

Ellie Mitchell
Access Executive



21 July 2023

Suzanne Murray
Customer Manager
Network Rail Infrastructure Ltd
151 St Vincent Street
Glasgow
G2 5NJ

John Kerr
Regulated Contracts Manager
Scotrail Trains Ltd
Atrium Court
50 Waterloo Street
Glasgow
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Dear Suzanne and John

Approval of the 34th supplemental agreement to the track access contract between Network Rail Infrastructure Limited and Scotrail Trains Limited dated 3 March 2016

We have today approved the above supplemental agreement submitted to us formally on 19 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 Schedule 5 of the track access contract for the Subsidiary Change Date (SCD) 2023, including a decrease to the number of services in the Lanark corridor which serves Motherwell station. The supplemental agreement also replaces the references to the Secretary of State in Schedules 5 and 10 with “Scottish Ministers”, correcting a default but inaccurate assumption from the model contract. Prior to the approval of this 34th supplemental agreement, the same rights have been in place under the 33rd supplemental, covered under General Approval. The commencement date for the rights in this supplemental agreement is backdated to 21 May 2023 and the rights will expire on the Expiry Date or earlier termination of Scotrail’s track access contract.

Industry consultation

Network Rail undertook the usual industry consultation. No objections were raised in response.



ORR review

Our review identified no operational or administrative errors in the supplemental agreement. Our review involved several discussions with Network Rail, Scotrail and Avanti West Coast to resolve concerns between the parties about how the Avanti 1st supplemental agreement could impact on Scotrail services. However, throughout this process, the changes involved in the Scotrail 34th were not considered contentious or problematic and our review concluded with full endorsement of the changes included in both the Scotrail 34th SA and the Avanti 1st SA.

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 black ink that reads 'Ellie Mitchell'.

Ellie Mitchell