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Glasgow Prestwick International Airport Ltd
London Underground Ltd
Merseyrail Electrics 2002 Ltd
Merseyside Passenger Transport Services Ltd
Mitie Technical Facilities Management Ltd
Network Rail Infrastructure Ltd
Stobart Rail Ltd

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

Licence Modifications: Rail Passengers' Rights and Obligations Regulation

The provisions of the Rail Passengers' Rights and Obligations Regulation (Regulation 1371/2007/EC)¹ (the "European Regulation") are effectively implemented in Great Britain through the Rail Passengers' Rights and Obligations Regulations 2010² (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 station licence holders granted under the Railways Act 1993 ("the Act") at which passenger SNRP³ holders provide passenger train services.

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 station 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**. RPRO 2010 changes are marked in red, underlined text.

We are writing separately to holders of passenger SNRPs, about the changes to their SNRPs and any station licence they hold. A copy of that letter is available [here](#) for your information.

¹ 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>

² the Rail Passengers' Rights and Obligations Regulations 2010 - http://www.legislation.gov.uk/ukxi/2010/1504/pdfs/ukxi_20101504_en.pdf

³ Statement of National Regulatory Provisions.



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 ORR 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.

Station managers

You are receiving this letter because, although you are not a passenger SNRP holder, you manage a station at which passenger SNRP holders operate passenger train services. Your station licence is therefore within scope of the European Regulation^{4, 5}. We will therefore need to make the relevant changes to your station licence 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 conditions and SNRPs. In **Annex B** of this letter we have set out a list of the specific articles which now require amendments to station licences.

Licence modification

Our approach to modifying the station licence is to replicate the structure and wording previously used in Eurostar International Limited's (Eurostar) station licence, as it was previously drafted to be subject to the European Regulation in full⁶.

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.

⁴ Regulation 14(3) of the RPRO 2010 provides that the regulation "applies only to the operation of stations used or to be used for the purposes of rail journeys to which the European Regulation applies" – the focus is on journeys undertaken to or from that station (and whether those journeys are operated by a SNRP holder) rather than on whether the station licence holder itself is a SNRP holder.

⁵ 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 changes will affect them.

⁶ As an international operator, Eurostar was not covered by the domestic exemptions and the full European Regulation has applied to Eurostar since it was implemented in 2009. The Eurostar station licence was revoked in November 2013, but the drafting approach remains valid for these purposes.

We are therefore proposing to adopt the drafting in Eurostar's station licence for other station licences. The changes to the station licences are highlighted in red, underlined text in **Annex A**.

Not all recipients of this letter require the same modifications.

Annex A Part 1 relates to:

- Glasgow Prestwick International Airport Ltd;
- Merseyrail Electrics 2002 Ltd (for its station licence for Liverpool South Parkway);
- Mitie Technical Facilities Management Ltd; and
- Stobart Rail Ltd

The modification will apply to all the stations operated by these companies.

Annex A Part 2 applies to station operators that have beneficiaries⁷ at some stations (and therefore subject to the European Regulation) but no beneficiaries at others. This concerns:

- Merseyrail Electrics 2002 Ltd; and
- Merseyside Passenger Transport Services Ltd⁸.

For the above two companies, we consider the most efficient drafting is to make clear in a single licence which stations are subject to the European Regulation and which are not; the alternative approach is to issue two separate station licences, to capture both of these scenarios. We do not favour the latter approach (not least because it would require formal licence change under the Act), but invite comments from the affected station operators.

Annex A Part 3 applies to London Underground Limited's station licence and the modifications required. This reflects the fact that the licence has no reference to the European Regulation and has some different numbering and wording of conditions. Therefore the drafting needs to adopt all the relevant wording that exists in other station licences, as well as the new modifications.

Annex A Part 4 shows how Network Rail Infrastructure Limited's station licence needs to be modified to reflect the RPRO 2010 amendments. Its licence has some different wording and numbering of conditions compared to other licences.

⁷ By "beneficiaries" we mean passenger SNRP holders that provide passenger services at those stations – this means the station licence holder for this station is subject to the European Regulation. However, if there are no beneficiaries at a station, then the European Regulation does not apply.

⁸ As the equivalent operator of last resort, Merseyside Passenger Transport Services Ltd, will need similar modifications to its station licence as per the Merseyrail Electrics 2002 Ltd licence.

Impact assessment

The changes to reflect full European Regulation implementation are necessary under European and domestic law. The changes we are proposing for station licences (and passenger 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. I attach a form that you can use for your response at **Annex C**.

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 station licences to reflect the European Regulation in accordance with the RPRO 2010 by 3 December 2019.

If you would like clarification on any point or further information, please contact licensing.enquiries@orr.gov.uk.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Marcus Clements', with a stylized, cursive script.

Marcus Clements

ANNEX A – station licence

Annex A Part 1

The following modifications are to be made to the station licences of:

Glasgow Prestwick International Ltd

Merseyrail Electrics 2002 Ltd (Liverpool South Parkway station)

Mitie Technical Facilities Management Ltd

Stobart Rail Ltd

- 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
 1. **The licence holder shall comply with articles 18 and 29 of the PRO Regulation.”**
- 3 Amend Condition 5 (Accessible Travel Policy⁹), 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.”

⁹ Please note - all references to “Disabled People’s Protection Policy” and “DPPP” were replaced with “Accessible Travel Policy” and “ATP” on 29 July 2019.

Annex A Part 2

The following modifications are to be made to the station licences of:

Merseyrail Electrics 2002 Ltd

Merseyside Passenger Transport Services Ltd

- 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 In Part II (Interpretation) insert the following new definition in alphabetical order (between the definitions of “the PRO Regulation” and “the PC”):
““a PRO station” means a station to which the PRO Regulation is applicable, marked with an asterisk (*) in the Schedule.”
- 3 Insert a new Condition 3, paragraph 2, as follows:
“Condition 3: Passenger Rights
 2. The licence holder shall comply with articles 18 and 29 of the PRO Regulation.”
- 4 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 (in relation to the PRO stations only) to articles 19(1), 21, 22 and 24 of the PRO Regulation.”
- 5 Amend Condition 7 (Liaison with the PC and LTUC), paragraph 1, as follows:
“1. Whenever reasonably requested to do so by the PC and LTUC (as relevant) the licence holder shall meet with the PC and LTUC (as relevant) to discuss and review such matters as the PC and LTUC (as relevant) may wish to consider in connection with its functions under Part I of the Act including (in relation to PRO stations only) the handling of complaints made about an alleged infringement of the PRO Regulation. The licence holder shall not under this Condition be obliged to attend more than two meetings with the PC and LTUC (as relevant) in any calendar year.”

6 Amend the Schedule of stations in the Merseyrail Electrics 2002 Limited station licence as follows:

a) Insert asterisks beside the following stations:

Bidston*
Ellesmere Port*
Hunts Cross*
Kirkby (Merseyside)*
Ormskirk*
Southport*

b) insert the following explanatory text at the end of the list of stations:

“* Stations called at by one or more train operators holding a European passenger licence and so are in scope of The Rail Passengers’ Rights and Obligations Regulations 2010.”

Annex A Part 3

The following modifications are to be made to **London Underground Limited's** station licence:

- 1 In the Table of Contents, insert a new Condition 14, after the entry for "Information As To Stations Of Which The Licence Holder Is The Operator" as follows:

"Passenger Rights"

- 2 In Part II (Interpretation), paragraph 1, insert the following new definition after the definition of "licensed activities":

"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."

- 3 Amend Condition 4 (Accessible Travel Policy), paragraph 2, as follows:

"2. In establishing the Accessible Travel Policy and in making any alteration to it, the licence holder shall have due regard to the code of practice published by the Authority pursuant to section 70 or section 71B of the Act and to articles 19(1), 21, 22 and 24 of the PRO Regulation."

- 4 Insert a new Condition 14 as follows:

"Condition 14: Passenger Rights

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

Annex A Part 4

The following modifications are to be made to **Network Rail Infrastructure Limited's** station licence:

- 1 In the Table of Contents, insert a new Condition 18, after the entry for “Condition 17: Stations of which the Licence Holder is the operator” as follows:
“Condition 18: Passenger Rights”
- 2 Amend Condition 4 (Accessible Travel Policy), paragraph 2, as follows:
 - “2. In establishing the Accessible Travel Policy and in making any alteration to it, the licence holder shall have due regard to the code of practice published by the Secretary of State pursuant to section 70 or section 71B of the Act and to articles 19(1), 21, 22 and 24 of the PRO Regulation.”
- 3 Insert a new Condition 18 as follows:
“Condition 18: Passenger Rights
 1. The licence holder shall comply with articles 18 and 29 of the PRO Regulation.”

ANNEX B – European Regulation articles applicable to 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 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.

Annex C – Response proforma

Station licence holder	
Comments on PRO changes	
Table of contents	
Part II - Interpretation ¹⁰	
Condition 3 - passenger rights ¹¹	
Condition 5 - Accessible Travel Policy ¹²	
Condition 7- Liaison with the PC and LTUC ¹³	
Schedule of stations ¹⁴	
Other comments on the drafting	

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

Name:

Organisation:

¹⁰ Only relevant to Merseyrail Electrics 2002 Ltd, Merseyside Passenger Transport Services Ltd and London Underground Limited.

¹¹ Condition 14 in London Underground’s licence and condition 18 in Network Rail’s licence.

¹² Condition 4 in both London Underground’s and Network Rail’s licence.

¹³ For condition 5 - Accessible Travel Policy and condition 7 - Liaison with the PC and LTUC- this only applies to Merseyrail Electrics 2002 Ltd and Merseyside Passenger Transport Services Ltd “PRO stations”.

¹⁴ This applies only to Merseyrail Electrics 2002 Ltd and Merseyside Passenger Transport Services Ltd