



Railways Act 2005

2005 CHAPTER 14

PART 4

NETWORK MODIFICATIONS ETC.

VALID FROM 01/12/2006

Discontinuance of railway passenger services

22 Proposal by service operator to discontinue non-franchised services

- (1) This section applies where—
- (a) all the relevant railway passenger services on a particular line or from a particular station are provided otherwise than in satisfaction of requirements imposed by a franchise agreement;
 - (b) a proposal for the discontinuance of all the relevant railway passenger services provided on that line, or from that station, is made by the person providing them (“the service operator”); and
 - (c) the proposal is not a proposal for a minor modification.
- (2) The references in subsection (1) to relevant railway passenger services are references to railway passenger services that are not—
- (a) secured services;
 - (b) experimental passenger services;
 - (c) services involving travel through the Channel Tunnel;
 - (d) services that are provided otherwise than as regular scheduled services for the line or station in question; or
 - (e) services excluded from the application of this section by an order under section 38.
- (3) The service operator must give notice to the national authority setting out—
- (a) particulars of the proposal to discontinue those services; and

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- (b) a summary of the results of the assessment carried out in accordance with subsection (5).
- (4) The particulars set out in the notice must include, in particular—
 - (a) the services to which the proposal relates; and
 - (b) the proposal date;
and the proposal date must be a date not less than three months after the date of the notice.
- (5) Before giving the notice under subsection (3), the service operator must carry out an assessment of whether the proposal satisfies the criteria set out in the relevant part of the closures guidance; and that assessment must be carried out in accordance with that guidance.
- (6) The national authority to which a notice is given under subsection (3) must—
 - (a) consider whether the closure in question should be allowed; and
 - (b) before the proposal date, form an opinion on that matter in accordance with the criteria set out in the relevant part of the closures guidance.
- (7) If the national authority forms the opinion that the closure should be allowed, it must—
 - (a) carry out a consultation under Schedule 7 about the proposal; and
 - (b) after carrying out that consultation, either notify the service operator that it has changed its opinion or refer the proposal (with or without modifications) to the Office of Rail Regulation.
- (8) The service operator must not discontinue the services in question before the end of the interim period.
- (9) If—
 - (a) the national authority forms the opinion under subsection (6)(b) that the closure should not be allowed,
 - (b) the national authority changes its opinion following the consultation under subsection (7)(a), or
 - (c) on a reference to the Office of Rail Regulation under subsection (7)(b), that Office issues a closure non-ratification notice,
the national authority must secure the provision of the services to which proposal relates after the end of the interim period.
- (10) The duty imposed by subsection (9) in relation to any services ceases if the services begin to be provided under a franchise agreement.
- (11) In this section “the national authority”—
 - (a) in relation to a proposal relating to services all of which are Scotland-only services, means the Scottish Ministers; and
 - (b) in any other case, means the Secretary of State.

23 Proposal by funding authority to discontinue non-franchised services

- (1) This section applies where—
 - (a) all the relevant railway passenger services on a particular line or from a particular station are provided otherwise than in satisfaction of requirements imposed by a franchise agreement;

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- (b) a proposal for the discontinuance of all the relevant railway passenger services provided on that line, or from that station, is made, in accordance with section 41, by a railway funding authority; and
 - (c) the proposal is not a proposal for a minor modification.
- (2) The references in subsection (1) to relevant railway passenger services are references to railway passenger services that are not—
 - (a) secured services;
 - (b) experimental passenger services;
 - (c) services involving travel through the Channel Tunnel;
 - (d) services that are provided otherwise than as regular scheduled services for the line or station in question; or
 - (e) services excluded from the application of this section by an order under section 38.
- (3) The railway funding authority making the proposal must—
 - (a) give notice of its proposal to the national authority, if it is not itself that authority;
 - (b) carry out a consultation under Schedule 7 about the proposal; and
 - (c) after carrying out that consultation, either withdraw the proposal or refer the proposal (with or without modifications) to the Office of Rail Regulation.
- (4) A notice to the national authority under subsection (3)(a) must set out—
 - (a) particulars of the proposal for the closure including, in particular—
 - (i) the services to which the proposal relates; and
 - (ii) the proposal date; and
 - (b) a summary of the results of the assessment carried out in accordance with subsection (5).
- (5) Before—
 - (a) giving a notice under subsection (3)(a), in a case where it is not itself the national authority, or
 - (b) in any other case, carrying out the consultation under subsection (3)(b),the railway funding authority making the proposal must carry out an assessment of whether the proposal satisfies the criteria set out in the relevant part of the closures guidance; and that assessment must be carried out in accordance with that guidance.
- (6) If arrangements under or in accordance with which the services are being provided do not require the services to be provided until the end of the interim period, the national authority must secure the provision of the services until the end of that period.
- (7) If on a reference under subsection (3)(c) the Office of Rail Regulation issues a closure non-ratification notice, the national authority must secure the provision of the services to which the proposal relates after the end of the interim period.
- (8) The duty imposed by subsection (7) in relation to any services ceases if the services begin to be provided under a franchise agreement.
- (9) In this section “the national authority”—
 - (a) in relation to a proposal relating to services all of which are Scotland-only services, means the Scottish Ministers; and
 - (b) in any other case, means the Secretary of State.

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24 Proposals to discontinue franchised or secured services

- (1) This section applies where—
 - (a) all the relevant railway passenger services on a particular line or from a particular station fall within subsection (2);
 - (b) a proposal for the discontinuance of all the relevant railway passenger services provided on that line, or from that station, is made, in accordance with section 41, by a railway funding authority; and
 - (c) the proposal is not a proposal for a minor modification.
- (2) A service falls within this subsection if it is—
 - (a) a franchised service; or
 - (b) a secured service.
- (3) The references in subsection (1) to relevant railway passenger services are references to railway passenger services that are not—
 - (a) experimental passenger services;
 - (b) services involving travel through the Channel Tunnel;
 - (c) services that are provided otherwise than as regular scheduled services for the line or station in question; or
 - (d) services excluded from the application of this section by an order under section 38.
- (4) The railway funding authority making the proposal must—
 - (a) give notice of its proposal to the national authority, if it is not itself that authority;
 - (b) carry out a consultation under Schedule 7 about the proposal; and
 - (c) after carrying out that consultation, either withdraw the proposal or refer the proposal (with or without modifications) to the Office of Rail Regulation.
- (5) A notice to the national authority under subsection (4)(a) must set out—
 - (a) particulars of the proposal for the closure including, in particular—
 - (i) the services to which the proposal relates; and
 - (ii) the proposal date; and
 - (b) a summary of the results of the assessment carried out in accordance with subsection (6).
- (6) Before—
 - (a) giving a notice under subsection (4)(a), in a case where it is not itself the national authority, or
 - (b) in any other case, carrying out the consultation under subsection (4)(b),the railway funding authority making the proposal must carry out an assessment of whether the proposal satisfies the criteria set out in the relevant part of the closures guidance; and that assessment must be carried out in accordance with that guidance.
- (7) If the franchise agreement or any other arrangement under or in accordance with which the services are being provided does not require the services to be provided until the end of the interim period, the national authority must secure the provision of the services until the end of that period.

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- (8) If on a reference under subsection (4)(c) the Office of Rail Regulation issues a closure non-ratification notice, the national authority must secure the provision of the services to which the proposal relates after the end of the interim period.
- (9) The duty of the national authority under subsection (8)—
- (a) is discharged without its taking further steps so long as the provisions of the franchise agreement or other arrangements, in force at the time of the proposal, so far as they require the provision of the services, continue in force without modification; and
 - (b) ceases if the services begin to be provided under a franchise agreement.
- (10) Nothing in subsection (7) or (8) requires the Secretary of State to secure the provision of a Welsh service unless it appears to him that he will be receiving funds from the National Assembly for Wales that are reasonably equivalent to those provided by the Assembly in respect of the service previously provided.
- (11) In this section “the national authority”—
- (a) in relation to a proposal relating to services all of which are—
 - (i) Scotland-only services, or
 - (ii) relevant cross-border services,means the Scottish Ministers; and
 - (b) in any other case, means the Secretary of State.
- (12) For the purposes of subsection (11), a cross-border service is a “relevant cross-border service” if it—
- (a) does not begin or end or otherwise make a scheduled call in Wales; and
 - (b) is a service in respect of which more funding is provided by the Scottish Ministers than the Secretary of State.

25 Proposal to discontinue excluded services

- (1) Where a proposal for the discontinuance of all the excluded services provided by a particular person (“the service operator”) on a particular line, or from a particular station, is made by the service operator—
- (a) the following provisions of this section apply to so much of the proposal as relates to special procedure excluded services which are not excluded London services; and
 - (b) Schedule 8 applies to so much of it as relates to special procedure excluded services which are excluded London services.
- (2) The service operator must give notice to the national authority setting out—
- (a) particulars of the proposal to discontinue the services; and
 - (b) a summary of the results of the assessment carried out in accordance with subsection (4).
- (3) The particulars set out in the notice must include, in particular—
- (a) the services to which the proposal relates; and
 - (b) the proposal date;
- and the proposal date must be a date not less than three months after the date of the notice.

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- (4) Before giving the notice under subsection (2), the service operator must carry out an assessment of whether the proposal satisfies the criteria set out in the relevant part of the closures guidance; and that assessment must be carried out in accordance with that guidance.
- (5) The national authority to which a notice is given under subsection (2) must—
- (a) consider whether the closure in question should be allowed; and
 - (b) before the proposal date, form an opinion on that matter in accordance with the criteria set out in the relevant part of the closures guidance.
- (6) If the national authority is of the opinion that the closure should be allowed, it must—
- (a) carry out a consultation under Schedule 7 about the proposal; and
 - (b) after carrying out that consultation, either notify the service operator that it has changed its opinion or refer the proposal (with or without modifications) to the Office of Rail Regulation;
- and the service operator must not discontinue the services in question before the Office of Rail Regulation has issued a closure ratification notice.
- (7) In this section—
- “excluded service” means a railway passenger service other than one which is—
- (a) a relevant railway passenger service for the purposes of any of sections 22(1), 23(1) and 24(1); or
 - (b) an experimental passenger service;
- “excluded London service” means an excluded service which—
- (a) is provided by Transport for London or a subsidiary of Transport for London; or
 - (b) is designated as a London service for the purposes of this section by an order made by the Secretary of State, or is of a description of services so designated;
- “special procedure excluded service” means an excluded service which is designated as a special procedure service for the purposes of this section by an order made by the national authority, or is of a description of services so designated;
- “the national authority”—
- (a) in relation to a proposal relating to one or more services each of which is—
 - (i) a Scotland-only service, or
 - (ii) a cross-border service in relation to which no funding is provided by a railway funding authority other than the Scottish Ministers,

means those Ministers; and
 - (b) in any other case, means the Secretary of State.
- (8) A service may be designated by order made by the Secretary of State as a London service for the purposes of this section, or may fall within a description of services so designated, only if it is a service that begins and ends in Greater London and does not otherwise make any scheduled call outside Greater London.

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- (9) An order under this section designating an excluded service, or a description of excluded service—
- (a) as a London service, or
 - (b) as a special procedure service,
- is subject to the negative resolution procedure.
- (10) Where any order under section 49(3) of the 1993 Act (application of Schedule 5 to that Act) is in force immediately before the commencement of this section, that order shall have effect after commencement of this section as an order under this section designating any services, or descriptions of service, to which it applies as special procedure services; and any other service, or description of services, which immediately before the commencement of this section is treated as a service, or description of services, in relation to which Schedule 5 to that Act is to have effect is to be treated after commencement of this section as designated by an order under this section as a special procedure service, or description of special procedure services.
- (11) Where any order under paragraph 5A(1)(b)(ii) of Schedule 5 to that Act (application of that Schedule to London services) is in force immediately before the commencement of this section, that order shall have effect after commencement of this section as an order under this section designating any services, or descriptions of service, to which it applies as London services.
- (12) For the purposes of this section (apart from the reference, in the definition of “excluded service” in subsection (7), to “relevant railway passenger service”) “railway” has its wider meaning.

VALID FROM 01/12/2006

Discontinuance of operation of passenger networks

26 Proposal by operator to close passenger network

- (1) This section applies where—
- (a) the operator of a network proposes to discontinue the operation of the network or of some part of it;
 - (b) the network or, as the case may be, that part of it has, at any time within the preceding five years, been used for or in connection with the provision of services for the carriage of passengers by railway;
 - (c) the network or that part of it is not secured;
 - (d) the network or that part of it is not excluded from the application of this section by an order under section 38; and
 - (e) the proposal is not a proposal for a minor modification.
- (2) Use for or in connection with the provision of any of the following services is to be disregarded for the purposes of subsection (1)(b)—
- (a) an experimental passenger service;
 - (b) a service involving travel through the Channel Tunnel;
 - (c) a service that is provided otherwise than as a regular scheduled service.
- (3) The operator must give notice to the national authority setting out—

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- (a) particulars of the proposal for the closure in question; and
 - (b) a summary of the results of the assessment carried out in accordance with subsection (5).
- (4) The particulars set out in the notice must include, in particular—
- (a) the network, or part of a network, to which the proposal relates; and
 - (b) the proposal date;
- and the proposal date must be a date not less than three months after the date of the notice.
- (5) Before giving the notice under subsection (3), the operator must carry out an assessment of whether the proposal satisfies the criteria set out in the relevant part of the closures guidance; and that assessment must be carried out in accordance with that guidance.
- (6) The national authority to which a notice is given under subsection (3) must—
- (a) consider whether the closure in question should be allowed; and
 - (b) before the proposal date, form an opinion on that matter in accordance with the criteria set out in the relevant part of the closures guidance.
- (7) If the national authority forms the opinion that the closure should be allowed, it must—
- (a) carry out a consultation under Schedule 7 about the proposal; and
 - (b) after carrying out that consultation, either notify the operator that it has changed its opinion or refer the proposal (with or without modifications) to the Office of Rail Regulation.
- (8) The operator must not discontinue the operation of the network, or part of a network, in question before the end of the interim period.
- (9) If—
- (a) the national authority forms the opinion under subsection (6)(b) that the closure should not be allowed,
 - (b) the national authority changes its opinion following the consultation under subsection (7)(a), or
 - (c) on a reference to the Office of Rail Regulation under subsection (7)(b), that Office issues a closure non-ratification notice,
- the national authority must secure the continued operation of the network, or part of a network, in question after the end of the interim period.
- (10) In this section “the national authority”—
- (a) in relation to a proposal relating to a network or part of a network that is wholly in Scotland, means the Scottish Ministers; and
 - (b) in relation to a network or part of a network that is wholly in England and Wales, means the Secretary of State;
- and a proposal that relates to a network or part of a network that is partly in England and Wales and partly in Scotland is to be treated for the purposes of this section as two separate proposals, one in relation to the part in England and Wales and one in relation to the part in Scotland.

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27 Proposal by funding authority to close passenger network

- (1) This section applies where—
 - (a) a railway funding authority makes a proposal, in accordance with section 41, that the operation of a network or of some part of it should be discontinued;
 - (b) the network or, as the case may be, that part of it has, at any time within the preceding five years, been used for or in connection with the provision of services for the carriage of passengers by railway;
 - (c) the network or that part of it is not secured;
 - (d) the network or that part of it is not excluded from the application of this section by an order under section 38; and
 - (e) the proposal is not a proposal for a minor modification.
- (2) Use for or in connection with the provision of any of the following services is to be disregarded for the purposes of subsection (1)(b)—
 - (a) an experimental passenger service;
 - (b) a service involving travel through the Channel Tunnel;
 - (c) a service that is provided otherwise than as a regular scheduled service.
- (3) The railway funding authority making the proposal must—
 - (a) give notice of its proposal to the national authority, if it is not itself that authority;
 - (b) carry out a consultation under Schedule 7 about the proposal; and
 - (c) after carrying out that consultation, either withdraw the proposal or refer the proposal (with or without modifications) to the Office of Rail Regulation.
- (4) A notice to the national authority under subsection (3)(a) must set out—
 - (a) particulars of the proposal for the closure including, in particular—
 - (i) the network, or part of a network, to which the proposal relates; and
 - (ii) the proposal date; and
 - (b) a summary of the results of the assessment carried out in accordance with subsection (5).
- (5) Before—
 - (a) giving the notice under subsection (3)(a), in a case where it is not itself the national authority, or
 - (b) in any other case, carrying out the consultation under subsection (3)(b),the railway funding authority making the proposal must carry out an assessment of whether the proposal satisfies the criteria set out in the relevant part of the closures guidance; and that assessment must be carried out in accordance with that guidance.
- (6) If arrangements under or in accordance with which the network, or part of a network, is being operated do not require it to be operated until the end of the interim period, the national authority must secure the operation of the network, or that part of it, until the end of that period.
- (7) If on a reference under subsection (3)(c) the Office of Rail Regulation issues a closure non-ratification notice, the national authority must secure the continued operation of the network, or part of a network, in question after the end of the interim period.
- (8) In this section “the national authority”—

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- (a) in relation to a proposal relating to a network or part of a network that is wholly in Scotland, means the Scottish Ministers; and
- (b) in relation to a proposal relating to a network or part of a network that is wholly in England and Wales, means the Secretary of State;

and a proposal that relates to a network or part of a network that is partly in England and Wales and partly in Scotland is to be treated for the purposes of this section as two separate proposals, one in relation to the part in England and Wales and one in relation to the part in Scotland.

28 Proposal to discontinue operation of secured network

- (1) This section applies where—
 - (a) a railway funding authority makes a proposal, in accordance with section 41, that the operation of a secured network or of a secured part of a network should be discontinued;
 - (b) the network or, as the case may be, that part of it has, at any time within the preceding five years, been used for or in connection with the provision of services for the carriage of passengers by railway;
 - (c) the network or part of it is not excluded from the application of this section by an order under section 38; and
 - (d) the proposal is not a proposal for a minor modification.
- (2) Use for or in connection with the provision of any of the following services is to be disregarded for the purposes of subsection (1)(b)—
 - (a) an experimental passenger service;
 - (b) a service involving travel through the Channel Tunnel;
 - (c) a service that is provided otherwise than as a regular scheduled service.
- (3) The railway funding authority making the proposal must—
 - (a) give notice of its proposal to the national authority, if it is not itself that authority;
 - (b) carry out a consultation under Schedule 7 about the proposal; and
 - (c) after carrying out that consultation, either withdraw the proposal or refer the proposal (with or without modifications) to the Office of Rail Regulation.
- (4) A notice to the national authority under subsection (3)(a) must set out—
 - (a) particulars of the proposal for the closure including, in particular—
 - (i) the network, or part of a network, to which the proposal relates; and
 - (ii) the proposal date; and
 - (b) a summary of the results of the assessment carried out in accordance with subsection (5).
- (5) Before—
 - (a) giving the notice under subsection (3)(a), in a case where it is not itself the national authority, or
 - (b) in any other case, carrying out the consultation under subsection (3)(b),
 the railway funding authority making the proposal must carry out an assessment of whether the proposal satisfies the criteria set out in the relevant part of the closures guidance; and that assessment must be carried out in accordance with that guidance.

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- (6) If arrangements under or in accordance with which the network, or part of a network, is being operated do not require it to be operated until the end of the interim period, the national authority must secure the operation of the network, or that part of it, until the end of that period.
- (7) If on a reference under subsection (3)(c) the Office of Rail Regulation issues a closure non-ratification notice, the national authority must secure the continued operation of the network, or part of a network, in question after the end of the interim period.
- (8) The duty of the national authority under subsection (7) is discharged without its taking further steps so long as the provisions of the arrangements, in force at the time of the proposal, so far as they require the operation of the network or part of a network, continue in force without modification.
- (9) In this section “the national authority”—
 - (a) in relation to a proposal relating to a network or part of a network that is wholly in Scotland, means the Scottish Ministers; and
 - (b) in relation to a proposal relating to a network or part of a network that is wholly in England and Wales, means the Secretary of State;and a proposal that relates to a network or part of a network that is partly in England and Wales and partly in Scotland is to be treated for the purposes of this section as two separate proposals, one in relation to the part in England and Wales and one in relation to the part in Scotland.

VALID FROM 01/12/2006

Discontinuance of use or operation of stations

29 Proposal by operator to close station

- (1) This section applies where—
 - (a) the operator of a station proposes to discontinue the use of a station or of some part of it;
 - (b) the station or, as the case may be, that part of it has, at any time within the preceding five years, been used for or in connection with the provision of services for the carriage of passengers by railway;
 - (c) the station or that part of it is not secured;
 - (d) the station or that part of it is not excluded from the application of this section by an order under section 38; and
 - (e) the proposal is not a proposal for a minor modification.
- (2) Use for or in connection with the provision of any of the following services is to be disregarded for the purposes of subsection (1)(b)—
 - (a) an experimental passenger service;
 - (b) a service involving travel through the Channel Tunnel;
 - (c) a service that is provided otherwise than as a regular scheduled service.
- (3) The operator must give notice to the national authority setting out—
 - (a) particulars of the proposal for the closure in question; and

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- (b) a summary of the results of the assessment carried out in accordance with subsection (5).
- (4) The particulars set out in the notice must include, in particular—
 - (a) the station, or part of a station, to which the proposal relates; and
 - (b) the proposal date;
and the proposal date must be a date not less than three months after the date of the notice.
- (5) Before giving the notice under subsection (3), the operator must carry out an assessment of whether the proposal satisfies the criteria set out in the relevant part of the closures guidance; and that assessment must be carried out in accordance with that guidance.
- (6) The national authority to which a notice is given under subsection (3) must—
 - (a) consider whether the closure in question should be allowed; and
 - (b) before the proposal date, form an opinion on that matter in accordance with the criteria set out in the relevant part of the closures guidance.
- (7) If the national authority forms the opinion that the closure should be allowed, it must—
 - (a) carry out a consultation under Schedule 7 about the proposal; and
 - (b) after carrying out that consultation, either notify the operator that it has changed its opinion or refer the proposal (with or without modifications) to the Office of Rail Regulation.
- (8) The operator must not discontinue the use of the station, or part of a station, before the end of the interim period.
- (9) If—
 - (a) the national authority forms the opinion under subsection (6)(b) that the closure should not be allowed,
 - (b) the national authority changes its opinion following the consultation under subsection (7)(a), or
 - (c) on a reference to the Office of Rail Regulation under subsection (7)(b), that Office issues a closure non-ratification notice,
the national authority must secure the continued operation of the station, or part of a station, in question after the end of the interim period.
- (10) In this section “the national authority”—
 - (a) in relation to a proposal relating to a station or part of a station that is wholly in Scotland, means the Scottish Ministers; and
 - (b) in relation to a station or part of a station that is wholly in England and Wales, means the Secretary of State.

30 Proposal by funding authority to close station

- (1) This section applies where—
 - (a) a railway funding authority makes a proposal, in accordance with section 41, that the operation of a station or of some part of it should be discontinued;

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- (b) the station or, as the case may be, that part of it has at any time within the preceding five years, been used for or in connection with the provision of services for the carriage of passengers by railway;
 - (c) the station or that part of it is not secured;
 - (d) the station or that part of it is not excluded from the application of this section by an order under section 38; and
 - (e) the proposal is not a proposal for a minor modification.
- (2) Use for or in connection with the provision of any of the following services is to be disregarded for the purposes of subsection (1)(b)—
- (a) an experimental passenger service;
 - (b) a service involving travel through the Channel Tunnel;
 - (c) a service that is provided otherwise than as a regular scheduled service.
- (3) The railway funding authority making the proposal must—
- (a) give notice of its proposal to the national authority, if it is not itself that authority;
 - (b) carry out a consultation under Schedule 7 about the proposal; and
 - (c) after carrying out that consultation, either withdraw the proposal or refer the proposal (with or without modifications) to the Office of Rail Regulation.
- (4) A notice to the national authority under subsection (3)(a) must set out—
- (a) particulars of the proposal for the closure including, in particular—
 - (i) the station, or part of a station, to which the proposal relates; and
 - (ii) the proposal date; and
 - (b) a summary of the results of the assessment carried out in accordance with subsection (5).
- (5) Before—
- (a) giving the notice under subsection (3)(a), in a case where it is not itself the national authority, or
 - (b) in any other case, carrying out the consultation under subsection (3)(b),
- the railway funding authority making the proposal must carry out an assessment of whether the proposal satisfies the criteria set out in the relevant part of the closures guidance; and that assessment must be carried out in accordance with that guidance.
- (6) If arrangements under or in accordance with which the station or part of a station is being operated do not require it to be operated until the end of the interim period, the national authority must secure the operation of the station, or that part of it, until the end of that period.
- (7) If on a reference under subsection (3)(c) the Office of Rail Regulation issues a closure non-ratification notice, the national authority must secure the continued operation of the station, or part of a station, in question after the end of the interim period.
- (8) In this section “the national authority”—
- (a) in relation to a proposal relating to a station or part of a station that is wholly in Scotland, means the Scottish Ministers; and
 - (b) in relation to a proposal relating to a station or part of a station that is wholly in England and Wales, means the Secretary of State.

Status: Point in time view as at 07/02/2006. This version of this part contains provisions that are not valid for this point in time.

*Changes to legislation: There are currently no known outstanding effects
for the Railways Act 2005, Part 4. (See end of Document for details)*

31 Proposal to discontinue operation of secured station

- (1) This section applies where—
 - (a) a railway funding authority makes a proposal, in accordance with section 41, that the operation of a secured station or of a secured part of a station should be discontinued;
 - (b) the station or, as the case may be, that part of it has, at any time within the preceding five years, been used for or in connection with the provision of services for the carriage of passengers by railway;
 - (c) the station or that part of it is not excluded from the application of this section by an order under section 38; and
 - (d) the proposal is not a proposal for a minor modification.
- (2) Use for or in connection with the provision of any of the following services is to be disregarded for the purposes of subsection (1)(b)—
 - (a) an experimental passenger service;
 - (b) a service involving travel through the Channel Tunnel;
 - (c) a service that is provided otherwise than as a regular scheduled service.
- (3) The railway funding authority making the proposal must—
 - (a) give notice of its proposal to the national authority, if it is not itself that authority;
 - (b) carry out a consultation under Schedule 7 about the proposal; and
 - (c) after carrying out that consultation, either withdraw the proposal or refer the proposal (with or without modifications) to the Office of Rail Regulation.
- (4) A notice to the national authority under subsection (3)(a) must set out—
 - (a) particulars of the proposal for the closure including, in particular—
 - (i) the station, or part of a station, to which the proposal relates; and
 - (ii) the proposal date; and
 - (b) a summary of the results of the assessment carried out in accordance with subsection (5).
- (5) Before—
 - (a) giving the notice under subsection(3)(a) , in a case where it is not itself the national authority, or
 - (b) in any other case, carrying out the consultation under subsection (3)(b),

the railway funding authority making the proposal must carry out an assessment of whether the proposal satisfies the criteria set out in the relevant part of the closures guidance; and that assessment must be carried out in accordance with that guidance.
- (6) If arrangements under or in accordance with which the station, or part of a station, is being operated do not require it to be operated until the end of the interim period, the national authority must secure the operation of the station, or that part of it, until the end of that period.
- (7) If on a reference under subsection (3)(c) the Office of Rail Regulation issues a closure non-ratification notice, the national authority must secure the continued operation of the station, or part of a station, in question after the end of the interim period.
- (8) The duty of the national authority under subsection (7) is discharged without its taking further steps so long as the provisions of the arrangements, in force at the time

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Changes to legislation: There are currently no known outstanding effects for the Railways Act 2005, Part 4. (See end of Document for details)

of the proposal, so far as they require the operation of the station or part of a station, continue in force without modification.

- (9) In this section “the national authority”—
- (a) in relation to a proposal relating to a station or part of a station that is wholly in Scotland, means the Scottish Ministers; and
 - (b) in relation to a proposal relating to a station or part of a station that is wholly in England and Wales, means the Secretary of State.

VALID FROM 01/12/2006

References to the ORR

32 References to the ORR

- (1) This section applies to a reference of a proposal to the Office of Rail Regulation under any provision of this Part.
- (2) The reference may be made only if the person making it considers that the proposal, or (as the case may be) the proposal as modified, satisfies the criteria set out in the relevant part of the closures guidance.
- (3) The reference must set out particulars of the proposal including, in particular—
 - (a) the services or the network or station, or part of a network or station, to which the proposal relates; and
 - (b) the proposal date.
- (4) The reference must be accompanied by—
 - (a) a report by the person making the reference on the outcome of the consultation carried out by that person;
 - (b) a statement by that person as to whether the proposal that is referred is a modified proposal;
 - (c) a statement, if it is a modified proposal, setting out what modifications have been made; and
 - (d) a full assessment of whether the proposal, or (as the case may be) the proposal as modified, satisfies the criteria set out in the relevant part of the closures guidance.
- (5) The duty of the Office of Rail Regulation on the reference is—
 - (a) to consider whether the person making the reference properly carried out the consultation he was required to carry out in accordance with this Part; and
 - (b) unless it is satisfied that—
 - (i) there has been a failure or other defect in the carrying out of the consultation, and
 - (ii) the failure or defect makes it inappropriate for the Office to make the determination required by this paragraph,to determine whether the proposal, or (as the case may be) the proposal as modified, satisfies the criteria set out in the relevant part of the closures guidance.

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- (6) The person making the reference must provide the Office of Rail Regulation with all such information as it may require for the purpose of carrying out its functions under this section.
- (7) If the Office of Rail Regulation is satisfied—
- (a) that the proposal, or (as the case may be) the proposal as modified, fails to satisfy the criteria set out in the relevant part of the closures guidance, or
 - (b) that there has been a failure or other defect in the carrying out of the consultation that makes it inappropriate for that Office to make a determination of whether the proposal, or (as the case may be) the proposal as modified, satisfies those criteria,
- it must issue a notice to that effect (a “closure non-ratification notice”).
- (8) If, on completing its functions under subsection (5), the Office of Rail Regulation is not so satisfied, it must issue a notice to that effect (a “closure ratification notice”).
- (9) Where, on a reference, the Office of Rail Regulation issues a closure non-ratification notice or a closure ratification notice it must—
- (a) give a copy of that notice to every person mentioned in subsection (10); and
 - (b) require every operator of a station in the area affected by the proposal, or (as the case may be) the proposal as modified, to whom it gives a copy of the notice to secure that a copy of the notice is published by being displayed at that station until the end of the interim period.
- (10) The persons to whom a copy of the closure ratification notice or closure non-ratification notice must be given under subsection (9) are—
- (a) the person who made the reference;
 - (b) every person to whom a notice was required to be sent under paragraph 3 of Schedule 7 in the consultation relating to the proposal;
 - (c) every person otherwise consulted under that paragraph in that consultation; and
 - (d) such other persons as the Office of Rail Regulation consider appropriate.
- (11) In subsection (9) “the area affected”, in relation to a proposal, means—
- (a) in the case of a proposal for the discontinuance of services on a particular line or from a particular station, the area in which the line or station is situated;
 - (b) in the case of a proposal relating to a network, or part of a network, the area in which the network, or part of a network, is situated;
 - (c) in the case of a proposal relating to a station, or part of a station, the area served by the station, or that part.
- (12) The issue of a closure ratification notice does not authorise anything which (but for that notice) would constitute a contravention of any franchise agreement or other arrangements under or in accordance with which—
- (a) any franchised service or secured service or other railway passenger service is being provided or is being funded (whether in whole or in part); or
 - (b) any network or station or part of a network or station is being operated or is being funded (whether in whole or in part);
- and in the carrying out of any functions conferred on that Office under or in relation to any such agreement or arrangements that Office may have regard to the issue of the closure ratification notice but is not required to secure that the closure takes place.

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Changes to legislation: There are currently no known outstanding effects for the Railways Act 2005, Part 4. (See end of Document for details)

33 Closure requirements

- (1) This section applies where, following a reference under this Part, the Office of Rail Regulation issues a closure ratification notice.
- (2) The Office of Rail Regulation may, when it issues the closure ratification notice, impose such requirements relevant to the proposal as it considers appropriate on such one or more of the following as it thinks fit, namely—
 - (a) the Secretary of State;
 - (b) the Scottish Ministers;
 - (c) the National Assembly for Wales;
 - (d) a Passenger Transport Authority;
 - (e) a Passenger Transport Executive;
 - (f) the Mayor of London;
 - (g) Transport for London;
 - (h) a person designated as a railway funding authority by an order under section 45(4);
 - (i) a relevant operator.
- (3) For the purposes of subsection (2), a requirement is relevant to a proposal if it relates to any matter which fell to be taken into account in making an assessment whether the proposal or (as the case may be) the proposal as modified satisfied the criteria set out in the relevant part of the closures guidance.
- (4) In subsection (2)(i) “relevant operator” means—
 - (a) in the case of a proposal to which section 22 or 25 applies, the service operator within the meaning of the section in question;
 - (b) in the case of a proposal to which section 26 or 29 applies, the operator of the network or station, or part of a network or station, in question; and
 - (c) in the case of a proposal to which section 37(2) applies, the person providing the experimental passenger service in question.
- (5) A person on whom a requirement is imposed under this section must comply with it.
- (6) The Office of Rail Regulation may from time to time vary or revoke a requirement imposed under this section.
- (7) Before exercising its power under this section to vary or revoke a requirement, the Office of Rail Regulation must consult such persons as it thinks appropriate.
- (8) Where the Office of Rail Regulation exercises its power under this section to impose, vary or revoke a requirement, it must—
 - (a) give notice of that requirement, variation or revocation to every person to whom a copy of the closure ratification notice relating to the reference was given under section 32(9); and
 - (b) require every operator of a station in the area affected by the requirement, variation or revocation to whom it gives notice of the requirement, variation or revocation to secure that a copy of the notice is published by being displayed at that station—
 - (i) in the case of the imposition of a requirement, until the end of the interim period;

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(ii) in the case of the variation or revocation of a requirement, for such period as the Office of Rail Regulation may specify at the time of giving notice under paragraph (a).

(9) In subsection (8) “the area affected”, in relation to a requirement imposed under this section in relation to a closure, means—

- (a) in the case of a closure consisting in the discontinuance of services on a particular line, or from a particular station, the area in which the line or station is situated;
- (b) in the case of a closure relating to a network, or part of a network, the area in which the network, or part of a network, is situated;
- (c) in the case of a closure relating to a station, or part of a station, the area served by the station, or that part;

and “the area affected”, in relation to the variation or revocation of such a requirement, is to be construed accordingly.

VALID FROM 01/12/2006

Excluded proposals

34 Minor modifications

- (1) A proposal is a proposal for a minor modification if—
 - (a) it is a proposal for a closure which has been determined under the following provisions of this section to be a minor modification; or
 - (b) it is a proposal for a closure of a description of closures in relation to which such a determination has been made.
- (2) It is the Scottish Ministers who may make a determination that a closure is a minor modification, or that closures of a particular description are minor modifications, where the only closures to which the determination relates consist in—
 - (a) the discontinuance of one or more Scotland-only services;
 - (b) the discontinuance of one or more cross-border services in relation to which no funding is provided by a railway funding authority other than the Scottish Ministers;
 - (c) the discontinuance of two or more services none of which is a service not mentioned in paragraph (a) or (b);
 - (d) the discontinuance of a network or part of a network that is wholly in Scotland; or
 - (e) the discontinuance of a station or part of a station that is wholly in Scotland.
- (3) It is the Secretary of State who, in any other case, may make a determination that a closure is a minor modification, or that closures of a particular description are minor modifications.
- (4) A determination may be made under this section only if the person making it considers—
 - (a) in the case of a determination relating to a particular closure, that the closure is eligible under section 35 to be regarded as a minor modification; or

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- (b) in the case of a determination relating to a description of closures, that all the closures falling within that description are or will be so eligible.
- (5) A person who makes a determination under this section in relation to a particular closure for the purposes of section 22, 26 or 29 may make it subject to conditions; and, in such a case, the closure is not to be treated as a minor modification unless, as the case may be—
- (a) the person providing the service or services to be discontinued, or
 - (b) the person operating or using the network or station, or the part of a network or station, in question,
- has agreed to comply with those conditions.
- (6) The person who makes a determination under this section in relation to a particular closure must notify the Office of Rail Regulation about that determination.
- (7) A determination under this section in relation to a description of closures may be revoked at any time by the person who made it.
- (8) A person who makes or revokes a determination under this section in relation to a description of closures must—
- (a) send a copy of the determination or revocation to the Office of Rail Regulation; and
 - (b) publish it in such manner as he considers appropriate.
- (9) The revocation of such a determination shall not affect any closure if its status has been relied on before the revocation as grounds for—
- (a) a failure to give a notice under this Part; or
 - (b) the carrying out of any closure.
- (10) Any general determination which—
- (a) has been made under section 46A of the 1993 Act,
 - (b) is a determination that closures of a particular class or description are minor closures, and
 - (c) is in force immediately before the coming into force of this section,
- shall have effect after that time as a determination made under this section that closures of that class or description are minor modifications for the purposes of this Part.
- (11) Any conditions agreed to under section 37(1), 39(1) or 41(1) of the 1993 Act in connection with any determination under the section in question that a closure is a minor closure shall have effect after the commencement of this section as if agreed to for the purposes of subsection (5).

35 Closures eligible to be treated as minor modifications

- (1) The discontinuance of a railway passenger service is eligible to be treated as a minor modification so far as the service is a service on a stretch of line along which there is no station (or no station in use) and the circumstances are such that—
- (a) trains that would otherwise use that stretch of line in travelling between two stations will instead pass along an alternative route; and
 - (b) passengers travelling on such a train will not be required to make additional changes and will not incur significant increases of journey times.

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- (2) The discontinuance of the operation of a part of a network is eligible to be treated as a minor modification so far as that part of the network consists in a stretch of track along which there is no station (or no station in use) and the circumstances are such that—
 - (a) trains that would otherwise use that stretch of line in travelling between two stations will instead pass along an alternative route; and
 - (b) passengers travelling on such a train will not be required to make additional changes and will not incur significant increases of journey times.
- (3) The discontinuance of the operation of a part of a network is eligible to be treated as a minor modification so far as that part of the network consists of a stretch of track which does no more than serve a station or light maintenance depot, or some part of it, and the circumstances are such that—
 - (a) that part of the network is not necessary for the operation or use of a station, or part of a station, for the purposes of or in connection with the provision of railway passenger services; or
 - (b) the operation or use of such station or part of a station as is served by that part of the network is or has been the subject of a proposal which is a proposal for a minor modification.
- (4) The discontinuance of the operation of a part of a network is eligible to be treated as a minor modification so far as—
 - (a) that part of the network consists of installations associated with any such stretch of track as is mentioned in subsection (2) or (3); and
 - (b) the circumstances are as mentioned in that subsection.
- (5) The discontinuance of the operation or use of—
 - (a) a part of a network (other than track), or
 - (b) a part of a station,is eligible to be treated as a minor modification so far as the operation or use of that part of the network or that part of the station is not necessary for the operation or use of the network or station for or in connection with the provision of railway passenger services.
- (6) Where it appears to the Secretary of State or the Scottish Ministers that closures of any description not specified in this section should, because of their temporary nature or limited effect on the provision of railway passenger services, be treated as minor modifications, the Secretary of State or, as the case may be, the Scottish Ministers may, by order, provide for closures of that description to be treated for the purposes of section 34 as eligible under this section to be so treated.
- (7) It is the Scottish Ministers who may make an order under subsection (6) where the only closures to which the order relates consist in—
 - (a) the discontinuance of one or more Scotland-only services;
 - (b) the discontinuance of one or more cross-border services in relation to which no funding is provided by a railway funding authority other than the Scottish Ministers;
 - (c) the discontinuance of two or more services none of which is a service not mentioned in paragraph (a) or (b);
 - (d) the discontinuance of a network or part of a network that is wholly in Scotland; or

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(e) the discontinuance of a station or part of a station that is wholly in Scotland; and it is the Secretary of State who may make such an order in any other case.

(8) An order under subsection (6) is subject to the negative resolution procedure.

36 Designation of experimental passenger services

(1) The power to designate a railway passenger service as experimental for the purposes of this Part is exercisable—

- (a) if it is a Scotland-only service, by the Scottish Ministers;
- (b) if it is a cross-border service in respect of which more funding is provided by the Scottish Ministers than the Secretary of State, by those Ministers;
- (c) if it is a Welsh service in respect of which more funding is provided by the National Assembly for Wales than the Secretary of State, by the National Assembly for Wales; and
- (d) in the case of any other service, by the Secretary of State.

(2) The designation must be in relation to a line or station on or from which the service will be provided.

(3) A service may not be designated as experimental for a period exceeding five years.

(4) Where a service is designated as experimental for a period of less than five years—

- (a) the designation may subsequently be extended (on one or more occasions) by the person who made it; but
- (b) the aggregate of the periods for which the service is designated as experimental must not exceed five years.

(5) In determining for the purposes of this section the period or aggregate period for which a service is designated as experimental, any period before the service is introduced is to be disregarded.

(6) The person who designates a service as experimental or extends such a designation must—

- (a) send a copy of the designation or extension to the Office of Rail Regulation; and
- (b) publish notice of the designation or extension in two successive weeks—
 - (i) in a local newspaper circulating in the area affected by the designation or extension; and
 - (ii) in two national newspapers.

(7) Where—

- (a) a service is designated as experimental or its designation is extended, and
- (b) the service is to be provided otherwise than in satisfaction of requirements imposed by a franchise agreement,

the person designating must give notice of the designation or extension to the person who is to provide the service.

(8) For the purposes of subsection (6)(b)(i) the area affected by a designation, or by the extension of a designation, is the area in which is situated the line or station in relation to which the designation is or was made.

(9) For the purposes of subsection (6)(b)(ii) as it applies in relation to—

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- (a) a Scotland-only service, or
- (b) a Wales-only service,

a newspaper which circulates generally in Scotland or, as the case may be, Wales is to be regarded as being a national newspaper.

- (10) Where any railway passenger service is treated immediately before the commencement of this section as an experimental passenger service for the purposes of Part 1 of the 1993 Act—
- (a) that service shall be treated as designated as experimental for the purposes of this Part; and
 - (b) the period for which it is treated as having been designated at that time shall be taken into account in determining the period or aggregate period for which it may be designated under this section.

37 Discontinuance of experimental passenger services

(1) Where—

- (a) a railway funding authority is a party to a franchise agreement under which an experimental passenger service is provided,
- (b) the person providing the service proposes to discontinue it after the requirement to provide it has come to an end, and
- (c) that authority does not propose to secure the continued provision of the service,

that authority must give notice of the proposed discontinuance of the service.

(2) Where—

- (a) an experimental passenger service is provided otherwise than in satisfaction of requirements imposed by a franchise agreement, and
- (b) the person providing the service proposes to discontinue it,

that person must give notice of his proposal and must not discontinue the service before the end of the notice period.

(3) The notice required to be given under this section is a notice which—

- (a) sets out the details of the proposed discontinuance; and
- (b) is published in the required manner.

(4) A notice is published in the required manner if it is published, in two successive weeks—

- (a) in a local newspaper circulating in the area affected by the proposal;
- (b) in two national newspapers; and
- (c) in such other manner as appears to the person giving the notice to be appropriate.

(5) A person giving notice of a proposed discontinuance under subsection (2) must send to the Office of Rail Regulation a copy of the notice published under subsection (3) (b).

(6) In this section “the notice period”, in relation to a proposal to discontinue a service, means the period of six weeks after the notice of that proposal has been published in the required manner.

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(7) For the purposes of subsection (4)(a) the area affected by a proposal to discontinue an experimental passenger service is the area in which is situated the line or station in relation to which the service is designated as experimental.

(8) For the purposes of subsection (4)(b) as it applies in relation to—

- (a) a Scotland-only service, or
- (b) a Wales-only service,

a newspaper which circulates generally in Scotland or, as the case may be, Wales is to be regarded as being a national newspaper.

38 Services, networks and stations excluded by order

(1) The national authority may by order—

- (a) exclude a railway passenger service, or all railway passenger services of a specified description, from the application of any one or more of sections 22 to 24;
- (b) exclude a network or part of a network, or all networks or parts of them of a specified description, from the application of any one or more of sections 26 to 28;
- (c) exclude a station or part of a station, or all stations or parts them of a specified description, from the application of any one or more of sections 29 to 31.

(2) In subsection (1) “the national authority”—

- (a) as respects a railway passenger service which is—
 - (i) a Scotland-only service, or
 - (ii) a cross-border service in relation to which so much of the funding as is provided by a railway funding authority is funding provided by the Scottish Ministers,means those Ministers;
- (b) as respects a network or station, or part of a network or station, that is wholly in Scotland, means the Scottish Ministers; and
- (c) as respects any other railway passenger service, network or station, or part of a network or station, means the Secretary of State.

(3) An order under this section is subject to the negative resolution procedure.

(4) Where any order under section 49(2), (4) or (5) of the 1993 Act (exclusions from closure procedures under that Act) is in force immediately before the commencement of this section, that order shall have effect after the commencement of this section—

- (a) in the case of an order under section 49(2), as an order under this section excluding the services to which it applies from sections 22 to 24 of this Act;
- (b) in the case of an order under section 49(4), as an order under this section excluding the networks, or parts of networks, to which it applies from sections 26 to 28; and
- (c) in the case of an order under section 49(5), as an order under this section excluding any stations, or parts of stations, to which it applies from sections 29 to 31.

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Substitution services

VALID FROM 01/12/2006

39 Quality contracts schemes in connection with service modifications

(1) After subsection (1) of section 124 of the 2000 Act insert—

“(1A) A Passenger Transport Authority, or a Passenger Transport Authority jointly with one or more other local transport authorities, may also make a quality contracts scheme covering the whole or part of their area or combined area if they are satisfied—

- (a) that making a quality contracts scheme is an appropriate way of securing that the transport needs of the potential users of a relevant railway service that has been or is to be reduced or discontinued are met;
- (b) that the making of the scheme will contribute, in an appropriate way, to meeting the transport needs of other persons living, working or studying in the localities served by that service;
- (c) that the scheme is compatible with the local transport plan of the Passenger Transport Authority who make the scheme or (as the case may be) of each of the authorities who join in making the scheme; and
- (d) that the scheme will meet the needs of the persons mentioned in paragraphs (a) and (b) in a way which is economic, efficient and effective.

(1B) A local transport authority may join in making a scheme under subsection (1A) by reference to the reduction or discontinuance of a railway passenger service only if—

- (a) they are the Passenger Transport Authority, or one of the Passenger Transport Authorities, by reference to which that service is a relevant railway service in relation to the scheme;
- (b) the relevant railway service by reference to which the scheme is made is or was operating in the authority's area; or
- (c) the persons who live, work or study in localities served by that service include persons living, working or studying in that area.”

(2) After subsection (9) of that section insert—

“(10) In subsection (1A) the references to a local transport plan, in the case of a local transport authority not having a local transport plan, are references to the policies developed by that authority under section 108(1)(a).

(11) In this section “relevant railway service”—

- (a) in relation to a scheme made by a single Passenger Transport Authority acting alone, means—
 - (i) a railway passenger service operating entirely within the area of that Authority; or
 - (ii) the part of a railway passenger service so operating;

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- (b) in relation to a scheme made jointly by more than one local transport authority, means—
- (i) a railway passenger service operating wholly or primarily within the area of a Passenger Transport Authority who join in making the scheme;
 - (ii) a railway passenger service operating wholly or primarily within the combined area of two or more Passenger Transport Authorities who join in making the scheme; or
 - (iii) the part of a railway passenger service operating as mentioned in sub-paragraph (i) or (ii).

(12) In this section—

“potential users”, in relation to a relevant railway service, means persons who (but for the reduction or discontinuance of the service) would have made use of it; and

“railway passenger service” has the same meaning as in the Railways Act 1993 (c. 43) (see section 83(1) of that Act).

(13) For the purposes of references in this section to where a railway passenger service or part of such a service operates—

- (a) a service shall be treated as operating at each of the places where stops are made at stations for the purpose of allowing passengers to join or leave the service; and
- (b) a part of a service is any part of that service so far as it operates at any one or more of those places.”

(3) In section 126(4) of that Act (approval of scheme), after “section 124(1)” insert “ or (as the case may be) paragraphs (a) to (d) of section 124(1A) ”.

(4) In section 132 of that Act (variation of scheme)—

- (a) in subsection (2), for “paragraphs (a) and (b) of section 124(1)” substitute “ subsection (1)(a) and (b) of section 124 or those set out in subsection (1A) (a) to (d) of that section ”;
- (b) in subsection (3) and (4), for “those conditions”, in each place, substitute “ the relevant conditions ”; and
- (c) after subsection (4) insert the subsection set out in subsection (5) of this section.

(5) The subsection inserted after section 132(4) of that Act is—

“(4A) In subsections (3) and (4) “the relevant conditions” means—

- (a) in the case of a scheme made under section 124(1) and not subsequently varied under subsection (1)(a) of this section, the conditions set out in section 124(1)(a) and (b);
- (b) in the case of a scheme made under section 124(1A) and not subsequently varied under subsection (1)(a) of this section, the conditions set out in section 124(1A)(a) to (d); and
- (c) in the case of a scheme that has been varied under subsection (1) (a) of this section, the conditions by reference to which it was last so varied.”

Status: Point in time view as at 07/02/2006. This version of this part contains provisions that are not valid for this point in time.

*Changes to legislation: There are currently no known outstanding effects
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40 Substitute road services

- (1) Where a railway passenger service—
- (a) is temporarily interrupted, or
 - (b) has been discontinued,
- the appropriate national authority may secure the provision of a substitute service for the carriage of passengers by road by means of public service vehicles or private hire vehicles.
- (2) Where a railway passenger service has been temporarily interrupted, the route and stopping places of the substitute service need not correspond precisely to those of the interrupted service if it is not practicable for them to do so.
- (3) Where a railway passenger service has been discontinued, the route and stopping places of the substitute service need not correspond precisely to those of the discontinued service if—
- (a) it is not practicable for them to do so; or
 - (b) the substitute service broadly corresponds to the discontinued service in terms of the localities served.
- (4) For the purposes of this section the appropriate national authority is—
- (a) in a case where the railway passenger service that is interrupted or discontinued is a service beginning or ending in England or otherwise making at least one scheduled call in England, the Secretary of State;
 - (b) in a case where that railway passenger service is a relevant Scottish passenger service, the Scottish Ministers;
 - (c) and in the case where that railway passenger service is a Wales-only service or is secured by the National Assembly for Wales, that Assembly;
- and where in any case there is more than one appropriate national authority they shall each have the powers conferred by this section.
- (5) In this section a “relevant Scottish passenger service” is—
- (a) a railway passenger service provided under a Scottish franchise agreement; or
 - (b) a railway passenger service not falling within paragraph (a) which is a Scotland-only service or (without being such a service) is a service the provision of which is secured by the Scottish Ministers.
- (6) In this section “private hire vehicles” means—
- (a) vehicles licensed under section 37 of the Town Police Clauses Act 1847 (c. 89), section 6 of the Metropolitan Public Carriage Act 1869 (c. 115), section 48 of the Local Government (Miscellaneous Provisions) Act 1976 (c. 57) or section 7 of the Private Hire Vehicles (London) Act 1998 (c. 34) or under any similar enactment; or
 - (b) taxis or private hire cars licensed under section 10 of the Civic Government (Scotland) Act 1982 (c. 45).
- (7) In this section—
- “public service vehicles” has the meaning given by section 1 of the Public Passenger Vehicles Act 1981 (c. 14); and
- “stopping place”, in relation to a service, means a place at which a service makes a stop for the purposes of allowing passengers to join or leave the service.

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Changes to legislation: There are currently no known outstanding effects for the Railways Act 2005, Part 4. (See end of Document for details)

Commencement Information

- I1** S. 40(1)-(3) in force at 24.7.2005 by S.I. 2005/1909, art. 2, **Sch.**
- I2** S. 40(4) in force at 24.7.2005 for specified purposes by S.I. 2005/1909, art. 2, **Sch.**
- I3** S. 40(4)(b)(5) in force at 16.10.2005 by S.I. 2005/2812, art. 2(1), **Sch. 1**
- I4** S. 40(6)(7) in force at 24.7.2005 by S.I. 2005/1909, art. 2, **Sch.**

VALID FROM 01/08/2006

Supplemental provisions of Part

VALID FROM 01/12/2006

41 Proposals by funding authorities

- (1) A railway funding authority may make a proposal—
 - (a) for the discontinuance of a railway passenger service,
 - (b) for the discontinuance of the operation of a network or part of a network, or
 - (c) for the discontinuance of the operation of a station or part of a station,if, and only if, the requirements of subsection (3), (4) or (5) are satisfied.
- (2) The requirements of subsection (3) apply to the making of such a proposal by a railway funding authority other than a Passenger Transport Executive, the Mayor of London or Transport for London.
- (3) The requirements of this subsection are—
 - (a) that the proposal is made in association with another proposal by the authority;
 - (b) that the other proposal relates to any agreement or other arrangements to which the authority is a party and which relate to the provision of financial assistance in connection with the service or the operation or use of the network or station; and
 - (c) that it appears to the authority that the other proposal would have an effect which is reasonably likely to create or contribute to a need for the service to be discontinued or the operation or use of the network or station to be discontinued.
- (4) The requirements of this subsection apply in relation to the making of a proposal by a Passenger Transport Executive and are—
 - (a) that no funding in relation to a service or, as the case may be, network or station, or part of a network or station, to which the proposal relates is provided by a railway funding authority other than the Passenger Transport Executive; or
 - (b) that—
 - (i) every service to which the proposal relates operates entirely within their area; and
 - (ii) every network or station, or part of a network or station, to which the proposal relates is wholly in their area.

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- (5) The requirements of this subsection apply in relation to the making of a proposal by the Mayor of London or Transport for London and are—
- (a) that no funding in relation to a service or (as the case may be) network or station, or part of a network or station, to which the proposal relates is provided by a railway funding authority other than the Mayor of London or Transport for London; or
 - (b) that—
 - (i) every service to which the proposal relates operates entirely within Greater London; and
 - (ii) every network or station, or part of a network or station, to which the proposal relates is wholly in Greater London.
- (6) The arrangements referred to in subsection (3)(b) include arrangements between the railway funding authority in question and another such authority.
- (7) For the purposes of subsections (4) and (5) a service operates entirely within an area if it starts and ends in that area and does not make any other scheduled calls outside that area.

42 Closures guidance

- (1) It shall be the duty of the Scottish Ministers to publish guidance for the purposes of the provisions of this Part so far as they have effect in relation to—
- (a) proposals to discontinue any Scotland-only service or services;
 - (b) proposals to discontinue any cross-border service or services in relation to which no funding is provided by a railway funding authority other than the Scottish Ministers;
 - (c) proposals to discontinue the operation of a network or part of a network that is wholly in Scotland; or
 - (d) proposals to discontinue the use or operation of any station or part of a station that is wholly in Scotland.
- (2) It shall be the duty of the Scottish Ministers acting jointly with the Secretary of State or the National Assembly for Wales, or both of them, to publish guidance for the purposes of the provisions of this Part so far as they have effect in relation to proposals to discontinue any cross-border services in relation to which, as the case may be—
- (a) the Secretary of State provides funding;
 - (b) the National Assembly for Wales provides funding; or
 - (c) both of them provide funding.
- (3) It shall be the duty of the Secretary of State acting jointly with the National Assembly for Wales to publish guidance for the purposes of the provisions of this Part so far as they have effect in relation to—
- (a) proposals to discontinue any Welsh service or services;
 - (b) proposals to discontinue the operation of a network or part of a network that is wholly in Wales; or
 - (c) proposals to discontinue the use or operation of any station or part of a station that is wholly in Wales.

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- (4) It shall be the duty of the Secretary of State to publish guidance for the purposes of the provisions of this Part so far as they have effect in relation to proposals as respects which none of the preceding subsections imposes any duty.
- (5) Guidance published under this section may include different provision for different descriptions of proposals and for different purposes.
- (6) A person who is under a duty to publish guidance under this section may from time to time—
 - (a) modify the guidance; and
 - (b) publish revised guidance.
- (7) Before publishing or modifying any guidance under this section the person with the duty of publishing the guidance must consult—
 - (a) such persons operating railway passenger services, networks and stations that are affected by the proposed guidance as he thinks appropriate; and
 - (b) such other persons as he thinks appropriate.
- (8) For the purposes of subsection (7) a railway passenger service, network or station is affected by proposed guidance if the proposed guidance would have effect in relation to a proposal relating to that service, network or station.

43 Procedure relating to publication and modification of closures guidance

- (1) The Secretary of State must lay before each House of Parliament a copy of any guidance or revised guidance, or modifications of guidance, which he publishes or makes (whether or not jointly with any other person) under section 42.
- (2) The Scottish Ministers must lay before the Scottish Parliament a copy of any guidance or revised guidance, or modifications of guidance, which they publish or make (whether or not jointly with any other person) under that section.
- (3) Any guidance or revised guidance published under section 42 is to have effect, and any modifications of guidance made under that section are to have effect, in accordance with an order made—
 - (a) if subsection (1) applies in relation to the guidance or modifications, by the Secretary of State;
 - (b) if subsection (2) applies in relation to the guidance or modifications, by the Scottish Ministers; and
 - (c) if both subsections (1) and (2) apply in relation to the guidance or modifications, jointly by the Secretary of State and the Scottish Ministers.
- (4) An order under subsection (3) which relates to guidance or revised guidance published, or modifications of guidance made, by the National Assembly for Wales jointly with the Secretary of State or the Scottish Ministers, or both of them, may be made only with the consent of the National Assembly for Wales.
- (5) An order under subsection (3) is subject to the negative resolution procedure.
- (6) If a statutory instrument containing an order under subsection (3) is annulled—
 - (a) the guidance or revised guidance, or modifications of guidance, to which it relates is, or are, treated as having been withdrawn; and

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- (b) where revised guidance or modifications is or are so withdrawn, any guidance published under section 42 which had effect before the publication of the revised guidance or the making of the modifications is to continue to have effect.
- (7) The withdrawal of guidance or revised guidance or modifications of guidance under subsection (6)—
- (a) does not affect anything done in consequence of the guidance before the withdrawal; and
 - (b) does not preclude the publication of further guidance or revised guidance or the making of further modifications.

VALID FROM 01/12/2006

44 Exclusion of liability for breach of statutory duty

- (1) Subject to section 57 of the 1993 Act (validity and effect of final and provisional orders under section 55 of that Act), the obligations specified in subsection (2) shall not give rise to any form of duty or liability enforceable by civil proceedings for breach of statutory duty.
- (2) Those obligations are—
- (a) any obligation of a person under section 22(8) not to discontinue a railway passenger service;
 - (b) any obligation of a person under section 26(8) not to discontinue the operation of a network or part of a network;
 - (c) any obligation of a person under section 29(8) not to discontinue the use of a station or part of a station;
 - (d) any obligation of a person to comply with a requirement imposed under section 33(2) ;
 - (e) any obligation of a person to comply with conditions to which he has agreed under section 34(5) ;
 - (f) any obligation of a person under section 37(2) not to discontinue an experimental passenger service;
 - (g) any obligation of the Secretary of State or the Scottish Ministers under this Part to secure the provision of a railway passenger service, network or station or of a part of a network or station.

45 Interpretation of Part 4

- (1) In this Part—
- “closure” means—
- (a) the discontinuance of a railway passenger service or of railway passenger services;
 - (b) the discontinuance of the operation of the whole or a part of a network;
or
 - (c) the discontinuance of the use or operation of the whole or a part of a station;

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“closure non-ratification notice” is to be construed in accordance with section 32(7);

“closure ratification notice” is to be construed in accordance with section 32(8);

“closures guidance” means the guidance published under section 42, and references to the relevant part of the closures guidance are to be construed in accordance with subsection (2);

“the end of the interim period” is to be construed in accordance with subsection (3);

“excluded proposal” is to be construed in accordance with section 38;

“experimental passenger service” means a railway passenger service which, before its introduction, was designated under section 36 as experimental;

“proposal date”, in relation to a proposal for the discontinuance of any service or services, or any network or station or part of a network or station, means the date after which, according to the proposal, the service or services will no longer be provided or, as the case may be, the operation or use of the network or station or part of a network or station will be discontinued;

“railway funding authority” means—

- (a) the Secretary of State;
- (b) the Scottish Ministers;
- (c) the National Assembly for Wales;
- (d) a Passenger Transport Executive;
- (e) the Mayor of London;
- (f) Transport for London;
- (g) a person designated as such an authority by an order under subsection (4);

“secured service” means a service which is provided by or on behalf of the Secretary of State or the Scottish Ministers under—

- (a) section 30 of the 1993 Act;
- (b) section 22(9), 23(7) or 24(7) or (8) of this Act; or
- (c) a requirement imposed under section 33(2) of this Act;

“secured”, in relation to a network or station, or a part of a network or station, means provided on behalf of the Secretary of State or the Scottish Ministers under—

- (a) section 26(9), 27(7) or 28(6) or (7) of this Act (networks);
- (b) section 29(9), 30(7) or 31(6) or (7) of this Act (stations); or
- (c) a requirement imposed under section 33(2) of this Act.

(2) In this Part “the relevant part of the closures guidance”—

- (a) in relation to a proposal to discontinue any railway passenger service or services, means the part of the closures guidance relating to the discontinuance of any such services that is applicable to that proposal;
- (b) in relation to a proposal to discontinue the operation of a network or part of a network, means the part of the closures guidance relating to the discontinuance of the operation of networks or parts of networks that is applicable to that proposal; and
- (c) in relation to a proposal to discontinue the use or operation of a station or part of a station, means the part of the closures guidance relating to the

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discontinuance of the use or operation of such stations or parts of such stations that is applicable to that proposal.

- (3) For the purposes of this Part the interim period, in relation to a proposal for the discontinuance of any service or services, or any network or station or part of a network or station, is a period ending—
- (a) in a case where the national authority forms the opinion in accordance with the criteria set out in the relevant part of the closures guidance that the proposal should not be allowed, with the proposal date; and
 - (b) otherwise, as the case may be—
 - (i) with the date on which notification is given to the person who made the proposal that the national authority has changed its opinion with respect to the proposal;
 - (ii) with the withdrawal of the proposal; or
 - (iii) four weeks after the date on which a closure ratification notice or closure non-ratification notice is issued by the Office of Rail Regulation on any reference to it relating to the proposal.
- (4) The appropriate authority may by order designate a person as a railway funding authority if—
- (a) that person is a person on whom functions are conferred by or under any enactment; and
 - (b) the appropriate authority is satisfied that that person, in the carrying out of those functions, provides financial assistance for purposes that are connected with railways or the provision of railway services.
- (5) In subsection (4), “appropriate authority”—
- (a) in relation to a person who provides no financial assistance for purposes mentioned in subsection (4)(b) other than—
 - (i) funding in relation to the provision of Scotland-only services,
 - (ii) Scottish majority funding in relation to cross-border services, or
 - (iii) funding in relation to the operation or use of a network or station, or part of a network or station, that is wholly in Scotland,
means the Scottish Ministers;
 - (b) in any other case, means the Secretary of State.
- (6) For the purposes of subsection (5)(a)(ii), a person provides Scottish majority funding in relation to particular services if—
- (a) the person is—
 - (i) a body established by or under an Act of the Scottish Parliament; or
 - (ii) a body which has its principal office in Scotland; and
 - (b) in relation to those services, the person provides more funding than is provided in aggregate by railway funding authorities.
- (7) An order under subsection (4) is subject to the negative resolution procedure.
- (8) In subsection (4)(a), “enactment” includes an enactment contained in an Act of the Scottish Parliament.
- (9) In this Part references to financial assistance include references to each of the following—
- (a) the making of grants or loans;

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- (b) the giving of guarantees; and
- (c) investments in bodies corporate.

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