



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. 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

1.2 Beneficiary Company:

Direct Rail Services Limited

1.3 With which of the regions does this application interact?

Region:	Southern <input checked="" 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:	17 th Supplemental Agreement
						Current contract date:	14 th December 2019
						Current contract expiry date:	PCD 2024

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

This supplemental follows the letter issued by the ORR on 24th April 2024 requesting operators submit all competing and/or complex track access applications for December 2024, May 2025 and December 2025 timetable changes.

Proposed commencement date:	As soon as this Supplemental is approved.
Expiry date:	PCD 2026
Date Approved at SOAR	Not approved, Section 22a
If rights currently running as TOVRs when did they commence?	All of the new services are running as TOVR's, these all started at various times between 2021 and 2024.

1.5 Industry consultation:

Who carried out the consultation?	To be commenced by NR post submission to ORR		
Consultation start date:		Consultation end date:	
Not carried out <input checked="" type="checkbox"/>			

1.6 Applicant details

<u>Facility Owner</u> Company: Network Rail Contact name: Laura Mason Job title: Customer Manager Address: Network Rail, Waterloo General Office, London, SE1 8SW Phone: [REDACTED] E-mail: [REDACTED]	<u>Beneficiary</u> Company: Nuclear Transport Solutions (NTS) Contact name: Alistair Tait Job title: National Operations Planning Manager Address: Gresty Bridge Depot, Gresty Road CW2 5AA Phone: [REDACTED] E-mail: [REDACTED]
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1.8 Date of application to ORR:

20/05/2024

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.

4E70/4M75 in the speculative section will need redacting due to commercial sensitivities until those services get closer to the actual start date of operations for them.

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).

The proposed Seventeenth Supplemental Agreement contains amendments to Schedule 5 of the Track Access Contract. This includes:

- Deleting access rights that are no longer required
- Adding new access rights
- Adding in some speculative services which will need rights over the course of the next 12 months as per request from NR customer exec team.
- Amending characteristics of existing rights, for example timings, original, destination and intermediate points

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)

None of our applications relate to any areas of congested infrastructure that we are aware of. All of the new/amended services contained within this SA are WTT paths and are TOVR's/have gone through the TOVR process within the last few years and are running consistently.

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).

NTS operates services that convey nuclear related materials and these are subject to stringent security requirements before/during and after they have operated on the network. These are covered by our own internal operational standards and policies for the safe operation of nuclear services.

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.

N/A

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.

N/A

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.

The excel sheet attached details all the amendments/additions that we require. We have 3 speculative requests for rights, 34 new rights requests on trains which are now running (TOVR's which have gone through that process over the last 2/3 years) and 43 amendments to existing rights.

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 proposed access rights, with 60-minutes windows at each end, are to support currently running, and on-going, time-critical services across all applicable services that DRS operates. These services require clearly defined arrival and departure times to tie into inland terminal slots at each end of the route (particularly for intermodal services), where the "main line" capacity can be quite challenging and very limited terminal arrival/departure slots have got to be met, especially at the busier terminals. Correct and robust slots are also paramount to on-going network performance.

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)..

N/A

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

As stated in paragraph 76 of ORR's "Directions in respect of a track access contract between Network Rail Infrastructure Limited and Freight operators. ORR expects the default position for window size of freight firm rights, backed by commercial contracts with end users, to effectively be one-hour windows. One-hour windows will preserve end-users' confidence in its ability to provide the train services and timings they need and enables DRS/NTS to plan the future of its business with a reasonable degree of assurance.

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.

N/A

6.

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

The NTS/DRS strategy document for 2024-2029 focusses heavily on performance improvement through a variety of means, one of those though is ensuring we have all the necessary rights for new services we have got into the WTT via the TOVR process in recent years.

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.

Consultation to follow in line with all Freight Operators – estimated 24th May 2024

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.

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 [Redacted] Date 15/05/24

Name (in caps) Alistair Tait Job title National Operations Planning Manager
 For (company) Nuclear Transport Solutions (NTS)

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