

## SCHEDULE 3

Regulation 28

### Consequential amendments and revocations

## PART 1

### Consequential amendments

#### CHAPTER 1

##### Primary legislation

#### **Amendment of the Railways Act 1993**

1.—(1) The Railways Act 1993(1) is amended as follows.

(2) In section 136 (grants and subsidies), in subsection (11), for the definition of “the public service obligations regulations” substitute—

““the public service obligations regulations” means the Public Service Obligations in Transport Regulations 2023;”.

#### **Amendment of the Government of Wales Act 2006**

2.—(1) The Government of Wales Act 2006(2) is amended as follows.

(2) In Schedule 7A (reserved matters), in paragraph (c) of the exception relating to Section E2 (rail transport), for “Regulation (EC) No. 1370/2007 of the European Parliament and of the Council on public passenger transport services by rail and by road” substitute “the Public Service Obligations in Transport Regulations 2023”.

#### **Amendment of the Subsidy Control Act 2022**

3.—(1) The Subsidy Control Act 2022(3) is amended as follows.

(2) In section 48 (legacy and withdrawal agreement subsidies), for subsection (1)(b) substitute—

“(b) a subsidy given in accordance with—

(i) Regulation (EC) No 1370/2007 of the European Parliament and of the Council on public passenger transport services by rail and by road,

(ii) that Regulation as it has effect by virtue of regulation 28(2) of the Public Service Obligations in Transport Regulations 2023, or

(iii) the Public Service Obligations in Transport Regulations 2023,

(and any such subsidy is to be treated for the purposes of this Act as if it were given in accordance with a subsidy scheme).”.

(1) 1993 c. 43. Section 136 was amended by the Transport Act 2000 (c. 38), Schedule 16, paragraph 51 and the Railways Act 2005 (c. 14), Schedule 11, paragraph 14 and Schedule 13, Part 1, and by S.I. 2010/402. There have been other amendments to section 136, but none is relevant.

(2) 2006 c. 32. Schedule 7A to the Government of Wales Act 2006 was inserted by Schedule 1 to the Wales Act 2017 (c. 4).

(3) 2022 c. 23.

## CHAPTER 2

### Secondary legislation

#### **Amendment of the Cleaner Road Transport Vehicles (Scotland) Regulations 2010**

4.—(1) The Cleaner Road Transport Vehicles (Scotland) Regulations 2010(4) are amended as follows.

(2) In regulation 2, in the definition of “operator” for “Article 2 of Regulation (EC) No 1370/2007 of the European Parliament and of the Council on public passenger transport services by rail and by road, as amended from time to time” substitute “regulation 2 of the Public Service Obligations in Transport Regulations 2023”.

#### **Amendment of the Cleaner Road Transport Vehicles Regulations 2011**

5.—(1) The Cleaner Road Transport Vehicles Regulations 2011(5) are amended as follows.

(2) In regulation 2, in the definition of ““public service contract” and “public service obligation”” for “Regulation (EC) No 1370” to the end of the definition substitute “the Public Service Obligations in Transport Regulations 2023”.

#### **Amendment of the Concession Contracts (Scotland) Regulations 2016**

6.—(1) The Concession Contracts (Scotland) Regulations 2016(6) are amended as follows.

(2) In regulation 12(1)(l) (exclusions: specific service contracts) for “Regulation (EC) No 1370/2007 of the European Parliament and of the Council on public passenger transport services by rail and by road” substitute “the Public Service Obligations in Transport Regulations 2023, except where such services are provided by means of a motor vehicle, other than a tram, which is adapted to carry not more than sixteen passengers”.

#### **Amendment of the Railways (Access, Management and Licensing of Railway Undertakings) Regulations 2016**

7.—(1) The Railways (Access, Management and Licensing of Railway Undertakings) Regulations 2016(7) are amended as follows.

(2) In regulation 3 (interpretation)—

- (a) in the definition of “applicant” for “Regulation (EC) No 1370/2007” substitute “the Public Service Obligations in Transport Regulations 2023”;
- (b) in the definition of “competent authority” for “Article 2 of Regulation (EC) No 1370/2007” substitute “regulation 2 of the Public Service Obligations in Transport Regulations 2023”;
- (c) in the definition of ““public passenger transport”, “public service contract” and “public service operator””, for “public passenger transport” substitute “public passenger transport services” and for “Article 2 of Regulation (EC) No 1370/2007” substitute “regulation 2 of the Public Service Obligations in Transport Regulations 2023”;
- (d) omit the definition of “Regulation (EC) No 1370/2007”;
- (e) in the definition of “relevant public service contract” after “transport” insert “services”;
- (f) in the definition of “relevant public service operator” after “transport” insert “services”.

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(4) S.S.I. 2010/390.

(5) S.I. 2011/1631.

(6) S.S.I. 2016/65.

(7) S.I. 2016/645.

(3) In regulation 9 (separation of accounts), in paragraph (2)(b) omit “in accordance with article 7 of Regulation (EC) No 1370/2007”.

## CHAPTER 3

### Retained EU law

#### **Amendment of Commission Implementing Regulation (EU) 2018/1795**

**8.**—(1) Commission Implementing Regulation (EU) 2018/1795 of 20 November 2018 laying down procedure and criteria for the application of the economic equilibrium test pursuant to Article 11 of Directive 2012/34/EU of the European Parliament and of the Council<sup>(8)</sup> is amended as follows.

(2) In Article 3 (definitions)—

- (a) in the definition of “public service contract” for “point (i) of Article 2 of Regulation (EC) No 1370/2007” substitute “regulation 2 of the Public Service Obligations in Transport Regulations 2023”;
- (b) in the definition of “competent authority” for “point (b) of Article 2 of Regulation (EC) No 1370/2007” substitute “regulation 2 of the Public Service Obligations in Transport Regulations 2023”;
- (c) in the definition of “exclusive right” for “point (f) of Article 2 of Regulation (EC) No 1370/2007” substitute “regulation 2 of the Public Service Obligations in Transport Regulations 2023”.

(3) In Article 6 (public service contracts with exclusive rights), for “Article 3 of Regulation (EC) No 1370/2007” substitute “regulation 7 of the Public Service Obligations in Transport Regulations 2023”.

(4) In Article 7 (information requirements for economic equilibrium test), in paragraph 2 at point (a)(2), for “Article 6(1) of Regulation (EC) No 1370/2007 and the Annex to that Regulation” substitute “regulation 5 of the Public Service Obligations in Transport Regulations 2023”.

(5) In Article 10 (contents of the economic equilibrium test and assessment criteria), in paragraph 4, for “the Annex to Regulation (EC) No 1370/2007” substitute “regulations 6(2), 7(3) and (4) and 10(1) to (3) and (5) of the Public Service Obligations in Transport Regulations 2023”.

## PART 2

### Revocations

#### **Revocations**

**9.** The following are revoked—

- (a) Regulation (EC) No 1370/2007 of the European Parliament and of the Council of 23 October 2007 on public passenger transport services by rail and by road<sup>(9)</sup>,
- (b) paragraph 2 of Schedule 1 (amendments to retained EU Law) to the State Aid (Revocations and Amendments) (EU Exit) Regulations 2020<sup>(10)</sup>, and
- (c) the Regulation (EC) No 1370/2007 (Public Service Obligations in Transport) (Amendment) (EU Exit) Regulations 2020<sup>(11)</sup>.

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<sup>(8)</sup> EUR 2018/1795, as amended by S.I. 2019/518.

<sup>(9)</sup> EUR 1370/2007, as amended by S.I. 2020/504 and S.I. 2020/1470.

<sup>(10)</sup> S.I. 2020/1470.

<sup>(11)</sup> S.I. 2020/504.

**Draft Legislation:** This is a draft item of legislation. This draft has since been made as a UK  
Statutory Instrument: *The Public Service Obligations in Transport Regulations 2023 No. 1369*