



**CONSULTATION ON PROPOSED NEW CATEGORIES FOR
MINOR MODIFICATIONS UNDER THE RAILWAYS ACT 2005**

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Introduction

The Scottish Government is considering measures that can be taken to reduce levels of regulation where it is appropriate to do so.

In October 2006 the Government published the Railways Closures Guidance which set out the process that must be followed when proposing a Railway Closure.

Section 35(6) of the Railways Act 2005 (the Act) allows the Scottish Ministers to make an Order to treat Closures of any description as Minor Modifications because of their temporary nature or because they have limited effect on the provision of railway passenger services.

The Scottish Government is seeking views on a proposal to make use of powers contained within the Act to make an Order to create additional categories of Closure that are eligible to be treated as a Minor Modification.

This consultation is limited to Scotland. The Department for Transport is carrying out an identical consultation for an Order to apply in England and Wales. A copy of their consultation document can be obtained from www.dft.gov.uk.

The Proposals

This consultation is seeking views on creating new categories of Minor Modification that can be used for two types of closure that would currently be required to follow the full closure process even though there is limited effect on the provision of railway passenger services.

These two categories are;

- Station relocation.
- Reducing a multiple track railway that runs through a station to a minimum of a single track.

Proposal 1 - Station Relocation

Under the current legislation, a railway station that is replaced by another (new) railway station a short distance along the line is required to follow the process set out in the Closures Guidance published by the Government in October 2006.

To comply with this guidance a full economic assessment and public consultation must have been carried out. The Office of Rail Regulation (ORR) would then ratify that this process has been followed before any Closure could take effect.

The Scottish Government is proposing that in certain circumstances, where there does not appear to be a material adverse impact to passengers on the provision of railway passenger services, the alternative Minor Modification process may be more appropriate.

The Act permits the Scottish Ministers to make an Order to do so where there is limited effect on the provision of railway passenger services.

In Scotland there have been a number of station relocations that have required to follow the full Closures process including that of Partickhill and Merkland Street stations which closed and re-opened as the current Partick Station in 1979. Partick Station is approximately 25 metres from the original Merkland Street Station.

If station relocation were to be treated as a Minor Modification, it would need to meet certain criteria.

The Scottish Government is proposing the following as the eligibility criteria;

- The maximum distance between the closest points of the old and new stations along the railway line is 450 metres; and one or more of the following also applies;
- The station is being relocated as part of an enhancement scheme where either or both of the following applies;
 - a) The station facilities at the new station are of a modern-day equivalent to or higher specification than those of the old station, including accessibility measures;
 - b) There will be an improved quantum of services from the new location;
- The distance between the old and the new stations for pedestrian access is not significantly increased for the majority of people living within a radius of 800 metres of the old station;
- The distance between the old and new stations for road access is not significantly increased for the majority of people living within a radius of 2 kilometres from the old station;
- The old station will not be closed before the new station is ready to come into operational use. For the avoidance of doubt, it would be acceptable that an overnight changeover between locations occurs;
- The new station serves an area where housing has developed in a different location and a new station would better serve that community without disbenefit to the community that the old station initially served;

Proposal 2 - Reductions in a multiple track railway within a station

Section 39(2) of the Railways Act 1993 exempted any proposal to discontinue the operation of a part of a multiple track railway between any two places on the network from closures provisions, provided that the railway line in question would continue to be at least a single track between those two places.

The Railways Act 2005 has not adequately captured this provision as a Minor Modification.

A multiple track could be reduced to a single track currently as an eligible Minor Modification on any part of the network other than if a section ran through a station.

Section 35(2) of the Act can be used if the part of the network does not consist of a station or a station in use, whilst Section 35(3) can be applied where the track does no more than serve a station or Light Maintenance Depot.

This has left a gap in the provisions where a multiple track railway runs through a station, but does not serve the station

An example of this occurred at Montrose station. A freight bypass which did not serve any platform, having fallen into disuse, was removed on the grounds of efficiency, saving considerable costs in terms of the maintenance required for the infrastructure.

Upgrading of the signalling allowed bi-directional running on the remaining tracks through the station.

There has been no reduction in service at the station following the removal of the track.

This additional criterion is designed to fill that gap and would allow schemes which may involve track re-modelling within the environs of a station, for example, to be treated as a Minor Modification rather than require a full closure as would presently be the case.

Consultation Questions

1. Is the proposed distance that a station can move and be eligible about right? Should it be less or more under certain circumstances, e.g. greater distance in rural locations where the last bullet point may apply?
2. Should eligibility be extended to stations where facilities at the station are reduced for legitimate reasons such as reduced patronage from that location?
3. Should the eligibility also extend to schemes where two stations are combined into a single station?
4. How many of the criteria would need to be fulfilled in order for a scheme to be considered to have limited effect?

How to Respond

The consultation period starts on 12 September 2008 and will run until **5 December 2008**. Please ensure that your response reaches us by that date. This document is primarily being distributed electronically and is available on the Transport Scotland web-site at www.transportscotland.gov.uk or the Scottish Government web site at www.scotland.gov.uk. If however you wish to be sent the document in photocopy please contact Alec.Stuart@transportscotland.gsi.gov.uk

Responses to this consultation should be sent

by email to: Alec.stuart@transportscotland.gsi.gov.uk

or by post to: Alec Stuart
Rail Regulation and Standards
Transport Scotland
Buchanan House
58 Port Dundas Road
Glasgow
G4 0HF

When responding please state whether you are responding as an individual or representing the views of an organisation. If responding on behalf of a larger organisation please make it clear who the organisation represents, and where applicable, how the views of members were assembled.

A list of those consulted is attached at Annex A. If you have any suggestions of others who may wish to be involved in this process please contact us.

The information you send us may need to be passed to colleagues within the Department for Transport and published in a summary of responses received in response to this consultation (*along with a response from the Government*).

We will assume that you are content for us to do this, and that if you are replying by e-mail, your consent overrides any confidentiality disclaimer that is generated by your organisation's IT system, unless you specifically include a request to the contrary in the main text of your submission to us.

Please ensure that if you want your name or response to be kept confidential, you state this clearly in your response. (*Confidential responses will be included in any statistical summary of numbers of comments received and views expressed*).

What will happen next

A summary of responses, including the next steps will be published by 31 January 2009 on www.transportscotland.gov.uk, paper copies will be available on request.

Question and Answer Brief

Below is a list of frequently asked questions about these proposals. If you still have questions after you have read this section please contact;

Alec Stuart
Rail Regulation and Standards
Transport Scotland
Buchanan House
58 Port Dundas Road
Glasgow
G4 0HF

Q. What is a Minor Modification?

A. A Minor Modification is a physical removal of a railway facility, for example a structure on a station or a part of the operational network, which does not have a significant impact on the operation of the railway or passenger services. A Minor Modification requires a determination to be made by the Scottish Ministers under Section 35 of the Railways Act 2005. Transport Scotland has published guidance on the application of this part of the Network Modifications (Closures) provisions of the Act and can be viewed at: <http://www.transportscotland.gov.uk/reports/publications-and-guidance/rail/minor-modifications-operational-guidance-note>

Q. Will this mean that stations can close without consultation?

A. No. A local consultation would still be required as part of the Minor Modification process. A decision from the Scottish Ministers whether to allow the station to close as a Minor Modification would still be necessary.

Q. Does this mean that the Government is planning a series of station closures?

A. No. This Order is being made to reduce regulation where stations are being replaced a short distance away by a new station. Without this Order, a Full Closure would need to be proposed which does not seem to be appropriate where there is no loss of a station from a community. If a station were to be proposed for closure without it being replaced, a full closure under the Act would be required.

Q. Is there guidance for the Closure process?

A. Yes. It can be found on the Transport Scotland website at: <http://www.transportscotland.gov.uk/reports/publications-and-guidance/rail/rail-closures-guidance>

Regulatory Impact Assessment

When responding to the consultation please comment on the analysis of costs and benefits which you may identify, giving supporting evidence wherever possible.

This proposed Order is designed to reduce administrative burdens. If Stakeholders have information on current administrative costs associated with following the full closure process, this would be useful to include in your response and would aid completion of the final Impact Assessment.

Please also suggest any alternative methods for reaching the objective and highlight any possible unintended consequences of the policy, and practical enforcement or implementation issues.

The Consultation criteria

The consultation is being conducted in line with the Code of Practice on Consultation. The criteria are listed below.

If you feel that this consultation does not fulfil these criteria please contact;

Alec Stuart
Rail Regulation and Standards
Transport Scotland
Buchanan House
58 Port Dundas Road
Glasgow
G4 0HF

The Six Consultation Criteria

- 1. Consult widely throughout the process, allowing a minimum of 12 weeks for written consultation at least once during the development of the policy.*
- 2. Be clear about who may be affected, what questions are being asked, and the timescale for responses.*
- 3. Ensure that your consultation is clear, concise and widely accessible.*
- 4. Give feedback regarding the responses received and how the consultation process influenced the policy.*
- 5. Monitor your department's effectiveness at consultation, including through the use of a designated consultation co-ordinator.*
- 6. Ensure your consultation follows better regulation best practice, including carrying out a Regulatory Impact Assessment if appropriate.*

Annex A

Aberdeen City Council
Aberdeenshire Council
Angus Council
Argyll and Bute Council
ASLEF
Association Of Transport Co-ordinating Officers (Scotland)
ATOC Ltd
City of Edinburgh Council
Clackmannanshire Council
Clerk Of The Committee, Local Government and Transport
Comhairle nan Eilean Siar
Confederation Of British Industries (Scotland)
COSLA
Department For Transport
Direct Rail Services
Dumfries and Galloway Council
Dundee City Council
East Ayrshire Council
East Dunbartonshire Council
East Lothian Council
East Renfrewshire Council
English, Welsh and Scottish Railways
Falkirk Council
Fife Council
First Scotrail
Freight Transport Association
Freightliner
GB Railfreight
Glasgow City Council
GNER
Highland Rail Partnership
HITRANS
Inverclyde Council
Midlothian Council
Moray Council
National Union Of Rail, Maritime and Transport Workers
NESTRANS
Network Rail
North Ayrshire Council
North Lanarkshire Council
Office Of Rail Regulation
Orkney Islands Council
Perth and Kinross Council
Rail Freight Group
Rail Passengers' Council (Scottish Interests)
Railfuture Scotland
Railway Development Society
Renfrewshire Council
Rural Community Gateway
Scottish Association For Public Transport
Scottish Borders Council
SESTRAN
Shetland Islands Council
South Ayrshire Council

South Lanarkshire Council
Stirling Council
Strathclyde Passenger Transport
STUC
Sustrans
T&G Scotland
The Highland Council
Transport Salaried Staffs' Association (TSSA)
Virgin Trains
West Dunbartonshire Council
West Lothian Council
Westrains
First Scotrail
Network Rail