

David Reed
Senior Executive, Access & Licensing



5 January 2024

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

John Kerr
Regulated Contracts Manager
Scotrail Trains Limited
Atrium Court
Glasgow, G2 6HQ

Dear Suzanne and John,

Approval of the 43rd supplemental agreement to the track access contract between Network Rail Infrastructure Limited and ScotRail Trains Limited dated 3 March 2016

We have approved the above supplemental agreement as formally submitted to us on 4 January 2024 under section 22 of the Railways Act 1993 (the Act). This follows an earlier informal submission of a draft agreement for our consideration. This letter explains the reasons for our decision.

Purpose

This supplemental agreement makes changes to ScotRail Trains Limited's (ScotRail's) track access contract to provide time-limited Contingent Rights on the network between Thornton North Junction and Leven for driver training between 8 January and 2 June 2024 (when the rights will lapse). The route between Thornton North Junction and Leven represents the new Levenmouth Rail Link Infrastructure which is due to be re-opened later this year.

Industry consultation

The parties told us that they considered no industry consultation was necessary as no third parties can be affected by these new access rights. The route is not available to other services before the opening of the Levenmouth Rail Link, at which point these time-limited contingent rights will have expired.

ORR review

Our review of the application raised no operational, performance or economic concerns.



The parties confirmed that they had assured themselves that any additional ancillary moves required to carry out the driver training are covered under their existing contract.

This application was put in with short notice to ORR and for the future we would recommend that driver training and testing for services on new networks is considered at an earlier stage. In the specific circumstances we are however content to expedite our consideration due to the time-limited and contingent nature of the rights, the agreement of the parties, and the assurances that third parties will not be unduly affected.

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 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