

E-mail: licensing.enquiries@orr.gsi.gov.uk

1 February 2019

To holders of:

Train operator licences
Station operator licences
Light Maintenance Depot operator licences
Network operator licences

and

Rail Safety and Standards Board
Rail Delivery Group

Changes to licence conditions on safety and standards

In connection with our 2018 periodic review of Network Rail's outputs and funding, we have consulted on the changes we propose to make to Network Rail's network licence at the start of control period 6 ("CP6"), on 1 April 2019. Some of the conditions we are changing also appear in licences for operators of trains¹, stations, light maintenance depots and other networks. I am writing to you regarding consequential changes that we propose to make in those licences at the start of CP6. There are some other consequential changes that we do not need to implement now, but we may propose to do so at a later date.

Condition 22 (*Safety and standards*) of Network Rail's network licence requires the company to be a member of Rail Safety and Standards Board ("RSSB") and to comply with the Railway Group Standards it issues. Aspects of the condition have become outdated, risking confusion for licence holders, particularly in relation to their duties under safety and interoperability legislation. With the support of RSSB's Industry Standards Coordination Committee, we have developed a proposal to revise it.

As part of our July 2018 consultation on a draft network licence for Network Rail², we outlined our intention to bring the condition up to date, including the ability for Network Rail to request the right to leave RSSB without being in conflict with its licence obligations. We formalised our proposals in our 20 December 2018 statutory consultation³. In brief, the changes we proposed were to:

- continue to require Network Rail to be a member of RSSB, but reflect that it may discontinue membership with ORR's approval (thereby mirroring a provision in the RSSB constitution);

¹ For holders of EU train operator licences, the conditions appear in their corresponding Statements of National Regulatory Provisions (SNRPs).

² http://orr.gov.uk/_data/assets/pdf_file/0019/28324/consultation-on-draft-network-rail-network-licence-july-2018.pdf

³ http://orr.gov.uk/_data/assets/pdf_file/0017/40058/statutory-consultation-on-proposed-changes-to-network-rails-network-licence-december-2018.pdf



- continue to require Network Rail to comply with Railway Group Standards that are relevant to its activities; and
- require Network Rail to comply with applicable Rail Industry Standards or to consult with persons it considers are likely to be affected (for example train operators) where it proposes to deviate from a Rail Industry Standard (in full or in part) and to deploy equally effective means of achieving its purpose.

We have recognised the importance of consistent approaches at the operator/infrastructure interface and therefore, as expected, are proposing to make similar changes to the equivalent conditions in other operator licences, including the ability of operators to cease RSSB membership without contravening their licences (or SNRPs) with ORR approval. These are shown in Annex A and Annex B. The proposed changes to the existing text in licences and SNRPs are shown in red.

The intended revisions have already been discussed widely by industry, but should you have any queries on this letter (including the annexes), please send them to:

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We currently intend to proceed to a formal statutory consultation proposing the changes in the second half of February 2019. We will consider any views received on our aforementioned 20 December statutory consultation before proceeding.

I am placing a copy of this letter on our website.

A handwritten signature in blue ink that reads 'Les Waters'.

Les Waters

Condition 8: RSSB membership

This would take effect in:

- Passenger train operators' Statements of National Regulatory Provisions (SNRPs) and Railways Act 1993 licences
- Freight train operators' Statements of National Regulatory Provisions (SNRPs)
- Non-passenger train operators' Railways Act 1993 licences

1. If the SNRP [or licence] holder's annual turnover has never exceeded £1 million and the SNRP [or licence] holder is not a franchise operator, paragraphs 2 and 3 shall not have effect until the SNRP [or licence] holder's annual turnover exceeds £1 million for the first time. The SNRP [or licence] holder shall provide ORR with such information in respect of its annual turnover as ORR may from time to time require.
2. With effect from the date of the coming into force of this SNRP [or licence], except where ORR consents otherwise, the SNRP [or licence] holder shall:
 - (a) become and thereafter remain a member of RSSB;
 - (b) comply with its obligations under the Constitution Agreement and the articles of association of RSSB; and
 - (c) exercise its rights under the Constitution Agreement and the articles of association of RSSB so as to ensure that RSSB shall act in accordance with the Constitution Agreement; ~~and~~
3. With effect from the date of the coming into force of this SNRP [or licence], the SNRP [or licence] holder shall ~~(d)~~—comply with the Railway Group Standards Code prepared by RSSB.
- ~~43.~~ When an SNRP [or licence] holder first becomes subject to the obligations in paragraphs 2 and 3 his rights, obligations and liabilities associated with such membership shall commence on the same day, and the SNRP [or licence] holder shall complete the formal and legal documentation associated with such membership within three months of that date.
- ~~54.~~ In this condition:

“franchise operator”	includes an operator of last resort, under section 30 of the Act.
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Condition 9: ~~Railway Group Standards~~ Safety and standards

This would take effect in:

- Passenger train operators' Statements of National Regulatory Provisions (SNRPs) and Railways Act 1993 licences
- Freight train operators' Statements of National Regulatory Provisions (SNRPs)
- Non-passenger train operators' Railways Act 1993 licences
- Station licences, light maintenance depot licences and network licences issued under the Railways Act 1993.

1. The SNRP [or licence] holder shall comply with:

(a) ~~the such~~ Railway Group Standards as are applicable to its licensed activities; and;

(b) subject to paragraph 2, such Rail Industry Standards (or parts thereof) as are applicable to its licensed activities.

2. The SNRP [or licence] holder is not required to comply with an applicable Rail Industry Standard (or part thereof) where:

(a) it has, following consultation with such persons as it considers are likely to be affected, identified an equally effective measure which will achieve the purpose of the standard; and

(b) it has adopted and is complying with that measure.

3.2. In this Condition:

“Railway Group Standards” means standards authorised pursuant to the Railway Group Standards Code prepared by RSSB;

“Rail Industry Standards” has the meaning set out in the Standards Manual, established by RSSB.