

Minister for Transport, Infrastructure and Climate Change  
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Bill Emery  
Chief Executive  
Office of Rail Regulation  
1 Kemble Street  
London  
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29<sup>th</sup> September 2009

Dear Bill,

**SCOTTISH MINISTERIAL GUIDANCE UNDER THE TERMS OF THE RAILWAYS ACT 1993 (as amended).**

In March 2007, Scottish Ministers issued guidance to the Office of Rail Regulation (ORR) on discharging its duties in Scotland. I am writing to you today with a revision of that guidance, which will come into immediate effect.

The rail network plays a fundamental role in the fabric of Scottish life. By working in partnership with ORR and the rest of the rail industry I hope to achieve the positive economic and social outcomes which will maximise the contribution that the rail network makes to sustainable economic growth in Scotland.

I was impressed by the level of cooperation and engagement between Transport Scotland and ORR during the development of the Scottish HLOS and the final determination for Control Period 4. I want up to build on that, and that is why I am issuing revised Ministerial guidance to replace that issued to ORR in March 2007.

The timing and content of the revised guidance reflects a number of things. We have just entered into a new control period and we want to ensure that respective responsibilities and expectations are clear, particularly given that the role of Scottish Ministers in developing the final determination changed so significantly as a result of the devolution of powers under the Railways Act 2005. We also want to ensure that the monitoring of progress towards regulatory outputs is robust and transparent, which will support Scottish Government's accountability to both the Scottish Parliament and the Scottish public. And such monitoring will help us plan for the next control period in 2014.

I understand that David Middleton, Chief Executive of Transport Scotland will be writing to you shortly outlining the process for engagement. My expectation is that his letter, alongside the Ministerial guidance, will form a package of expectations of the role of ORR in Scotland.

Finally, I look forward to welcoming you and your Board to Scotland on the 19<sup>th</sup> October. I am sure that the revised guidance will be one of the issues which we would want to cover during our discussions.

A handwritten signature in black ink, appearing to read 'Stewart Stevenson', with a large, stylized flourish at the end.

**STEWART STEVENSON**

## **SCOTTISH MINISTERS' GUIDANCE TO THE OFFICE OF RAIL REGULATION**

### **Context**

- 1 Section 4(5) (aa) of the Railways Act 1993 ("1993 Act") as inserted by Section 3(8)(b) of the Railways Act 2005 ("2005 Act"), enables Scottish Ministers to give general guidance to the Office of Rail Regulation (ORR) about railway services wholly or partly in Scotland, or other matters in or as regards Scotland that relate to railways. In carrying out its economic regulation functions under Part 1 of the 1993 Act and the 2005 Act the ORR is required to have regard to this guidance alongside its other public interest duties under section 4 of the 1993 Act.
- 2 This Guidance is provided to the ORR to assist it in:
  - fulfilling its duties and discharging its functions under Part 1 of the 1993 Act, as those duties and functions are amended and supplemented by the 2005 Act; and
  - its engagement with Scottish Ministers

### **Guidance**

- 3 Scottish Ministers wish to maximise the contribution that the railway industry makes to sustainable economic growth in Scotland. To achieve this, Ministers expect the industry to work in partnership to deliver the strategy and policies that they set out.
- 4 The industry in Scotland has a key role to play in minimising the impact of transport on the environment through promoting rail as a real alternative to road and air transport for both passenger and freight users, and to ensure that integration between modes of transport is efficient and effective.
- 5 Ministers have set out three strategic outcomes that are central to their aspirations for the rail industry in Scotland as outlined in paragraphs 3 and 4 above, and which underpin the Scottish High Level Output Specification for CP4:
  - Improving journey times and connections;
  - Reducing emissions; and
  - Improving quality, accessibility and affordability.
- 6 Scottish Ministers have laid out in published policy and strategy documents how the strategic outcomes will be delivered by the rail industry in Scotland. ORR should have full regard to the outcomes and the importance of the

specific projects that support them as it discharges its responsibilities in Scotland.

- 7 Ministers wish to facilitate the growth of a competitive and dynamic private sector rail freight industry and will work with industry partners to secure this.

#### **Budget management and value for money**

- 8 Public resources available to spend on rail services and infrastructure are limited. Ministers are required to live within allocated resource budgets and to secure value for money at all times from public expenditure. Scottish Ministers expect the ORR to report to them on a regular basis on Network Rail's performance, and to monitor and enforce the efficient delivery of financial and operational outputs.
- 9 If, while exercising its statutory functions, the ORR considers that it is necessary or potentially necessary to take action that will or may have material positive or negative financial consequences for Ministers, they expect that the ORR will advise as soon as is practicable in advance, and in sufficiently good time to allow them to consider the matter and, if necessary, to make appropriate representations. Ministers wish the ORR to allow them the opportunity to consider whether they wish to amend any strategies and policies.