

## **Railways Act 1993**

### **General Approval (Stations) 2013**

*Made* 13 December 2013

*Coming into force* 13 December 2013

The Office of Rail Regulation (ORR), in exercise of the powers conferred upon it by sections 18(1)(c) and 22(3) of the Railways Act 1993, gives the following general approval.

#### **1. Citation, commencement and revocation**

- 1.1 This general approval may be cited as the General Approval (Stations) 2013.
- 1.2 This general approval comes into force on 13 December 2013, except paragraphs 4.1, 6.6 and 6.7.
- 1.3 Paragraphs 4.1, 6.6 and 6.7 come into force on the day after the PR13 Implementation Date.
- 1.4 The General Approval (Stations) 2010 is hereby revoked from 13 December 2013.

#### **2. Interpretation**

- 2.1 In this general approval:

“the Act” means the Railways Act 1993;

“Beneficiary” has the meaning given to it in a Station Access Agreement;

“Charter Station Access Agreement” means a Franchised Station Access Agreement entered into by a Station Facility Owner and a Beneficiary operating passenger train services that do not follow a regular scheduled pattern;

“Diversionary Station Access Agreement” means a Franchised Station Access Agreement entered into by a Station Facility Owner and a Beneficiary when engineering works prevent access to the station which the Beneficiary would otherwise be using under its existing Station Access Agreement;

“Excluded Party” means any Station Facility Owner or Beneficiary listed as an excluded party on the ORR website, for such period as they remain so listed;

“franchised station” means any station in England & Wales or Scotland which is not an independent station;

“Franchised Station Access Agreement” means, in relation to a franchised station, an agreement entered into after 1 April 1994 (and whether entered into before or after this general approval comes into force) under which the Station Facility Owner grants a Beneficiary permission to use that station;

“Freight Station Access Agreement” means a Franchised Station Access Agreement entered into by a Station Facility Owner and a Beneficiary operating freight services;

“independent station” means any station in England & Wales or Scotland where the station is managed by Network Rail Infrastructure Limited;

“Independent Charter Station Access Agreement” means an Independent Station Access Agreement entered into by a Station Facility Owner and a Beneficiary operating passenger train services that do not follow a regular scheduled pattern;

“Independent Diversionary Station Access Agreement” means an Independent Station Access Agreement entered into by a Station Facility Owner and a Beneficiary when engineering works prevent access to the station which the Beneficiary would otherwise be using under its existing Independent Station Access Agreement;

“Independent Freight Station Access Agreement” means an Independent Station Access Agreement entered into by a Station Facility Owner and a Beneficiary operating freight services;

“Independent Passenger Station Access Agreement” means an Independent Station Access Agreement entered into by a Station Facility Owner and a Beneficiary operating regular scheduled passenger train services;

“Independent Station Access Agreement” means, in relation to an independent station, an agreement entered into after 1 April 1994 (and whether entered into before or after this general approval comes into force) under which the Station Facility Owner grants a Beneficiary permission to use that station;

“Passenger Station Access Agreement (single station)” or “Passenger Station Access Agreement (multiple station)” means a Franchised Station Access Agreement entered into in relation to a station or (as the case may be) more than one station by a Station Facility Owner and a Beneficiary operating regular scheduled passenger train services;

“permitted departures” means any of the following departures from a Template Station Access Agreement:

(i) the completion of areas marked by square brackets (or otherwise left blank for the purposes of completion), such areas being completed as appropriate by the parties;

(ii) the completion of tables, such tables being completed as appropriate by the parties, including substituting pre-printed table entries with equivalent entries where permitted; and

(iii) the parties choosing one from various suggested alternative words or phrases,

except where such departure alters the meaning of any other provision in the agreement, inserts a formula for calculating a figure or inserts a reference to an external price list for calculating a cost of providing goods or services;

“permitted modifications” means any modifications to a Station Access Agreement specified in paragraph 6 of this general approval, subject to any restrictions specified therein and to the restrictions specified in paragraph 7 of this general approval;

“Station Access Agreement” means in relation to:

(i) a franchised station, a Franchised Station Access Agreement;  
and

(ii) an independent station, an Independent Station Access Agreement,

and, in all cases, those documents incorporated by reference into that agreement, including the Station Access Conditions and any schedules and annexes;

“PR13” means the access charges review known as the 2013 periodic review carried out by ORR.

“PR13 Implementation Date” means:

- (i) The date on which the proposed relevant changes contained in a Review Notice come into effect; or
- (ii) In the event that a reference to the Competition Commission is made under paragraph 9 of Schedule 4A to the Act in respect of a Review Notice, the date on which any relevant changes relating to stations made under either paragraphs 12 or 14 of Schedule 4A of the Act come into effect.

“Review Notice” means a review notice relating to stations and issued by ORR in respect of PR13, pursuant to paragraph 4(1) of Schedule 4A to the Act.

“Station Access Conditions” means in relation to:

- (i) a franchised station, the National Station Access Conditions 2013 (England and Wales) or the National Station Access Conditions 2013 (Scotland), as applicable; and
- (ii) an independent station, the Independent Station Access Conditions 2013 (England and Wales) or the Independent Station Access Conditions 2013 (Scotland)

and the annexes relating to that station as each has been or is modified in respect of that station from time to time with the approval of the ORR and as each is incorporated in the Station Access Agreement relating to that station;

“Station Facility Owner” has the meaning given to it in a Station Access Agreement;

“Station Supplement” has the meaning given to it in a Freight Station Access Agreement; and

“Template Station Access Agreement” means any of the following standard template Station Access Agreements:

- (i) Charter Station Access Agreement;
- (ii) Diversionary Station Access Agreement;
- (iii) Freight Station Access Agreement;
- (iv) Independent Charter Station Access Agreement;
- (v) Independent Diversionary Station Access Agreement;
- (vi) Independent Freight Station Access Agreement;
- (vii) Independent Passenger Station Access Agreement;
- (viii) Passenger Station Access Agreement (single station); or
- (ix) Passenger Station Access Agreement (multiple station);

as applicable, as published by the ORR on 1 June 2010 and as may be amended and re-issued by the ORR from time to time.

- 2.2 In this general approval:
- (a) unless the context otherwise requires, terms and expressions defined in the Act shall have the same meanings in this general approval;
  - (b) the Interpretation Act 1978 applies to this general approval in the same way as it applies to an enactment; and
  - (c) unless the context otherwise requires, any reference to a numbered paragraph is a reference to the paragraph in this general approval which bears that number.

### **3. Scope of application of this general approval**

- 3.1 Subject to paragraph 3.2 below, the ORR gives its approval to the matters set out in paragraphs 4 to 6 below, subject to any restrictions stated in those paragraphs or specified in paragraph 7 below.
- 3.2 This general approval shall not apply to the making of any new Station Access Agreement or to the making of any modifications to any Station Access Agreement where any party to the agreement is an Excluded Party.

### **4. Approval of new Station Access Agreements**

- 4.1 A Station Facility Owner and a Beneficiary may enter into a new Station Access Agreement provided it is entered into on the same terms as a Template Station Access Agreement, subject to any permitted departures.

### **5. Approval of modifications to Station Access Agreements**

- 5.1 The parties to a Station Access Agreement, whether a new Station Access Agreement entered into pursuant to paragraph 4 of this general approval or a Station Access Agreement in place at the time of this general approval coming into force, may make any permitted modifications to that agreement.

### **6. Permitted modifications to Station Access Agreements**

#### **6.1 *Alterations to Exclusive Station Services***

- 6.1.1 The parties to a Station Access Agreement may alter the Exclusive Station Services set out in Schedule 2 or in Schedule Part 2 of that agreement, as applicable.

#### **6.2 *Alterations to Freight Station Access Agreements and Independent Freight Station Access Agreements***

- 6.2.1 The parties to a Freight Station Access Agreement [*or an Independent Freight Station Access Agreement*] may alter the following provisions of that agreement (including, where applicable, any Station Supplement completed pursuant to that agreement):

- (a) the Core Use set out in paragraph 4 of Schedule 1 (Station Supplement) or in paragraph 4 of Schedule Part 1 (Station Supplement), as applicable;
- (b) the User's Common Charges, the Exclusive Station Services, the Exclusive Charges or the Additional Charges set out in Appendix 1 of Schedule 1 (Station Supplement) or in Appendix Part 1 of the Appendix to Schedule Part 1 (Station Supplement), as applicable;

- (c) the Exclusive Station Services or the specifications for Exclusive Station Services set out in Appendices 2 and 3 of Schedule 1 (Station Supplement) or in Appendix Parts 2 and 3 of the Appendix to Schedule Part 1 (Station Supplement), as applicable; or
- (d) the addresses for service set out in Schedule 2 or in Schedule Part 2, as applicable.

6.3 *Alterations to Common Station Amenities and Services*

6.3.1 Subject to paragraphs 6.3.2 to 6.3.4 below, the parties to a Station Access Agreement may alter the following provisions of that agreement:

- (a) the following matters set out in Annex 1 of the Station Access Conditions or in Annex Part 1 of the Annex to the Supplementary Station Access Conditions, as applicable:
  - (i) the Common Station Amenities for all Users set out in paragraph 1;
  - (ii) the Common Station Amenities for Passenger Operators set out in paragraph 2;
  - (iii) the Common Station Services for all Users set out in paragraph 3;
  - (iv) the Common Station Services for Passenger Operators set out in paragraph 4;
  - (v) the hours set out in paragraph 5;
  - (vi) the name set out in paragraph 6;
  - (vii) the entry in column 2 ("Included on Plan") as set out in paragraph 6;
  - (viii) the default interest rate set out in paragraph 7;
  - (ix) the Core Facilities set out in paragraph 8;
  - (x) the location of the station register as set out in paragraph 9;
  - (xi) the Station Facilities set out in paragraph 10;
  - (xii) the specification for Common Services set out in Appendix 1;
  - (xiii) the Plan set out in Appendix 2;
  - (xiv) the statement of Condition set out in Appendix 3;
  - (xv) the description, presence at station, quantity, responsibility for maintenance or responsibility for repair of station equipment as set out in Appendix 4;

- (xvi) the description, responsibility for maintenance or responsibility for repair of station elements as set out in Appendix 5;
  - (xvii) the Excluded Equipment set out in Appendix 6;
  - (b) the Common Station Amenities and Common Station Services which may be changed only by unanimous agreement of all Users as set out in Annex 3 of the Station Access Conditions or in Annex Part 3 of the Annex to the Supplementary Station Access Conditions, as applicable; or
  - (c) the amenity/service, period or percentage set out in Annex 6 of the Station Access Conditions or in Annex Part 6 of the Annex to the Supplementary Station Access Conditions, as applicable.
- 6.3.2 An alteration of the kind specified in paragraphs 6.3.1(a)(i), (ii), (iii), (iv), (viii), (x) or 6.3.1(b), an alteration of the description as specified in paragraphs 6.3.1(a)(xiv) or (xv), or an alteration of the amenity/service as specified in paragraph 6.3.1(c) shall only be permitted in accordance with this general approval if the alteration is the inclusion in those lists of an additional facility, service, amenity or item of equipment.
- 6.3.3 An alteration of the presence at station or an alteration of the quantity specified in paragraphs 6.3.1(a)(xiv) above shall only be permitted in accordance with this general approval if the alteration of the presence at station is from “No” to “Yes” or the alteration of the quantity is an increase.
- 6.3.4 An alteration of the period or percentage as specified in paragraph 6.3.1(c) shall only be permitted in accordance with this general approval if the alteration is a reduction in the period, an increase in the percentage, or, where an amenity/service is added, the inclusion of a corresponding period or percentage.

#### 6.4 *Alterations to Agreements and Specifications*

- 6.4.1 The parties to a Station Access Agreement may alter the following provisions of that agreement:
- (a) the Existing Agreements in Annex 5 or Annex Part 5, as applicable;
  - (b) the Contract Particulars or the Addresses for Service set out in Schedules 1 and 2 to Annex 8 (Collateral Agreement) or in Schedule Parts 1 and 2 to Annex Part 8 (Collateral Agreement), as applicable;
  - (c) the disrepairs to be remedied set out in Annex 10 or in Annex Part 10, as applicable;
  - (d) the obligations of the Station Facility Owner set out in paragraph 1, and the times and obligations set out in paragraph 2, of Annex 11 or of Annex Part 11, as applicable; or
  - (e) the Repair and Maintenance Specifications set out in Annex 12 or in Annex Part 12, as applicable.

## 6.5 *Alterations to Contract Particulars*

6.5.1 The parties to a Station Access Agreement may alter the following Contract Particulars of that agreement:

- (a) the name or registered office of the Station Facility Owner or the Beneficiary set out in paragraph 1 or 2 of Schedule 1 or of Schedule Part 1, as applicable;
- (b) the expiry date set out in paragraph 4 of Schedule 1, as applicable;
- (c) the name of the station set out in paragraph 5 of Schedule 1, as applicable;
- (d) the Percentage of Common Charges payable pursuant to Clause 6.1 set out in paragraph 9 of Schedule 1 or of Schedule Part 1, as applicable, in conjunction with the deletion of the words “as at the Commencement Date” at the end of Clause 6.1; or
- (e) the addresses for service on the Station Facility Owner or the Beneficiary set out in paragraph 1 or 2 of Schedule 3 or of Schedule Part 3, as applicable;

## 6.6 *Alterations to the Long Term Charge*

6.6.1 Subject to paragraph 6.6.2 below, the parties to a Franchised Station Access Agreement may alter the amount referred to in the definition of “Long Term Charge” as set out in paragraph 3 of Annex 9 of the agreement and as calculated according to the provisions of Condition F11 of the Station Access Conditions.

6.6.2 An alteration of the kind specified in paragraph 6.6.1 shall only be permitted in accordance with this general approval if:

- (a) the alteration to the amount of the Long Term Charge results in a new amount which is not greater than the old amount by more than £50,000; and
- (b) the alteration is due to an enhancement to station amenities or facilities; and
  - (i) Network Rail has funded, or has agreed to fund, all or part of the capital costs of the enhancement to the station amenities or facilities; or
  - (ii) Network Rail has agreed to be responsible for all or part of the maintenance and repair of, or any other operating costs associated with, the enhancement of the station amenities or facilities.

## 6.7 *Addition of new stations to a Station Access Agreement*

6.7.1 The parties to a Station Access Agreement may add one or more new stations to that agreement by identifying that station in Schedule 1 of the agreement or, where applicable, in paragraph 2 of the relevant Station Supplement.

6.8 *Alterations to Station Access Agreements governed by the law of Scotland*

6.8.1 The parties to a Station Access Agreement may make any alterations to that agreement to render it compliant with the law of Scotland including:

a) deleting any governing law clause and replacing it with:

“This Agreement shall be governed by and construed in accordance with the law of Scotland”;

b) deleting any jurisdiction clause and replacing it with:

“Subject to the Station Access Conditions, the parties irrevocably agree that the courts of Scotland are to have exclusive jurisdiction to settle any dispute which may arise out of, or in connection with, this Agreement”; and

c) altering the form in which that agreement is to be executed.

6.9 *Alterations to Station Access Agreements where a party to the agreement is also party to a concession agreement*

6.9.1 The parties to a Station Access Agreement may make any of the following alterations as are applicable to that agreement to give effect to a concession agreement:

- (a) insert any new definitions or alter any existing definitions which define the concession agreement and the parties to the same or define a concession awarding body;
- (b) insert a new provision or alter any existing provision dealing with events of default to provide that an event of default shall arise under the Station Access Agreement in connection with termination of the concession agreement;
- (c) insert a new provision or alter any existing provision dealing with termination notices to provide that a party to the concession agreement shall receive any termination notice relating to termination of the Station Access Agreement;
- (d) insert a new provision or alter any existing provision dealing with novation to provide that the Station Access Agreement shall be novated to a third party where such third party is a party to the concession agreement or is nominated by a party to the concession agreement but only where such novation and the terms of the same shall have been approved by the ORR pursuant to the Act;
- (e) alter any rights of third parties clause in a Station Access Agreement by naming a party to the concession agreement as a third party directly able to enforce such rights as have been granted to it under such Station Access Agreement;
- (f) insert a new provision or alter any existing provision dealing with references in the Station Access Conditions to allow for a party to the concession agreement to be named alongside the Franchising



Director and the Strategic Rail Authority, (in each case interpreted as a reference to the Secretary of State) where applicable; and

- (g) insert or alter the name and address of a party to the concession agreement in any schedule dealing with contract particulars or addresses for service.

**7. Restrictions on modifications to Station Access Agreements**

7.1 Any alteration to a Station Access Agreement made pursuant to paragraph 6 shall be prohibited where it has the effect of:

- (a) overriding or redefining the meaning of any term of the agreement, unless it has been specifically approved by the ORR;
- (b) creating a new substantive clause or provision in the agreement, unless this alteration is permitted explicitly in paragraph 6 or has been specifically approved by the ORR; or
- (c) deleting a substantive clause or provision in the agreement, unless this alteration is permitted explicitly in paragraph 6 or such deletion has been specifically approved by the ORR.

**BRIAN KOGAN**

**Duly authorised by the Office of Rail Regulation**

**13 December 2013**

**EXPLANATORY NOTE** (this does not form part of the general approval)

*Sections 18(1)(c) and 22(3) of the Act enable the ORR to give its prior approval to the entering into of new, and amendment of existing, access agreements. If the entering into a new access agreement or an amendment to such an agreement falls wholly within the terms and conditions of a general approval, the parties to the access agreement in question may enter into or amend it without seeking the approval of ORR.*

*If a new or amended access agreement does not fall within the scope of the general approval, a specific approval under section 22, or directions under section 18 of the Act, must be obtained. New station access agreements or amendments to station access agreements which have not been approved by ORR – either under a general approval, a specific approval or pursuant to directions, are void.*

*Whilst not expressly stated in this general approval, beneficiaries seeking access to stations will still be able to make station access applications to ORR under sections 17 or 22A of the Act, should they fail to reach agreement on the terms of access to a station with the Station Facility Owner.*

*Paragraph 3.2 provides that this general approval cannot be used to gain approval for the making of or for the making of amendments to, a Station Access Agreement where any party to that agreement is then an excluded party. An excluded party is any Station Facility Owner or beneficiary listed as an excluded party on the ORR website for the period they are so listed.*

*Paragraph 4.1 permits a Station Facility Owner and a beneficiary to enter into a station access agreement provided this would be on the same terms as any Template Station Access Agreement issued by ORR subject to any permitted departures and to any permitted modifications. Paragraph 4.2 makes it clear that such approval is for the purposes only of new Station Access Agreements and is not approval for any other purpose.*

*Paragraph 5.1 permits the parties to an existing Station Access Agreement to make any permitted modifications. Paragraph 5.2 makes it clear that such approval is for the purposes only of amendments to access agreements and is not approval for any other purpose.*

*Paragraph 6 lists the permitted modifications which may be made by parties to a new or existing Station Access Agreement under the terms of this general approval.*

*Sub-paragraph 6.1 permits alterations to the Exclusive Station Services in Schedule 2 or in Schedule Part 2 of that agreement, as applicable.*

*Sub-paragraph 6.2 permits parties to a Freight Station Access Agreement to alter certain provisions of that agreement.*

*Sub-paragraph 6.3 permits parties to a Station Access Agreement to alter provisions of that agreement relating to common station amenities and services.*

*Sub-paragraph 6.4 permits parties to a Station Access Agreement to alter provisions of that agreement relating to agreements and specifications.*

*Sub-paragraph 6.5 permits parties to a Station Access Agreement to alter provisions of that agreement relating to contract particulars.*

*Sub-paragraph 6.6 permits parties to a Station Access Agreement where such agreement contains long term charges (i.e. is a franchised station access agreement) to alter such long term charges.*

*Sub-paragraph 6.7 permits parties to a Station Access Agreement to add a new station to that agreement.*

*Sub-paragraph 6.8 permits parties to a Station Access Agreement which is to be governed by and construed in accordance with the law of Scotland to make changes to that agreement to that effect and to render certain provisions of the agreement compliant with such law.*

*Sub-paragraph 6.9 permits alterations to a Station Access Agreement where a party to that agreement is also party to a concession agreement to give effect to the concession agreement.*

*Paragraph 7 sets out restrictions on the ability of the parties to make the permitted modifications specified in paragraph 6.*

*Under section 72(5) of the Act a copy of all access agreements and amendments of access agreements, including those made under this general approval, must be sent to ORR within 14 days of being made. Subject to the requirement in section 72(3) of the Act for ORR to have regard to the need for excluding certain information, such copies will be entered into the public register.*