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Form

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## APPLICATION TO THE OFFICE OF RAIL AND ROAD FOR A FREIGHT TRACK ACCESS CONTRACT, OR AN AMENDMENT TO AN EXISTING CONTRACT

ORR ensures that train operating companies have fair access to the rail network and that best use is made of capacity.

Use this form to apply to the Office of Rail and Road (ORR) for:

- Directions under section 17 of *The Railways Act 1993* (the Act) for a new track access contract. This is for companies who want to use Network Rail's network where the parties are not able (for whatever reason) to reach agreement.
- Approval for a new track access contract under section 18 of the Act. This is for use where terms have been agreed by the parties.
- Approval of a proposed amendment to an existing track access contract, agreed by both parties, under section 22 of the Act.
- Directions under section 22A of the Act for an amendment to an existing track access contract. This is for someone seeking an amendment to an existing track access contract to permit more extensive use of the railway facility if the parties are not able, for whatever reason, to reach agreement.

The form sets out ORR's standard information requirements for considering applications. Our [track access guidance](#) (and our [making an application](#) guidance in particular) explains the process, timescales and the issues we will consider. Please read the guidance before completing the contract and this form.

If the facility owner and beneficiary have agreed terms, the facility owner should fill in the form. If not, the beneficiary should fill in the form.

A pre-application industry consultation is usually required before submitting an application. Please see the industry [code of practice for track access application consultations](#) for more information.

Network Rail should normally take responsibility for the pre-application consultation, where the terms are agreed. Before a consultation is made, complete this form up to the end of section 8. You should fill in the rest of the form after the consultation and before applying to ORR.

If, in the case of section 17 and 22A applications, the beneficiary and Network Rail have been unable to agree terms, the beneficiary should:

- (a) ask Network Rail to conduct a pre-application consultation in line with the code of practice; or
- (b) conduct a pre-application consultation itself, in line with the code of practice; or
- (c) submit the application to ORR and ask ORR to conduct the consultation, in which case, please complete this form in full before submitting it to us.

We are happy to talk to you informally before you apply. Please contact us at [Track.Access@orr.gov.uk](mailto:Track.Access@orr.gov.uk). You should use our current [model freight track access contract](#) as your starting point. Please ensure that you are using the latest version of this form as published on our [website](#). We may ask for applications which have not used the latest templates to be resubmitted.

You may also use and adapt this form if necessary to apply to use railway facilities other than those of Network Rail. Do not use this form for HS1, for which a separate form is available on our [website](#).

## 1. Application Summary

### 1.1 Facility owner:

Network Rail Infrastructure Limited
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### 1.2 Beneficiary Company:

Colas Rail Limited
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### 1.3 With which of the regions does this application interact?

Region:	Southern <input type="checkbox"/>	Eastern <input checked="" type="checkbox"/>	North West & Central <input checked="" type="checkbox"/>	Wales & Western <input checked="" type="checkbox"/>	Scotland's Railway <input checked="" type="checkbox"/>
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### 1.4 Application under the Railways Act 1993 section:

17	<input type="checkbox"/>	18	<input type="checkbox"/>	22	<input type="checkbox"/>	22A	<input checked="" type="checkbox"/>
Supplemental Number:						10th	
Current contract date:						11.12.2016	
Current contract expiry date:						2026	

### 1.5 Executive summary of the proposed contract or amendment: (Brief & High Level)

The proposed tenth supplemental agreement between Colas Rail Ltd and Network Rail contains a proposal for the amendment of the track access contract for schedule 5. Following extensive work on Colas Rail working train timetable paths, there is a requirement to update our access rights table to accurately reflect the running slots and characteristics of our services. This includes numerous additional slots, relinquished slots and amendments to existing slots.

With the recently published timescales from the ORR, it has been necessary to submit this application as a 22A unsupported without industry consultation. The update to the access rights will allow Colas Rail to continue operating its business securely for the future with agreed slots.

Proposed commencement date:	As soon as this supplemental is approved
Expiry date:	December 2026 (PCD 2026)
Date Approved at SOAR	Not approved – section 22a
If rights currently running as TOVRs when did they commence?	All present from Jan 2024

### 1.6 Industry consultation:

Who carried out the consultation?	To be commenced by Network Rail post submission		
Consultation start date:	N/A	Consultation end date:	N/A
Not carried out	<input checked="" type="checkbox"/>		

### 1.7 Applicant details

<u>Facility Owner</u> Company: Network Rail Infrastructure Ltd Contact name: Anthony Scott Job title: Customer Support Manager Address: Waterloo General Office, London, SE1 8SW  Phone: [REDACTED] E-mail: [REDACTED]	<u>Beneficiary</u> Company: Colas Rail Limited Contact name: Matt Wardrobe Job title: Planning Manager Address: Colas Rail Ops Centre, Mill Road, Rugby, CV21 1BE  Phone: [REDACTED] E-mail: [REDACTED]
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### 1.8 Date of application to ORR:

20 <sup>th</sup> May 2024
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### 1.9 Checklist of documents attached to the application form:

- Proposed new contract or supplemental agreement
- Marked up Schedule 5 (where applicable)
- Marked up comparison to model contract (where applicable)
- All consultation correspondence
- Supporting evidence such as performance improvement plans or modelling exercises.
- Other supporting documents, side letters or collateral agreements (please list):


**1.10 Confidential redactions:** If there is any information you want us to exclude from publication please list it here and provide full reasons for the redactions. Please provide a redacted version of the document(s) that we can publish.

N/A
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**2. Licence and railway safety certificate**

2.1 Please state whether:

- you intend to operate the services yourself; or
- have them operated on your behalf. 
  - if so, please name the proposed operating company:

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2.2 Does the proposed operator of the services:

- (a) hold a valid train operating licence under section 8 of the Railways Act 1993 or an exemption under section 7, **and**
- (b) hold a valid safety certificate under the Railways and Other Guided Transport Systems (Safety) Regulations 2006.

If the answer to (a) **or** (b) is no, please state the point reached in obtaining a licence, exemption and/or safety certificate.

N/A
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**3. The proposed contract or amendment**

**3.1 Application overview:** Please detail the proposed contract or amendment. This should cover the services, the commercial terms, and the reasons for making the application in the terms proposed. This information should be laid out clearly and concisely, and fully highlight the changes from the previous version of the contract (in the case of an amendment).

Colas Rail UK wishes to make a 22A unsupported application (due to notified timescales by the ORR) to it's 10th SA rights.
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This rights update removes 27 unused access slots and proposes an additional 45 access slots all of which relate to services which have been operated by Colas for a sustained period without any constant perform impact on the Network.

There are also 82 amendments to current rights to align with the services currently being operated by Colas on a frequent basis.

**3.2 Capacity considerations:** Please detail the steps taken by the parties to satisfy themselves that there is sufficient network capacity for the services in the proposal. Include details on all relevant capacity considerations, including but not limited to track and power supply traction. Will the proposed Rights operate over an area subject to a **Declaration of Congested Infrastructure**, or will the capacity requirement result in a Declaration of Congested Infrastructure by Network Rail (under the Network Code)

Colas Rail have been operating the proposed additions to the access rights table for a minimum of several months without any capacity conflicts identified. All additional access slots are working timetable paths validated and offered by NwR Capacity Planning. There are several proposed rights that operate over areas of Declared Congested Infrastructure; however, these have been operating for a sustained period without impact on other services.

**3.3 Safety risks:** Please explain any important safety risks that have been identified arising from the proposal and how these will be controlled (by reference to the facility owner's safety authorisation and the train operator's safety certificate).

Colas Rail operate various Dangerous Goods (DG) trains on the infrastructure which in themselves are a significant safety risk. The mitigations are Colas Rail's vast experience in operating these services through our Operations & Control teams alongside specialist Dangerous Goods advisors within the business for any situations involving DG trains.

**3.4 Contract duration:** For new agreements or extensions to existing agreements, please provide justification for the proposed duration and, if more than 5 years, with reference to the [Railways \(Access, Management and Licensing\) Regulations 2016](#).

N/A

**3.5 Performance:** Are there any implications for overall network performance? Please outline your assurance process that shows that any performance risk is tolerable in comparison to the benefits of the application. Please explain any risk mitigations. Please attach any associated evidence to support your case.

There are no known implications on overall Network Performance associated with the additional rights slots requested. Colas RAILS Control actively monitors services in real time therefore mitigating against any performance impact which could be avoided.

**3.6 Maintenance and renewals:** Are there any implications for the facility owner's maintenance and renewal activities?

N/A

**3.7 Terms not agreed with the facility owner (for applications under sections 17 or 22A only):**

Please explain any areas of the application which have ***not*** been agreed, the reasons for the failure to agree and the reasons for seeking these provisions.

Colas Rail's proposed 10th SA has not been consulted to the industry to the timescales set out from the ORR regarding proposals submitted after the 20th of May 2024. Given the large number of changes and the subsequent security an agreed 10th SA will provide Colas, the decision has been made internally to proceed with a 22A unsupported application in these circumstances.

**3.8 Bespoke provisions (departures from ORR's model access contracts)**

Does the proposed contract include any departures from ORR's model access contract:

Yes

No

If yes, please set out and explain any:

- areas where the drafting of the application changes ORR's published template access contracts (as appropriate, cross-referencing to the answers below). Please also explain why these departures have been made.

N/A

- instances where the proposal departs from the charging and/or performance regimes established by ORR's latest periodic review (or subsequent interim reviews) as reflected in ORR's model access contracts, including the financial implications (e.g. establishment of an access charge supplement or rebate).

N/A

- new processes (e.g. a self-modification provision) which have been added. Please also demonstrate fully how this new process is robust and complete.

N/A

**3.9 Consolidated contract**

For amendments to existing contracts, is the version of the consolidated contract on our [website](#) fully up to date? If not, please explain why not.

This supplemental intends to update the current consolidated contract on the ORR website.

**4. The expression of access rights**

**4.1 Changes to rights:** please provide full descriptions of any new rights required, as compared to the previous contract (in the case of an amendment). Please attach a fully marked-up version or document comparison of any tables in Schedule 5 which are being modified as a result of this application.

Colas Rail are requested an additional 45 one-hour access rights for services currently operating on the infrastructure for current commercial contracts. This proposed 10th SA would align Colas's rights table with the current portfolio of services and contracts. In addition, 27 rights have been surrendered for services no longer operating under Colas Rail on behalf of our customers.

**4.2 Firm rights:** Do the Firm Rights in the proposal contract relate to service freight haulage contracts which you hold or will hold? If so, how? How does the duration of these haulage contracts compare with the duration of the proposed track access contract?

The firm rights requests as part of Colas Rails 10th SA are all relating to current held freight haulage contracts by Colas.

**4.3 Contingent Rights:** Please set out the extent to which you expect to use the Contingent Rights in the application. In particular, please state whether the proposed rights are seasonal (eg 3 months each year) or occasional (eg MO, SX, etc)..

The contingent rights cover Colas Rail's core service portfolio which operates on a weekly basis throughout the year.

**4.4 Window size:** Please set out the reasons for the origin and destination window sizes used in the Rights Table in Schedule 5.

Minimum times required at terminals to ensure a right departure with services onto NR infrastructure therefore preventing introducing performance risks / delays on the Network.

**4.5 Long Term Planning Process:** Is the Long Term Planning Process (or similar devolved authority or regional service delivery project) relevant to this application? If so, please explain how the proposed rights are consistent or inconsistent with this.

Colas Rail's proposed rights are consistent with the long-term planning process of Network Rail's access footprint of S4 possessions. We actively engage with the EAS process for the routes we operate over to ensure long term security for our services.

## 6. Incentives

**6.1 Train operator performance:** please describe any planned projects associated with the operation of the proposed services aimed at improving your performance.

Colas are incentivised by the freight performance regime to exceed benchmarked performance and commercial competition within the market that dictates that Colas has to maintain performance relative to industry standard.

There is a dedicated programme for wagon reliability and continuous improvement looking at future technological options to improve performance.

**6.2 Facility owner performance:** please describe any planned projects associated with the operation of the proposed services aimed at improving the facility owner's own performance.

N/A

**6.3 Restrictions of use:** set out and explain the reasons for any changes from the Restrictions of Use regime in the model freight track access contract (Schedule 4)

N/A

## 7. Enhancement

**7.1 Enhancement details:** Please provide details of any relevant enhancement schemes. Where the proposal delivers part of, or the associated services are subject to, a network enhancement, please summarise the outputs and timescales of the scheme and explain the extent to which the Part G Network Change procedure has been completed.

N/A

**7.2 Enhancement charges:** please confirm that the arrangements for the funding of any network enhancements are consistent with the [investment framework](#), and summarise the level and duration of payments, and the assumed rate of return.

N/A

## 8. Associated access contracts

**8.1 Associated applications to ORR:** please state whether this application is being made in parallel with, or relates to, any other previous, current or forthcoming applications to ORR (e.g. in respect of track access, station or light maintenance depot access contracts). Where the application is being made in parallel with any other application from the same operator, please ensure the applications are consistent with one another. Where the application relies on another operator relinquishing access rights, please provide details.

N/A

**8.2 Unregulated access:** please comment on whether any contracts are being negotiated for access to a facility adjoining Network Rail's network (e.g. to a freight light maintenance depot), including where ORR's approval is not required. For more information, see [The Railways \(Class and Miscellaneous Exemptions\) Order 1994](#). (This is relevant in the context of clause 6.4 of the model contract.)

N/A

## 9. Pre-application consultation

### 9.1 The consultation:

If consultation has not been carried out, explain why not.

The proposed 10th hasn't been consulted by the industry due to the timescales set out by the OOR whereby any proposals submitted after the 20th May 2024 will not be considered for agreement.

If a consultation has been carried out please:

- state who conducted the consultation;
- list all train operators and any other parties that were consulted, stating which parties responded and attach their responses and any associated documentation to this form; and
- state the period allowed for the consultation. If this was less than one calendar month, please explain the reasons for this.
- If the consultation was concluded some time ago, please explain why you consider it is still valid.
- have there been any material changes since consultation that could affect the validity of the responses received?
- please list any information that you have redacted from any documentation sent to consultees and the reasons for the redactions.

N/A

**9.2 Resolved issues:** please explain any issues raised by consultees which have been resolved.

N/A

**9.3 Unresolved issues:** Please explain any issues raised by consultees which have **not** been satisfactorily resolved and why you think these issues should not stop ORR approving the application. Include details of steps taken to resolve the dispute such as meetings or counter offers and provide copies of correspondence where available.

N/A

### 10 Certification

*Warning: Under section 146 of the Railways Act 1993, any person who, in giving any information or making any application under or for the purposes of any provision of the Railways Act 1993, makes any statement which he knows to be false in a material particular, or recklessly makes any statement which is false in a material particular, is guilty of an offence and so liable to criminal prosecution.*

**In the case of agreed applications under section 18 or 22, the facility owner should fill in the information in the box below. For disputed applications under section 17 or 22A, the applicant should fill in the required information.**

I certify that the information provided in this form is true and complete to the best of my knowledge

Signed ..... Date.....  
 Name (in caps) ..... Job title .....  
 For (company) .....

For section 18/22 applications, please provide a letter of support from the beneficiary or ask them to sign here:

Signed ..... Date.....  
 Name (in caps) ..... Job title .....  
 For (company) .....

### 11. Submission

**11.1 What to send:** please supply the application form, the proposed contract or amendment and, where possible, any other supporting information, in electronic form by e-mail, **in plain Microsoft Word**



**or Open Document Text format** (i.e. excluding any macros, auto-para or page numbering, or other auto-formatting).

**11.2 Where to send it:**

Freight Track Access Manager

Email: [track.access@orr.gov.uk](mailto:track.access@orr.gov.uk)