

Gordon Herbert
Senior Manager, freight track access

Email: track.access@orr.gov.uk

27 March 2020

To: Network Rail, Amey Keolis Infrastructure/Seilwath Amey Keolis Limited, Freight train operators and customers

Updating the Model Freight Services Track Access Contracts to reflect the CVL interface

1. We are updating the ORR model freight services track access contract for the Network Rail network to reflect new arrangements concerning access agreements for the Core Valleys Lines (CVL). These changes are to enable freight train operators to run services smoothly between CVL and Network Rail's network.
2. If you have any questions please email Track.Access@orr.gov.uk by 27 April 2020.
3. Operators who wish to operate freight trains on the CVL will still need their own track access contracts with the CVL infrastructure manager. This update only relates to the consequential changes to ORR's model freight services access agreements for the Network Rail network.

The changes

4. The revised Schedule 4 is at Annex A and Schedule 8 is at Annex B. We will also insert a new Clause 1.2A referencing the CVL Network Code.
5. ORR will make the revised model contract available on our [website](#) and will become the applicable model contract for any applicants for a new freight services track access contract. Existing access contract holders also have the option of updating their current contracts through the use of ORR's General Approval for freight services track access contracts¹.
6. We will also update the model freight customer contracts. These changes are set out in Annex C, and the new version will be uploaded to our website.

Background

7. Network Rail is transferring its ownership of the CVL to Transport for Wales (TfW). The contractual terms for the management of the CVL are set out in an agreement between TfW and Keolis Amey Wales Cymru Limited (KAWCL). KAWCL set up Amey Keolis Infrastructure/Seilwath Amey Keolis Limited (AKIL) to be the CVL infrastructure manager.
8. At the end of 2019, DB Cargo (UK) Ltd, Freightliner Limited, Freightliner Heavy Haul Ltd and GB Railfreight Ltd, after industry consultation and ORR direction, entered into new track access contracts with AKIL, utilising and amending ORR's model freight services track access contract. They also amended their existing track access contracts with Network Rail. Those amendments are to be reflected in the new model contract.
9. AKIL and Network Rail have agreed that Network Rail will continue to administer the possessions and performance regimes under Schedules 4 and 8 of the CVL contracts on behalf of AKIL (*the Infrastructure Manager Deed*). They considered that the nature

¹ https://orr.gov.uk/_data/assets/pdf_file/0016/23371/freight-track-access-contracts.pdf

of the interface between the Network Rail network and the CVL warrants a joined up possessions and performance regime. Therefore, the new regime will attribute various matters, including payments arising due to variations to services/restrictions of use, as appropriate, between AKIL and Network Rail. For the Schedule 8 payments, this has been termed ‘the single star model’. These changes are set out in Annexes A and B.

10. The new Clause 1.2A of the track access contract is:

“The parties acknowledge and agree that insofar as matters in Schedules 4 and/or 8 relate to the CVL Network then the CVL Network Code shall apply.”

This simply gives effect, for the purposes of the model contract, to the CVL Network Code, which is referenced under the new arrangements for Schedules 4 and 8.

Freight Operating Company Customer Track Access Contract

11. As well as the FOCs, freight customers may have access agreements directly with Network Rail². These are then complemented by track access contracts between the train operators (working for the freight customer) and Network Rail, *Freight Operating Company Customer Track Access Contracts*³. No freight operating company customer track access contracts were amended in the process described above. However, similar changes are needed to ORR’s model template, for consistency. The proposed changes are those set out in Annexes A and B, but with the specific wording in Annex C, carried over from the existing wording. They are those for the standard template but carrying over two specific references to the freight customer track access contract.

ORR’s view

12. The changes to the Network Rail contracts were all been agreed by the FOCs, Network Rail and AKIL. The relevant supplemental agreements to the track access contracts were all subject to industry consultation and no objections were raised. We approved the amendments on 29 November 2019 and our decision letter is [here](#). We consider that there should be consistency in the contracts between Network Rail and FOCs. ORR will therefore update the model contract in the way recently established by Network Rail and the relevant FOCs.

ORR track access guidance

13. We will update our track access guidance modules to reflect the start of the CVL network in due course. In the meantime we will prepare a short fact sheet to explain the Schedule 4 and Schedule 8 arrangements. An initial version is at Annex D.

Next steps

14. ORR will publish the revised model track access contracts on our website. These can then be downloaded ready for use.

Yours faithfully

GH

Gordon Herbert

² <https://orr.gov.uk/about-orr/who-we-work-with/industry-organisations/freight-customers>

³ <https://orr.gov.uk/rail/access-to-the-network/track-access/forms-model-contracts-and-general-approvals>