 29 of the PRO Regulation.”

- 3 Amend Condition 5 (Accessible Travel Policy), paragraph 2, as follows:

“2. In establishing the ATP and in making any change to it, the licence 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 s 19(1), 21, 22 and 24 of the PRO Regulation.”

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<sup>8</sup> Please note that the condition number may be different in some licences

## **Annex C – European Regulation articles applicable to passenger SNRPs and station licences**

The RPRO 2010 sets out in the schedule a list of articles from the European Regulation which are to be enforced through licensing conditions and SNRPs. We set out below a list of which articles apply to passenger SNRPs, and which apply to station licences.

We have previously taken the view that, in relation to articles 11 to 14<sup>9</sup> of the European Regulation which deal with insurance and liabilities, it is not necessary to make any changes to condition 1 (insurance against third party liability) because this is already generic and we can amend our policy and the general approval separately. Similarly, condition 2 (claims allocation and handling) is generic and the industry has already made changes to the relevant agreement (CAHA) which adequately cover the European Regulation requirements. We consider this remains the appropriate approach, therefore these articles have not been included in the passenger SNRP amendments set out in Annex A.

The following provisions apply to passenger operators, to be reflected in SNRPs:

- a) Article 4 (transport contract);
- b) Article 5 (bicycles);
- c) Article 6 (exclusion of waiver and stipulation of limits);
- d) Article 7 (obligation to provide information concerning discontinuation of services);
- e) Article 8 (travel information);
- f) Article 9 (availability of tickets, through tickets and reservations);
- g) Article 10 (travel information and reservation system);
- h) Article 11 (liability for passengers and luggage)
- i) Article 12 (insurance);
- j) Article 13 (advance payments);
- k) Article 14 (contestation of liability);
- l) Article 15 (liability for delays, missed connections and cancellations);
- m) Article 16 (reimbursement and re-routing);
- n) Article 17 (compensation of the ticket price);
- o) Article 18 (assistance);
- p) Article 19 (right to transport);

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<sup>9</sup> [https://orr.gov.uk/data/assets/pdf\\_file/0019/5248/pro\\_licence\\_review\\_consultation.pdf](https://orr.gov.uk/data/assets/pdf_file/0019/5248/pro_licence_review_consultation.pdf)

- q) Article 20 (information to disabled persons and persons with reduced mobility);
- r) Article 21 (accessibility);
- s) Article 22(3) (assistance at railway stations);
- t) Article 23 (assistance on board);
- u) Article 24 (conditions on which assistance is provided);
- v) Article 27 (complaints);
- w) Article 28 (service quality standards); and
- x) Article 29 (information to passengers about their rights)

\*Of these, Articles 9, 19 and 20(1) are 'core' provisions already included in passenger SNRPs.

The following provisions apply to station managers, to be reflected in station licences:

- a) Article 18(1) and (2) (assistance to be provided to passengers in the case of a delay in arrival or departure);
- b) Article 19(1) (right to transport);
- c) All of article 21 (accessibility);
- d) All of article 22 (assistance at railway stations);
- e) All of article 24 (conditions on which assistance is provided); and
- f) All of article 29 (information to passengers about their rights).

\*Of these, Article 19(1) is a 'core' provision already included in station licences.

<b>Annex D – Response proforma</b>
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<b>Passenger SNRP holder</b>	
<b>Comments on PRO changes</b>	
Condition 3 – Passenger rights, through tickets and network benefits	
Condition 5 – Accessible Travel Policy	
Condition 6 – Complaints handling	
<b>Other comments on the drafting</b>	

<b>Station licence holder</b>	
<b>Comments on PRO changes</b>	
Table of contents	
Condition 3 – Passenger rights	
Condition 5 – Accessible Travel Policy	
<b>Other comments on the drafting</b>	

I am/am not\* content for this response to be published on the ORR website. (delete as appropriate)

Name:

Organisation: