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21 April 2020

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

On 22 October 2019, we wrote to you as holders of station licences setting out the drafting amendments we intended to make to your station licence. We also wrote in similar terms to holders of EU passenger train licences regarding their corresponding Statements of National Regulatory Provisions ("SNRP"). We needed to do this to meet the requirements of law under the *Rail Passengers' Rights and Obligations Regulations 2010* (the "RPRO 2010"), following the expiry of the GB domestic exemption from certain obligations in the Rail Passengers' Rights and Obligations Regulation (Regulation 1371/2007/EC) (the "European Regulation"), which is implemented in Great Britain by the RPRO 2010.

We received a response from London Underground Limited ("LUL"), raising a number of points¹, one of which concerned the impact of a station manager being required to provide assistance to passengers in relation to train journeys and services provided by SNRP holders, and over which LUL has no control nor the ability to recover any associated costs.

LUL argued that the responsibility for delays to journeys would be with those SNRP-holding train operators, yet the proposed modifications could mean that LUL faced costs it could not recover from those parties. This concern is particularly pertinent to article 18 of the European Regulation, which amongst other things, requires that passengers who are delayed by more than one hour should, in very broad terms, be offered meals and refreshments, hotel or other accommodation and, in some cases, transport to the delayed service's final destination.

LUL was also concerned with being clear about the scope of the European Regulation, and that our proposed amendments to the station licence could lead to a station manager such as LUL being required to provide RPRO obligations to LUL

¹ LUL has taken a view that the European Regulation does not apply to LUL at all; we disagree with that, but this does not affect the amendments proposed in the attached annexes.



passengers who were not travelling with SNRP-holding train operators; that is not the intention.

In practice, the majority of station licence holders are also SNRP-holding passenger train operators and therefore are in receipt of passengers' fares and have a clear line of responsibility as railway undertakings to passengers. However, LUL (and the addressees to this letter), are not SNRP-holding railway operators and do not receive income from such fares.

We have therefore considered further modifications to emphasise that these obligations only relate to services being provided by you as station managers to passengers of SNRP-holding train operators. The incorporation of a new definition of "Other Passenger Operator Journey" is intended to address this distinction.

We are satisfied that the impact of this further amendment does not change the obligations the RPRO and the European Regulation already place on you as station managers, but responds to LUL's request that the scope of their application to station managers be made clearer. However, since this is a change to the modifications we proposed in October 2019, we do not wish to implement the revised text without giving notice. The modifications we now intend to apply to the station licences of addressees can be found in the annexes attached.

Next Steps

Please let us have any views on the drafting of the proposed modifications in this letter by **19 May 2020**, sending your replies to licensing.enquiries@orr.gov.uk.

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.

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

Yours faithfully,

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

Les Waters

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 In Part II (Interpretation), paragraph 1, insert the following new definition in alphabetical order:

““Other Passenger Operator Journey” means a rail journey:

(a) that is provided by one or more railway undertakings or transport services licensed in accordance with Council Directive 95/18/EC of 19 June 1995 on the licensing of railway undertakings;

(b) that falls within the scope of the PRO Regulation; and

(c) that calls at any of the stations of which the licence holder is the operator pursuant to this licence;”

- 3 Insert a new Condition 3 as follows:

“Condition 3: Passenger Rights

1. At each of the stations of which the licence holder is the operator pursuant to this licence, the licence holder shall comply with the obligations of a “station manager” (as defined in the PRO Regulation) contained within articles 18 and 29 of the PRO Regulation in relation to Other Passenger Operator Journeys.”

- 4 Amend Condition 5 (Accessible Travel Policy²), 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~~:

² Please note - all references to “Disabled People’s Protection Policy” and “DPPP” were replaced with “Accessible Travel Policy” and “ATP” on 29 July 2019.



- (a) to the code of practice published by the Authority pursuant to section 70 or section 71B of the Act; and
- (b) in relation to Other Passenger Operator Journeys only, to articles 19(1), 21, 22 and 24 of the PRO Regulation, to the extent applicable to “station managers” as defined in the PRO Regulation.”

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 definitions in alphabetical order:

“a PRO station” means a station to which the PRO Regulation is applicable, marked with an asterisk (*) in the Schedule.

“Other Passenger Operator Journey” means a rail journey:

(a) that is provided by one or more railway undertakings or transport services licensed in accordance with Council Directive 95/18/EC of 19 June 1995 on the licensing of railway undertakings;

(b) that falls within the scope of the PRO Regulation; and

(c) that calls at any of the stations of which the licence holder is the operator pursuant to this licence.”

- 3 Insert a new Condition 3, paragraph 2, as follows:

“Condition 3: Passenger Rights

2. At each of the stations of which the licence holder is the operator pursuant to this licence, the licence holder shall comply with the obligations of a “station manager” (as defined in the PRO Regulation) contained within articles 18 and 29 of the PRO Regulation in relation to Other Passenger Operator Journeys.”

- 4 Amend Condition 5 (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~~:

(a) to the code of practice published by the Authority pursuant to section 70 or section 71B of the Act; and

(b) in relation to Other Passenger Operator Journeys only, to articles 19(1), 21, 22 and 24 of the PRO Regulation, to the

extent applicable to “station managers” as defined in 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 definitions after the definition of "licensed activities":

"Other Passenger Operator Journey" means a rail journey:

(a) that is provided by one or more railway undertakings or transport services licensed in accordance with Council Directive 95/18/EC of 19 June 1995 on the licensing of railway undertakings;

(b) that falls within the scope of the PRO Regulation; and

(c) that calls at any of the stations of which the licence holder is the operator pursuant to this licence;

"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:~~

(a) to the code of practice published by the Authority pursuant to section 70 or section 71B of the Act; and

(b) in relation to Other Passenger Operator Journeys only, to articles 19(1), 21, 22 and 24 of the PRO Regulation, to the extent applicable to "station managers" as defined in the PRO Regulation."

- 4 Insert a new Condition 14 as follows:

"Condition 14: Passenger Rights

1. At each of the stations of which the licence holder is the operator pursuant to this licence, the licence holder shall comply with the obligations of a "station manager" (as defined in the PRO Regulation) contained within articles 18 and 29 of the PRO Regulation in relation to Other Passenger Operator Journeys."

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 In Part II (Interpretation), paragraph 1, insert the following new definition in alphabetical order:
““Other Passenger Operator Journey” means a rail journey:
 - (a) that is provided by one or more railway undertakings or transport services licensed in accordance with Council Directive 95/18/EC of 19 June 1995 on the licensing of railway undertakings;
 - (b) that falls within the scope of the PRO Regulation; and
 - (c) that calls at any of the stations of which the licence holder is the operator pursuant to this licence;”
- 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:~~
 - (a) to the code of practice published by the Authority pursuant to section 70 or section 71B of the Act; and
 - (b) in relation to Other Passenger Operator Journeys only, to articles 19(1), 21, 22 and 24 of the PRO Regulation, to the extent applicable to “station managers” as defined in the PRO Regulation.”
- 4 Insert a new Condition 18 as follows:
“Condition 18: Passenger Rights
 1. At each of the stations of which the licence holder is the operator pursuant to this licence, the licence holder shall comply with the obligations of a “station manager” (as defined in the PRO Regulation) contained within articles 18 and 29 of the PRO Regulation in relation to Other Passenger Operator Journeys.”