



National Union of Rail Maritime and Transport Workers



www.rmt.org.uk

Edward Mountain MSP
Convenor, Net Zero, Energy and Transport Committee
Scottish Government
Edinburgh
EH99 1SP

By email

20.09.22

Dear Mr Mountain,

I am writing to you in your role as the Convenor of the Net Zero, Energy and Transport Committee regarding the Serco Caledonian Sleeper contract.

As the Committee will be aware, during the Covid-19 pandemic the Scottish Government transferred both the Caledonian Sleeper and ScotRail franchises onto Emergency Measures Agreements (EMA) whereby the Scottish Government took on all cost and revenue risk and the operators received a fee for operating services. The maximum fee payable was set at 2% of the cost base of the pre-pandemic franchise for the first six months' EMA, and 1.5% thereafter.

In 2021, the Scottish Government took the decision to take ScotRail into public ownership, with this transfer taking place in April 2022.

At this time, Serco Caledonian Sleeper, which previously was integrated into the ScotRail franchise, remained on an EMA, which was due to end at the end of February 2022.

In February 2021, the Scottish Government issued a [Prior Information Notice](#) which preserved the ability to make a direct award of a Public Service Contract to Serco Caledonian Sleeper. The PIN stated that such a Temporary Measures Agreement would 'vary the terms of the current Franchise Agreement, to address continuing consequence of the Covid-19 pandemic, similarly to the variations made under the EMA'.

As of January 2022, less than two months before the EMA expired, the Scottish Government confirmed, in response to a [parliamentary question](#), that the need for a TMA was 'being kept under review'. At the same time, the Scottish Government [confirmed](#) that it had not undertaken any analysis of the cost of reintegrating Caledonian Sleeper into the Operator of Last resort operated ScotRail. Yet, [documents](#) released via a Freedom of Information request by Transport Scotland confirm that the OLR arrangements for Caledonian Sleeper could be deployed in 'around 12 weeks'.

It has since transpired that on 28th February 2022, the Scottish Government entered into a one-year Temporary Measures Agreement with Serco Caledonian Sleeper. However, the Scottish Government has also stated, in response to a [Parliamentary Question](#), that the announcement that the TMA had been signed, which was done via a letter to the Convenor of the NZET Committee, was not sent until 17th March 2022. The announcement was also published on the Transport Scotland website on the same day.

Furthermore, the Scottish Government has, on numerous occasions, via responses to Parliamentary Questions, refused to say how much Serco Caledonian Sleeper will receive in fees under the TMA¹, despite having published the calculation for the fees payable under the preceding EMAs.

It is also the case that the original Serco Caledonian Sleeper franchise agreement contained a mechanism that *requires Transport Scotland to bear 50% of contract losses from 1 April 2020 and the Company has the right to seek a rebase to the financial terms of the Franchise Agreement that would result in either a small positive profit margin for the Company from 1 April 2022, or an exit from the contract*. As the TMA has not yet been published, it not clear whether these clauses remain applicable or if they have been superseded by the TMA.

The Scottish Government has also not said what it is intending to do after the one-year TMA ends.

In light of the issues raised in this letter, it may be of interest of the Committee to examine the Serco Caledonian Sleeper contract in more detail and address what RMT believes to be a lack of transparency on this matter on the part of the Scottish Government.

Yours Sincerely,

Mick Lynch
General Secretary

CC: Richard Leonard MSP
Monica Lennon MSP
Mark Ruskell MSP
Mercedes Villalba MSP

¹ See [here](#), [here](#) and [here](#).