



# Railways Act 1993

## 1993 CHAPTER 43

### PART III

#### MISCELLANEOUS, GENERAL AND SUPPLEMENTAL PROVISIONS

##### *Financial provisions*

#### **136 Grants and subsidies**

- (1) The Secretary of State shall continue to be the competent authority of Great Britain in relation to the railways financial status regulations.
- (2) The Secretary of State shall be the competent authority of Great Britain, in relation to persons who operate services for the carriage of goods by railway, for the purposes of the public service obligations regulations.
- (3) The following persons, that is to say—
  - (a) the Secretary of State,
  - (b) the Franchising Director,
  - (c) to the extent specified in subsection (4) below, every Passenger Transport Executive, and
  - (d) to the extent specified in subsection (5) below—
    - (i) every non-metropolitan county or district council in England or in Wales and every regional or islands council in Scotland, and
    - (ii) every London borough council and the Common Council of the City of London,shall each be the competent authority of Great Britain in relation to passenger service operators for the purposes of the public service obligations regulations.
- (4) For the purposes of subsection (3) above, a Passenger Transport Executive shall only be the competent authority in relation to those railway passenger services—
  - (a) which the Executive provides, or secures are provided, by virtue of section 10(1) or 20(2)(b) of the Transport Act 1968; or

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- (b) which, in consequence of their being specified in a statement submitted to the Franchising Director under subsection (5) of section 34 above, are provided under a franchise agreement to which the Executive is a party.
- (5) For the purposes of subsection (3) above—
- (a) a council falling within paragraph (d)(i) of that subsection shall only be the competent authority in relation to those railway passenger services whose provision the council secures under section 63 of the Transport Act 1985 (passenger transport in areas other than passenger transport areas); and
- (b) a council falling within paragraph (d)(ii) of that subsection shall only be the competent authority in relation to those railway passenger services in respect of which the council enters into and carries out agreements under section 59 of the London Regional Transport Act 1984 (provision of extra transport services in London).
- (6) The Secretary of State and the Franchising Director may each, in his capacity as competent authority by virtue of subsection (3) above, give directions to any passenger service operator imposing on him obligations with respect to the provision or operation of railway passenger services.
- (7) It shall fall to the Secretary of State or the Franchising Director to make any payments of compensation which are required to be made to a passenger service operator by any provision of the public service obligations regulations in respect of any obligations imposed on that operator by directions under subsection (6) above, and the Secretary of State or the Franchising Director may, subject to and in accordance with the provisions of those regulations, determine the manner of calculating, and the conditions applicable to, those payments.
- (8) The power of giving directions under subsection (6) above shall be so exercised that the aggregate amount of any compensation payable under the public service obligations regulations, for periods ending after 1st April 1992, in respect of all obligations imposed by directions under that subsection shall not exceed £3,000 million or such greater sum not exceeding £5,000 million as the Secretary of State may by order specify.
- (9) A statutory instrument containing an order under subsection (8) above shall not be made unless a draft of the instrument has been laid before and approved by a resolution of the House of Commons.
- (10) Without prejudice to any right which the Secretary of State or the Franchising Director may have under this Act to bring civil proceedings in respect of any contravention or apprehended contravention of any directions under subsection (6) above, the obligations imposed by any such directions shall not give rise to any form of duty or liability enforceable against a passenger service operator by proceedings before any court to which the passenger service operator would not otherwise be subject.
- (11) In this section—
- “the public service obligations regulations” means Council Regulation (EEC) No. 1191/69 on public service obligations in transport, as amended by Council Regulation (EEC) No. 1893/91;
- “the railways financial status regulations” means Council Regulation (EEC) No. 1192/69 on common rules with respect to the financial status of railway undertakings.

- (12) Expressions used in this section and in Part I above have the same meaning in this section as they have in that Part.
- (13) Section 3 of the Railways Act 1974 (which is superseded by this section) shall cease to have effect.

**137 Payments by the Secretary of State in respect of track access charges in connection with railway goods services**

- (1) The Secretary of State may, for the purpose of securing the provision of adequate services for the carriage of goods by railway, enter into agreements with goods service operators under which he undertakes to make payments to the goods service operator in question in respect of all or any part of the track access charges which may be incurred by the goods service operator in connection with the provision of the services to which the agreement relates.
- (2) The Secretary of State shall not enter into an agreement by virtue of subsection (1) above unless he is satisfied that benefits of a social or environmental nature are likely to result from the provision of those services for the carriage of goods by railway to which the agreement relates.
- (3) Any sums required by the Secretary of State for making payments under agreements entered into by virtue of this section shall be paid out of money provided by Parliament.
- (4) In this section—  
“goods service operator” means a person who operates services for the carriage of goods by railway;  
“track access charge” means any payment required to be made under an access agreement conferring any permission or right to use track;  
and expressions used in this section and in Part I above have the same meaning in this section as they have in that Part.

**138 Grants and other payments towards facilities for public passenger transport to and from airports, harbours etc**

- (1) Section 56 of the Transport Act 1968 (Ministerial grants and local authority payments towards capital expenditure incurred in the provision, improvement or development of facilities for public passenger transport) shall be amended in accordance with the following provisions of this section.
- (2) After subsection (2) there shall be inserted—  
“(2A) Where a relevant local authority proposes to make payments under subsection (2) of this section in respect of any facilities, that authority may enter into an agreement with the Franchising Director under which the Franchising Director undertakes to exercise franchising functions of his, to refrain from exercising such functions, or to exercise such functions in a particular manner, in relation to the use of the facilities in question.  
(2B) In subsection (2A) of this section, the following expressions have the following meanings respectively, that is to say—

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“the Franchising Director” means the Director of Passenger Rail Franchising;

“franchising functions”, in relation to the Franchising Director, has the same meaning as it has in relation to him in section 54 of the Railways Act 1993;

“relevant local authority” means—

- (a) a non-metropolitan county or district council in England or in Wales;
- (b) a London borough council or the Common Council of the City of London; or
- (c) a regional or islands council in Scotland;

and any reference to a relevant local authority shall be taken to include a reference to any two or more such authorities acting jointly.”

- (3) That section shall have effect, and be taken always to have had effect, with the insertion after subsection (3) (which prevents the making of any such grants or payments for the purposes of the provision, improvement or development of an airfield, harbour, dock, pier or jetty) of the following subsection—

“(3A) Nothing in subsection (3) of this section precludes the making of grants under subsection (1) or payments under subsection (2) thereof for the purposes of the provision, improvement or development of facilities for or in connection with public passenger transport by land to or from an airfield, harbour, dock, pier or jetty.”

### **139 Grants to assist the provision of facilities for freight haulage by railway**

- (1) The Secretary of State may, out of money provided by Parliament, make grants in accordance with this section towards the provision of any facilities which are to be provided for or in connection with the carriage of goods by railway or the loading or unloading of goods carried or intended to be carried by railway.
- (2) The Secretary of State shall not make a grant under this section unless he is satisfied—
- (a) that, if the facilities in question are provided, they will be used for or in connection with the carriage, or the loading or unloading, of goods of particular classes or descriptions;
  - (b) that if the facilities are not provided, those goods will be carried by road; and
  - (c) that it is in the public interest for those goods to be carried by railway.
- (3) Grants under this section shall only be made towards expenditure which appears to the Secretary of State to be expenditure of a capital nature which is to be incurred in providing the facilities in question.
- (4) Without prejudice to the generality of subsection (1) above, the facilities towards the provision of which grants under this section may be made include track, rolling stock, depots, access roads and equipment for use in connection with the carriage, loading or unloading of goods.
- (5) No grant under this section shall be made except in pursuance of an application made to the Secretary of State by the person who intends to provide the facilities; and any such application shall be supported by such evidence as the Secretary of State may require with respect to—

- (a) the use which is to be made of the facilities for or in connection with the carriage of goods by railway or the loading or unloading of goods carried or intended to be carried by railway;
  - (b) the amount and destination of the goods in connection with which the facilities are to be used; and
  - (c) the matters as to which he is required by subsection (2)(b) and (c) above to be satisfied if he is to make a grant under this section.
- (6) The Secretary of State may, in making a grant under this section, impose such terms and conditions as he thinks fit.
- (7) Expressions used in this section and in Part I above have the same meaning in this section as they have in that Part.
- (8) Section 8 of the Railways Act 1974 (freight facilities grants) shall cease to have effect.

#### **140 Grants to assist the provision of facilities for freight haulage by inland waterway**

- (1) The Secretary of State may, out of money provided by Parliament, make grants in accordance with this section towards the provision of any facilities which are to be provided for or in connection with the carriage of goods by inland waterway or the loading or unloading of goods carried or intended to be carried by inland waterway.
- (2) The Secretary of State shall not make a grant under this section unless he is satisfied—
- (a) that, if the facilities in question are provided, they will be used for or in connection with the carriage, or the loading or unloading, of goods of particular classes or descriptions;
  - (b) that if the facilities are not provided, those goods will be carried by road; and
  - (c) that it is in the public interest for those goods to be carried by inland waterway.
- (3) Grants under this section shall only be made towards expenditure which appears to the Secretary of State to be expenditure of a capital nature which is to be incurred in providing the facilities in question.
- (4) Without prejudice to the generality of subsection (1) above, the facilities towards the provision of which grants under this section may be made include cargo-carrying craft, inland waterway terminals, wharves, access roads and equipment for use in connection with the carriage, loading or unloading of goods.
- (5) No grant under this section shall be made except in pursuance of an application made to the Secretary of State by the person who intends to provide the facilities; and any such application shall be supported by such evidence as the Secretary of State may require with respect to—
- (a) the use which is to be made of the facilities for or in connection with the carriage of goods by inland waterway or the loading or unloading of goods carried or intended to be carried by inland waterway;
  - (b) the amount and destination of the goods in connection with which the facilities are to be used; and
  - (c) the matters as to which he is required by subsection (2)(b) and (c) above to be satisfied if he is to make a grant under this section.
- (6) The Secretary of State may, in making a grant under this section, impose such terms and conditions as he thinks fit.

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- (7) In this section—
- “goods” has the same meaning as in Part I above;
  - “inland waterway” includes every such waterway, whether natural or artificial.
- (8) Section 36 of the Transport Act 1981 (grants to assist the provision of facilities for freight haulage by inland waterway) shall cease to have effect.

**141 Financial assistance for employees seeking to acquire franchises or parts of the Board’s undertaking etc**

- (1) If it appears to the Board that any persons employed by the Board, or by any subsidiary of the Board, are taking steps towards—
- (a) the submission of such a tender as is mentioned in section 26 above, or
  - (b) the making of an offer for any part of the Board’s undertaking or for any shares of any subsidiary of the Board,
- the Board may provide financial assistance to those persons for the purpose of defraying, in whole or in part, any expenses incurred or to be incurred by them for the purposes of the submission of the tender or the making of the offer.
- (2) Without prejudice to the generality of the expression, “steps” includes, for the purposes of subsection (1) above, the formation of, or the acquisition of interests in, a company (in this subsection referred to as an “employees’ company”); and accordingly—
- (a) any reference in that subsection to the submission of a tender or to the making of an offer includes a reference to the submission of a tender or, as the case may be, to the making of an offer by an employees’ company; and
  - (b) the reference to expenses incurred or to be incurred by those persons includes a reference to expenses incurred or to be incurred by an employees’ company.
- (3) The Secretary of State may give the Board directions with respect to the provision of financial assistance under this section.
- (4) Without prejudice to the generality of subsection (3) above, any such direction may, in particular—
- (a) specify a limit on the total amount of the financial assistance which may be provided under this section or on the amount, or the total amount, which may be so provided—
    - (i) in cases of any particular class or description specified in the direction; or
    - (ii) during any period or periods so specified; or
  - (b) require the provision of any such financial assistance by the Board to be subject to conditions, including conditions as to repayment.
- (5) Expressions used in this section and in Part I or II above have the same meaning in this section as they have in that Part.

**142 General financial provisions**

There shall be paid out of money provided by Parliament—

- (a) any administrative expenses incurred by the Secretary of State or the Treasury in consequence of the provisions of this Act; and

- (b) any increase attributable to this Act in the sums payable out of money so provided under any other Act.