

Louise Beilby
Senior Access Executive



19 July 2023

Devon Wall
Franchise & Access Support Manager
Network Rail Infrastructure Ltd
Square One
4 Travis Street
Manchester
M1 2NF

George Williams
Concession & Business Framework
Manager
Merseyrail Electrics 2002 Ltd
Rail House
Lord Nelson Street
Liverpool
L1 1JF

Dear Devon and George

Approval of the 12th supplemental agreement to the track access contract between Network Rail Infrastructure Limited and Merseyrail Electrics 2002 Limited dated 1 April 2019

We have today approved the above supplemental agreement submitted to us formally on 18 July 2023 under section 22 of the Railways Act 1993 (the Act). This follows an earlier informal submission of a draft agreement for our consideration. This letter explains the reasons for our decision.

Purpose

The purpose of this agreement is to amend the effective date of the Lookup Table for EBM Weights in Annex B to Part 3 of Schedule 4. The table was recently amended as part of the 8th supplemental agreement, but the effective date was incorrectly stated as 21 May 2023 when it should have been 4 March 2023. The amendment will insert a footnote to the relevant table in order to make it applicable from the correct date, and will be effective upon ORR approval.

Industry consultation

As no third party is affected by this amendment, industry consultation was not necessary.



ORR review

Our review of this application was a matter of checking the legalities and mechanism of changing an effective date for Schedule 4 amendments. We noted that, in order to be valid, the party making the amendment must notify the other prior to the date on which the change is to have effect. We have seen evidence that this condition was fulfilled by Merseyrail and are satisfied that the correct procedures have been followed.

Our duties under section 4 of the Act and our decision

We have concluded that approval of this supplemental agreement strikes the appropriate balance in discharging our statutory duties under section 4 of the Act; in particular, those relating to protecting the interests of users of railway services (section 4(1)(a)), promoting the use of the railway network for the carriage of passengers (section 4(1)(b)) and enabling persons providing railway services to plan their businesses with a reasonable degree of assurance (section 4(1)(g)).

Conformed copy of the track access agreement

Under clause 18.2.4 of the track access contract, Network Rail is required to produce a conformed copy, within 28 days of any amendment being made, and send copies to ORR and the Train Operator. Please send the conformed copy to me at ORR.

Public register and administration

Electronic copies of this letter, the approval notice and the agreement will be sent to the Department for Transport and Network Rail's Policy and Access Team. Copies of the approval notice and the agreement will be placed on ORR's public register (website) and copies of this letter and the agreement will be placed on the ORR website.

Yours sincerely

A handwritten signature in blue ink, appearing to read 'Louise Beilby', with a stylized flourish at the end.

Louise Beilby