



## **APPLICATION TO THE OFFICE OF RAIL AND ROAD FOR A PASSENGER 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. If a train operator wants to access the national railway network, it will need a track access agreement with Network Rail which requires ORR's approval under the Railways Act 1993. When determining access to the network, we must have regard to our [statutory duties](#), most of which are set out in section 4 of the Act. We must exercise our functions (which include the approval of access contracts) in a way that we consider best achieves those duties.

Use this form to apply to the Office of Rail and Road (ORR) for a passenger track access contract, or an amendment to an existing contract by a supplemental agreement, under sections 17-22A or the Railways Act 1993.

It 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.

This form should be completed up to section 10 and sent to consultees along with a copy of the proposed contract or supplemental agreement. Sections 10 and 11 should be filled in after the consultation and before applying to ORR.

We are happy to talk to you informally before you apply. Please contact us [here](#). You can download a copy of this form, and of our model track access contract, from our [website](#). 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 version 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 Beneficiary company name:

Caledonian Sleeper Limited

## 1.2 Facility owner details:

Network Rail:	<input checked="" type="checkbox"/>				
Region:	Southern <input type="checkbox"/>	Eastern <input checked="" type="checkbox"/>	North West & Central <input checked="" type="checkbox"/>	Wales & Western <input type="checkbox"/>	Scotland's Railway <input checked="" type="checkbox"/>
Other Facility Owner:	<input type="checkbox"/>	Please state:			

## 1.3 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:			9
Current contract date:			
Current contract expiry date:			PCD 2030

## 1.4 Applicant status:

Public Service Operator <input type="checkbox"/>	Public service contract start date:	2023
	Public service contract end date:	2030
	Name of funder (e.g. DfT, Local Authority):	Scottish Rail Holdings
	Does the funder support this application?	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>
Open Access <input type="checkbox"/>		
Charter Operator <input type="checkbox"/>		

## 1.5 Executive summary of the proposed contract or amendment:

In response to the ORR letter dated 24 April 2024 and entitled "Competing and/or complex track access applications for December 2024, May 2025 and December 2025 timetable changes", Caledonian Sleeper finds it pursuant to apply for the following under a Section 22A Application -

(1) The reinstatement of firm platform occupation time rights for Southbound arrivals at Euston in Table 9.1 of Schedule 5.

(2) Rights required to run services to Birmingham International from PSCD 2025

Birmingham International added to the calling pattern for Service 558 E.g:

Service 558 – London – Inverness						Passenger Slots	Train
Via	Description	TSC	Timing Load	Week-day	Sat-ur-day	Sun-day	
Weedon, Pelesworth, Birmingham International, Warrington Bank Quay, Oxenholme, Slateford, Haymarket, Polmont, Dunblane and Aviemore	1.4	23558003	90-86595 <sup>1</sup>	1	0	1	
Aviemore, Dunblane, Polmont, Haymarket, Slateford, Oxenholme, Warrington bank Quay, Pelesworth, Birmingham International, Weedon,	1.5	23558003	12567385 <sup>2</sup>	1	0	1	

All references to Class 90s will also be removed through this application within Schedule 5. Specified

Proposed commencement date:	SCD 2025
End date:	PCD 2030
Date approval or directions wanted by:	As soon as possible

**1.6 Industry consultation:**

<b>Who carried out the consultation?</b>	<b>Network Rail</b>	
Consultation start date: undertaken when published as a S.17 application on May 22nd	Consultation end date:	22 June 2024

**1.7 Applicant details**

<u>Facility Owner</u> Company: Network Rail Contact name: Sophie Grieves Job title: Customer Manager Address: Waterloo General Office London, SE1 8SW  Phone: [redacted] E-mail: [redacted]	<u>Beneficiary</u> Company: Caledonian Sleeper Limited Contact name: Sam Price Job title: General Counsel Address: 1-5 Union Street Inverness, 1V1 1PP  Phone: [redacted] E-mail: [redacted]
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**1.7 Date of application to ORR:**

**20 May 2024 (S.17)**  
**[September 2024] (conversion to S22A)**

**1.8 Checklist of documents attached to the application form:**

- Proposed new contract (S17 or S18) or supplemental agreement (S22 or S22A)
- Marked up Schedule 5 (where applicable)
- Marked up comparison to model contract (where applicable)
- All consultation correspondence
- Supporting documentation required for competing services (see section 6.2)
- Other supporting documents, side letters or collateral agreements (please list):

<b>Marked up Schedule 5 Table 9.1</b>
<b>Schedule 5 Table 2.1</b>

**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:

**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.



**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).

In response to the ORR letter dated 24 April 2024 and entitled “Competing and/or complex track access applications for December 2024, May 2025 and December 2025 timetable changes”, Caledonian Sleeper finds it pursuant to apply for the following under a Section 22A Application -

- (1) The reinstatement of firm platform occupation time rights for Southbound arrivals at Euston in Table 9.1 of Schedule 5.**
- (2) Rights required to run services to Birmingham International from SCD 2025 to TAC Expiry (PCD 2030): addition of Birmingham International as a calling point for Service**

**Context / Background**

Caledonian Sleeper previously had a S22 application running in parallel with the Section 17 submitted on 20 May 2024, as part of the interacting aspirations workstream. This sought to extend their existing TAC to PCD 20230 in line with their Grant Agreement with Transport for Scotland.

The TAC Extension component has now been formally submitted and approved by the ORR, and CSL are hence looking to convert the previous S.17 application to a S.22A. No new components have been added to the application – the only change is that the TAC Extension component has been removed.

Caledonian Sleeper applied as part of the interacting aspirations workstream as they note that -

- (1) Birmingham and surrounding areas are noted as one of the key locations – and this application seeks to add a calling point at Birmingham International.
- (2) London Euston is noted as one of the key locations – and this application seeks to reinstate firm platform occupation times for Southbound arrivals at Euston.

**Platform occupation times**

The Beneficiary seeks the reinstatement of firm platform occupation times rights for Southbound arrivals at Euston in table 9.1 of Schedule 5. These were previously firm rights throughout the duration of the Beneficiary’s TAC, until the extension of the TAC from December 2023 to December 2024 when they were changed to be contingent at Network Rail’s request based on concerns related to the planned delivery of the redevelopment works at Euston. With these works now being paused for an uncertain period, CSL had sought and secured Network Rail’s agreement in principle to reinstate those rights up to PCD 2026 within its previous application to extend the Track Access Agreement to 2030, until it was told at the point of finalising the extension that NR required to withdraw its support and for CSL to progress this via the interacting aspirations workstream.

**3.2 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).

Please see section 4.4 re managing the PTI risk of calling at Birmingham International. More generally, we have not yet had the opportunity to go through any NR consultation processes which might be required from a safety perspective, but are happy to do so subsequent to this application.

**3.3 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

**3.4 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.

As outlined in the Executive Summary and Section 3.1, Caledonian Sleeper have noted the key locations referenced in the ORR letter dated 24 April 2024 may impact their future aspirations –

- (1) Birmingham and surrounding areas are noted as one of the key locations – and this application seeks to add a calling point at Birmingham International.
- (2) London Euston is noted as one of the key locations – and this application seeks to reinstate firm platform occupation times for Southbound arrivals at Euston.

**3.5 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

### 3.6 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.

Latest version available

## 4. The impacts of the proposal

**4.1 Benefits:** please set out what specific benefits the proposal will achieve. Please describe the benefits to passengers and any impact on other operators, including freight operators.

**Calling at Birmingham International benefits**– better serving a large current/potential target market for our Highlander services generating additional revenue, patronage and improved connectivity between the Scottish Highlands and Midlands. Analysis of existing passenger data suggests there are already significant numbers of travellers originated from Birmingham, who currently require to board the Sleeper at Crewe. This change will significantly improve access to our service for passengers based in Birmingham and onward connectivity to locations served by Birmingham. The target market from Birmingham International will include business travellers, who will benefit from this additional connectivity and will also enhance patronage during the periods where there is more spare capacity on our services (e.g. mid-week and outwith summer).

There are no direct rail services between the Highlands of Scotland and the Midlands, so this will represent a significant enhancement which encourages modal shift from air and therefore delivers significant environmental benefits.

Delivering this timetable enhancement is therefore aligned with our Grant Agreement obligations to Transport Scotland and Scottish Rail Holdings, which requires to optimise our timetable based on demand and maximising the revenue, patronage and tourism benefits generated by our services. We know from previous discussions that this proposal is strongly supported within Scottish Government and would be regarded as a significant enhancement. We believe it would also be similarly welcomed at the political level within the West Midlands.

### **Reinstatement of Southbound Platform Occupation Rights**

The reinstatement of firm platform occupancy rights for southbound Euston services will ensure that CSL's Track Access rights remain aligned with the required specification of services under the Grant Agreement (and previous Franchise Agreement, pursuant to which these rights were originally negotiated by Transport Scotland with Network Rail), protecting arrival times into Euston which are a core aspect of our guest proposition and therefore our revenue base and which have previously been successfully accommodated under the TAC for a number of years.

**4.2 Capacity:** How have you satisfied yourself that there is enough network capacity for the services in the proposal? Please include details on all relevant capacity considerations, including but not limited to track, platform availability, and power supply traction.

Aspirations to call at Birmingham International – highlighting the aspiration within this application in response to the ORR letter dated 24 April 2024. Capacity for this aspiration as of yet has not been confirmed. CSL has not yet had the opportunity to consult with Network Rail on these matters, but

is happy to do so. We have submitted this application in line with ORR requirements to ensure that our position is preserved.

**4.3 Performance:** What is the impact on 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.

We are currently significantly exceeding our Right Time performance target of 80% and performing at the best level since the Sleeper became a standalone operation and place a heavy focus on continuous improvement for performance which is done in close partnership with Network Rail, GBFR and our other suppliers.

Please see below at 7.3 re monitoring the performance impact of calling at Birmingham International.

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

The requested additional rights to run via Birmingham International fall outwith NR's normal maintenance window. Although none of the platforms at Birmingham International are long enough to fully accommodate the Sleeper, we already have well established procedures for Selective door operation which are successfully deployed at all other calling points, with the exception of Glasgow, Edinburgh and London Euston. As part of further consultation with NR subsequent to this application, we will undertake a PTI risk assessment process and review any other station interface/resource issues such as platform availability and power requirements.

## 5. The expression of access rights

**5.1 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.

### TAC Extension

Table 9.1 - Reinstatement of firm platform occupation time rights for Southbound approvals at Euston in Table 9.1 of Schedule 5. These were previously made contingent as a result of the ongoing work at Euston in relation to HS2. This application requests the reinstatement of these specific occupation times, with the addition of the following footnote in Table 9.1 of Schedule 5 –

*“Contingent right for the Southbound arrivals at Euston from Principal Change Date 2026.”*

Since March 2023, - HS2 works at Euston station have been paused and HS2 have published that works at Euston will no longer be fully constructed in the next 2 years. Beyond that, plans are uncertain.

The effect of the table 9.1 rights no longer has the same implications for NRIL's maintenance and renewal activities. The rationale that there had been for temporarily demoting those rights no longer applies, and CSL therefore considers it appropriate, as part of this application to fully reinstate them from Contingent to Firm. Network Rail had agreed with the footnote above and the reinstatement of the firm rights under these conditions in principle as part of the previous application to extend the TAC to 2030, however withdrew its support of this aspect of the application at the point of finalising the extension, requiring it to be put through this process to secure the ongoing certainty it requires with respect to the protection of the arrival time of its services, a key aspect of its customer proposition.



**Access Rights required for Birmingham International aspirations:**

Birmingham International added to the calling pattern for Service 558 with effect from PCD 2025 E.g:

Service 558 – London – Inverness						Passenger Slots	Train
Via	Description	TSC	Timing Load	Week-day	Sat-ur-day	Sun-day	
Weedon, Polesworth, Birmingham International, Warrington Bank Quay, Oxenholme, Slateford, Haymarket, Polmont, Dunblane and Aviemore	1.4	23558003	90-86595 <sup>1</sup>	1	0	1	
Aviemore, Dunblane, Polmont, Haymarket, Slateford, Oxenholme, Warrington bank Quay, Polesworth, Birmingham International, Weedon,	1.5	23558003	12567385 <sup>2</sup>	1	0	1	

**5.2 Flexing rights:** Please explain any limitations on the facility owner's flexing rights in the proposal and the rationale for such limitations.

None

**5.3 Specified equipment:** Please explain any changes to specified equipment (rolling stock). Has the vehicle and route acceptance procedure in the Network Code (Part F) has been completed? Please explain whether you have, or will have, the rolling stock necessary to exercise the rights.

N/A

**5.4 Contractual obligations:** Are the proposed services necessary to fulfil obligations under a public service contract? For publicly contracted operators seeking additional access rights, we will expect to see evidence of funder support for the specific rights and of operators' intent and ability to operate the new services.

The reinstatement of firm platform occupation rights is necessary to allow CSL certainty over meeting its required service specification under the Grant Agreement. The rights were originally negotiated by Transport Scotland with Network Rail to reflect the requirements of the Serco Caledonian Sleepers Franchise Agreement (which requirements continue under the CSL Grant Agreement) and Transport Scotland were extremely concerned when they were removed from the Track Access Agreement and have strongly encouraged CSL to seek the reinstatement of these rights.



**5.5 Public funding:** Other than the DfT, Welsh Government or Transport Scotland, are the proposed services subject to financial support from central or local government including PTEs. If so, please give details.

No

**5.6 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.

N/A

**6. Competing passenger services:**

We would expect to apply the ‘not primarily abstractive’ test to:

- (i) a new open access service which would compete with franchised services and so impact on the public sector funder’s budget;
- (ii) a new franchised service which would compete with an existing franchised service, where we would expect to focus the test on areas where the competing franchised services are operated on behalf of different funders or where for some other reason there are particular concerns over the impact on a funder’s budget; and
- (iii) a new service, which might be open access or franchised, which would compete with an existing open access service and which, if it caused the existing open access operator to withdraw from the market, could reduce overall competition on the network.

**6.1** Please state if your application is for a competing passenger service, and if so please describe the nature of the competition:

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With respect to the Birmingham International rights, no competing services have been identified at time of application. There are no direct rail services between Birmingham and Inverness, with journeys frequently requiring two changes. We expect our enhanced service to principally encourage modal shift from air/car.

The impact of introducing a calling stop at Birmingham for one daily overnight service between London and Inverness which is already operating at high levels of occupancy on any other rail operators is in any case expected to be minimal.

**6.2** For competing services, please also confirm that you have attached as part of your submission to ORR the following:

- Business plan, including details of:
  - forecasts of passenger traffic and revenues, including forecast methodology;
  - pricing strategies;
  - ticketing arrangements;
  - rolling stock specifications (e.g. load factor, number of seats, wagon configuration);
  - marketing strategy;

- estimated elasticities of the services (e.g. price elasticity, elasticity with respect to quality characteristics of the services).
- Demand forecasting (including associated spreadsheet models) demonstrating modelled generation : abstraction ratio.
- Indicative timetables, including associated .spg files

**7. Incentives**

**7.1 Train operator performance:** please describe any planned performance improvement initiatives and/or enhancement projects associated with the operation of the proposed services aimed at improving operator performance.

Current performance governance schemes will continue to apply through the duration of the TAC Extension.

Please see below at 7.3 re monitoring the performance impact of calling at Birmingham International.

**7.2 Facility owner performance:** please describe any planned performance improvement initiatives and/or enhancement projects associated with the operation of the proposed services aimed at improving the facility owner’s performance.

N/A

**7.3 Monitoring of services:** Will all proposed services be monitored for performance throughout their journey? If not, please explain.

Current performance governance schemes will continue to apply through the duration of the TAC Extension. This includes the daily, weekly and periodic monitoring of Caledonian Sleeper services against the Right Time punctuality metric. CSL will closely monitor and where necessary seek to mitigate any performance impact of the changed calling pattern for the Inverness service against our contractual Right Time performance target of 80%. We are currently significantly exceeding this target performing at the best level since the Sleeper became a standalone operation and place a heavy focus on continuous improvement for performance which is done in close partnership with Network Rail, GBRF and our other suppliers.

**7.4 Performance regime changes (for applications under sections 17 or 22A only):** where applicable, please provide justification for any changes to Schedule 8 of the track access contract in the proposal. If necessary, please provide any relevant information in support of the changes proposed.

N/A

**8. Enhancement**

**8.1 Enhancement details:** where the proposal provides for the delivery of any network enhancements, or the services in the proposal are subject to any planned network enhancements, please give full details of the relevant enhancement schemes, including a summary of outputs from the scheme,

timescales and the extent to which the network change procedure in the Network Code (Part G) has been completed (where appropriate, by reference to submissions made under ORR's enhancement reporting framework).

None currently identified. As part of further consultation with NR subsequent to this application, we will review to confirm there are no power issues at Birmingham International around this proposal.

**8.2 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

## 9. Other

**9.1 Associated applications to ORR:** please state whether this application is being made in parallel with, or relates to, any other current or forthcoming application to ORR (e.g. in respect of track, 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 evidence that this process has been completed.

Aspirations in this application were previously applied for within a S.17 application as part of the Interacting Aspirations workstream. The TAC extension component has now been agreed, and approved by the ORR so this application simply seeks to convert the S.17 to a S22A to solely include the aspects which have not yet been supported by NR.

**9.2 Side letters and collateral agreements:** please confirm here that the whole of the proposal between the parties has been submitted with this application and that there are no side letters or other documents which affect it.

N/A

**9.3 Confidential redactions:** please list any information that you have redacted from any documentation sent to consultees. If there has been no pre-application consultation, please list any information you want us to exclude from publication. Please provide full reasons for any redactions.

None

## 10. Pre-application consultation

### 10.1 The consultation:

If consultation has not been carried out, explain why not. If it has, please list the consultees.

When these aspirations were previously consulted as part of the S.17 application, the following were consulted –

Appendix A

Who conducted the consultation?

Network Rail

List all consultees who responded and include their responses and any associated documentation or correspondence between the parties.

Appendix B

### 10.2 Resolved issues: please explain any issues raised by consultees which have been resolved.

Caledonian Sleeper continue to respond to all responses and concerns raised within industry consultation.

### 10.3 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.

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### 10.4 Subsequent Changes: Have any changes been made to the proposal following consultation?

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## 11. 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.*

**For agreed applications under section 18 or 22, Network Rail should complete the information below. For disputed applications under section 17 or 22A, the beneficiary should complete it.**

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) .....



## 12. Submission

**12.1 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).

### 12.2 Where to send it:

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