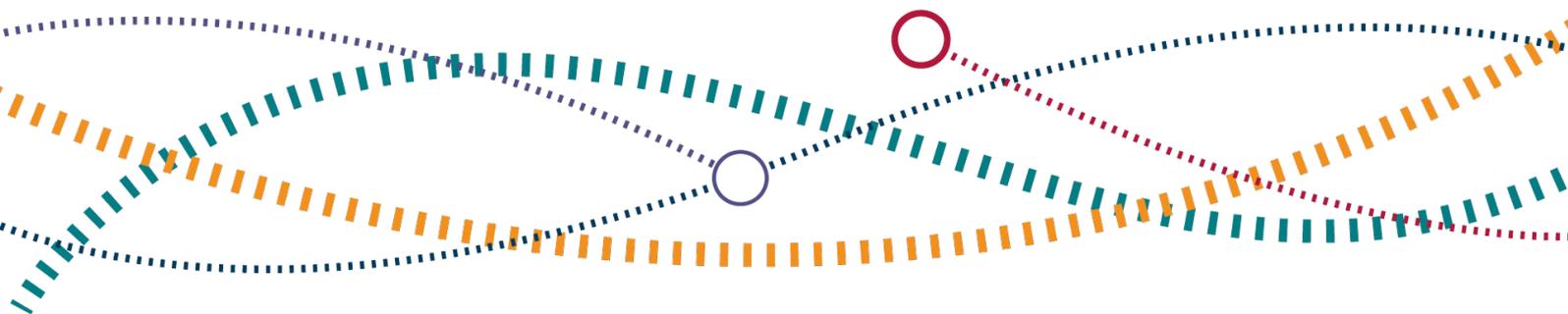




# Schedule 4 possessions regime

01 April 2024



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# Introduction & overview

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## Introduction

1. This module explains our policy on the track access contract ‘possessions’ regime. Possessions are also known as restrictions of use. The possessions regime is based on compensation arrangements for occasions when an operator’s access to the network is restricted (e.g. because of a speed restriction or engineering possession). We wish to ensure that access contracts include provision for cost recovery and payment of appropriate compensation, secure efficient use of network capacity and therefore facilitate better services for rail customers.
2. In the 2023 periodic review (PR23) we set the regulatory framework for control period 7 (CP7), which runs from 1 April 2024 to 31 March 2029. Our conclusions are set out in our PR23 final determination [policy position on Schedules 4 and 8](#). This document reflects the regulatory framework implemented through the track access contract as part of PR23, which included the Schedule 4 possessions regime.

## Schedule 4 overview

3. The arrangements under which Network Rail is able to carry out restrictions of use on its network (e.g. for engineering possessions, through imposing temporary speed restrictions, etc.) are set out in Part D of the Network Code. Both the passenger and freight track access contracts contain compensation regimes for such restrictions in Schedule 4. For passenger operators these are known as possessions regimes, but in the model freight contract they are referred to as “variations to services”.
4. The intention of the possession regimes is to:
  - (a) compensate train operators for the financial impact of planned disruption; and
  - (b) incentivise safe, early, efficient planning of engineering work by Network Rail.
5. In this document, we set out our policy on possessions regimes, laid out in Schedule 4 of the model public service operator and open access operator contracts, and in the model freight and freight customer contracts. Schedule 4 differs between model contracts so as to reflect the differing circumstances of each sector.
6. More information on Schedule 4, including guidance on completing Schedule 4 of the model passenger contract, is contained in other [guidance modules](#). In addition, a [Schedule 4 ‘factsheet’](#) was provided as part of ORR’s PR23 consultation process.

# Schedule 4 for passenger operators

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## Key principles

7. The possessions compensation regime for passenger operators has evolved over the course of several periodic and interim reviews. The key principles of the current regime are:
  - (a) compensation should be available for all disruptive possessions, thereby ensuring that Network Rail is incentivised to plan all work carried out on the network efficiently (note though that full Schedule 4 compensation is available only to operators that pay an access charge supplement);
  - (b) such compensation should be based on the degree of disruption experienced, no matter whether the possession is related to maintenance, renewals or enhancement work;
  - (c) for less disruptive ('Type 1') possessions, formulaic revenue loss and cost compensation is available to those operators that pay an access charge supplement (the formulaic nature minimises transaction costs). All operators can claim actual revenue and cost compensation where possessions are long or disruption is sustained;
  - (d) formulaic revenue loss compensation is based on operator-specific Schedule 8 payment rates. Network Rail receives a discount on the amount of revenue loss compensation it pays out the earlier it notifies operators about possessions;
  - (e) different revenue compensation algorithms apply where a train-bus-train movement misses monitoring points, or for a high-speed diversion; and
  - (f) formulaic cost compensation exists, encompassing compensation for rail replacement buses (with compensation differentiated by area of operation) and changes in train mileage (with compensation differentiated by type of rolling stock).
  
8. The possessions regime is funded through access charge supplements. The sum of these access charge supplements is equal to the total compensation payments that Network Rail is expected, at the time of the periodic review, to pay to operators for withholding access to the network as a result of maintenance and renewals.

9. Through PR23, ORR introduced a new option for operators to change their Schedule 4 status ahead of the start of CP7 and each subsequent control period. Through this option, public service operators can entirely opt out of Schedule 4, and open access passenger operators can opt in to full Schedule 4 compensation in return for an access charge supplement. Our PR23 final determination [policy position on Schedules 4 and 8](#), paragraphs 2.2 to 2.14, explained in more detail how this mechanism works in practice. It also detailed triggers that would enable an operator to change its status during a control period.
10. We expect public service operators that are opted in to full Schedule 4 compensation to incorporate the template Schedule 4 as it appears in the model passenger contract.
11. Passenger operators on the model open access operator contract do not pay an access charge supplement and only receive compensation for long or sustained disruption.

## Bespoke possessions regimes

12. Where applicants are seeking a bespoke regime, we would consider this against the justification and evidence for the proposal. We would expect any such regime to:
  - (a) incentivise Network Rail to plan possessions early and to manage them efficiently;
  - (b) incentivise the parties to limit the impact of possessions on the passenger timetable;
  - (c) minimise the risk of perverse incentives and, in particular, not cause Network Rail to discriminate unduly between users of the network;
  - (d) not pose any undue financial risks to or impact on funders;
  - (e) when considered alongside the Schedule 4 access charge supplement, be financially neutral in respect of possessions due to maintenance and renewal activity forecast during CP7; and
  - (f) not require unnecessarily burdensome additional systems for processing data.

# Schedule 4 of the model freight contracts

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13. The freight and freight customer model contracts contain a Schedule 4 which differs from that in the passenger sector. The freight operator Schedule 4 describes the process and requirements for variations to services. It provides compensation which differs depending on whether disruptive events are notified at fewer or more than 12 weeks' notice.
14. Schedule 4 in the model freight customer contract operates in the same way as described below for the freight operator contract, but may only be invoked when the access rights have not been drawn down into a freight operating company customer access contract. Where the access rights have been drawn down, then the Schedule 4 arrangements in the freight operating company customer access contract apply and are as described below.
15. A freight operator will be eligible for a payment (a 'Service Variation Sum') where a planned service is varied for a reason attributable to Network Rail and where the variation meets one or more of a list of criteria. These criteria are set out in Schedule 4 and are intended to cover circumstances, such as the use of a longer diversionary route or a delayed departure time, which are likely to cause the beneficiary significant additional costs. Compensation for late notice cancellations is available through Schedule 8. The Service Variation Sum and Late Notice Cancellation Sum are the same for all freight operators.
16. Freight operators can also claim compensation for significant planned disruption, where one or more of a list of criteria set out in Schedule 4 is met. Compensation is available at two levels. A Normal Planned Disruption Sum is available where there has been a significant change to the journey distance or timing or there are more onerous length and weight restrictions. An Enhanced Planned Disruption Sum is available if the service is cancelled or there are more demanding gauge restrictions or additional or substitute locomotives are required. Normal and Enhanced Planned Disruption Sums are the same for all freight operators.
17. In addition to the liquidated damages sums described above, actual costs and losses can be claimed if the disruption meets a further set of criteria. These criteria include the use of additional or substitute locomotives, transport by road or the blocking of an origin or destination.

18. Freight operators are not required to pay an access charge supplement to be eligible for the compensation described above. We consider that the regime provides incentives to Network Rail to minimise disruption and provide early notification to operators and is a useful means of encouraging the parties to agree to vary a service which otherwise would be cancelled.
19. In PR23 ORR introduced a new option for freight operators to change their Schedule 4 status ahead of the start of CP7 and each subsequent control period. Through this option, freight operators can entirely opt out of Schedule 4 if they wish to do so (for freight operators, the decision to opt in or out stands for the whole of the control period). Our PR23 final determination [policy position on Schedules 4 and 8](#), paragraphs 2.2 to 2.14, explained in more detail how this mechanism works in practice.



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