



Railways Act 1993

1993 CHAPTER 43

PART I

THE PROVISION OF RAILWAY SERVICES

Closures

37 Proposals to discontinue non-franchised etc. passenger services.

(1) In any case where—

- (a) all the railway passenger services on any line or from any station are provided otherwise than in satisfaction of requirements imposed by a franchise agreement and otherwise than on behalf of the [^{F1}Authority], and
- (b) the person providing those services (in this section referred to as “the service operator”) proposes to discontinue all such services on that line or from that station (in this section referred to as a closure),

then, unless the closure is [^{F2}determined by the Authority to be] a minor closure [^{F3}and the service operator has agreed to comply with any conditions imposed by the Authority], the service operator shall give notice of the proposal to the [^{F1}Authority] not less than three months before the date specified pursuant to subsection (3)(b) below as that on which the service operator will cease providing the services (the “service operator’s withdrawal date”) and shall not discontinue those services before that date.

(2) In determining for the purposes of paragraph (a) of subsection (1) above whether all the railway passenger services on a line or from a station are provided as mentioned in that paragraph, there shall be left out of account any services—

- (a) which involve travel through the Channel Tunnel;
- (b) which are experimental passenger services, within the meaning of section 48 below, or which are provided on an experimental basis, for the purposes of section 56A of the ^{M1}Transport Act 1962;
- (c) which are provided otherwise than as regular scheduled services for that line or for that station, as the case may be; or

Status: Point in time view as at 05/07/2004.

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- (d) which are designated, or which are of a class or description designated, by order under section 49(2) below as services in relation to which this section is not to have effect;
- and this section shall not have effect in relation to any services falling within paragraphs (a) to (d) above.
- (3) A notice under subsection (1) above shall be accompanied by a statement of—
- (a) the service operator’s reasons for the proposal;
 - (b) the date on which he will cease providing the services in question; and
 - (c) any alternative transport services which appear to the service operator to be available.
- (4) Where notice is given to the [^{F4}Authority] under subsection (1) above, [^{F4}it] must consider, and form an opinion on, the question whether the proposed closure should or should not be permitted to take effect.
- (5) If the [^{F4}Authority] is of the opinion that the proposed closure should not be permitted to take effect, [^{F4}it] shall be under a duty to secure the provision of the services in question after the service operator’s withdrawal date.
- (6) If the [^{F5}Authority] is of the opinion that the proposed closure should be permitted to take effect, [^{F5}it] shall publish in two successive weeks in a local newspaper circulating in the area affected and in two national newspapers, and in such other manner as appears to [^{F5}it] to be appropriate, a notice containing—
- (a) particulars of the proposal to effect the closure,
 - (b) particulars of the date on which it is proposed that the closure will take effect,
 - (c) particulars of any alternative transport services which appear to [^{F5}it] to be available,
 - (d) the addresses of the premises at which a statement of the reasons for the proposed closure can be inspected, or from which a copy of that statement can be obtained, and any fees payable for copies of the statement,
 - (e) a statement that objections to the proposed closure may be lodged with the [^{F6}Secretary of State] within such period as may be specified for the purpose in the notice (being not less than six weeks from the date of the last publication of the notice in a local newspaper),
- and shall be under a duty during the interim period to secure the provision of the services to which the proposed closure relates.
- (7) The reasons contained in the statement referred to in subsection (6)(d) above may consist of or include the reasons included in the statement under subsection (3) above, with or without other reasons of the [^{F7}Authority’s].
- (8) Without prejudice to the provisions of section 38 below in relation to the services in question—
- (a) if the final decision on the closure question is that the proposed closure will not be allowed to take effect, the [^{F8}Authority] shall be under a duty to secure the provision of those services after the interim period; and
 - (b) if the final decision on the closure question is that the proposed closure will be allowed to take effect subject to compliance with conditions, the [^{F8}Authority] shall be under a duty to comply with those conditions or to secure [^{F9}(in accordance with sections 55 to 58 below)] that they are complied with.
- (9) In this section—

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“the area affected” means the area in which is situated the station or, as the case may be, the line mentioned in subsection (1) above;

“the final decision on the closure question” means— [^{F10}the Secretary of State’s decision under section 43(9) below with respect to the proposed closure;]

“the interim period” means the period beginning immediately after the service operator’s withdrawal date and ending four weeks after the date of the final decision on the closure question;

“minor closure” means the discontinuance of services on any stretch of line along which there is no station (or no station in use) where the circumstances are [^{F11}, in the opinion of the Regulator,] such that—

- (a) any trains that would otherwise use that stretch of line in travelling between any two stations will instead pass along an alternative route; and
- (b) any passengers travelling on any such trains will not be required to make any additional change of train and will not incur any significant increase in the time which their journey takes.

(10) The railway passenger services which are to be regarded for the purposes of this section as provided on behalf of the [^{F12}Authority] are those whose provision [^{F12}it] is for the time being under a duty to secure in consequence of—

- (a) section 30 above,
- (b) subsection (5) or (8)(a) above,
- (c) section 38(6)(a) below, or
- (d) any closure condition imposed under section 43(9) ^{F13} . . . below.

^{F14}(11)

Textual Amendments

- F1** Words in s. 37(1) substituted (1.2.2001) by 2000 c. 38, s. 215, **Sch. 16 para. 22(2)**; S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I** (subject to savings and transitional provisions in Sch. 2 Pt. II) (which S.I. was amended by S.I. 2001/115, art. 2(2))
- F2** Words in s. 37(1) substituted (1.2.2001) by 2000 c. 38, s. 216, **Sch. 17 para. 25(1)**; S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I** (subject to savings and transitional provisions in Sch. 2 Pt. II) (which S.I. was amended by S.I. 2001/115, art. 2(2))
- F3** Words in s. 37(1) inserted (1.2.2001) by 2000 c. 38, s. 236(1); S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I** (subject to savings and transitional provisions in Sch. 2 Pt. II)
- F4** Words in s. 37(4)(5) substituted (1.2.2001) by 2000 c. 38, s. 215, **Sch. 16 para. 22(3)**; S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I** (subject to savings and transitional provisions in Sch. 2 Pt. II) (which S.I. was amended by S.I. 2001/115, art. 2(2))
- F5** Words in s. 37(6) substituted (1.2.2001) by 2000 c. 38, s. 215, **Sch. 16 para. 22(4)**; S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I** (subject to savings and transitional provisions in Sch. 2 Pt. II) (which S.I. was amended by S.I. 2001/115, art. 2(2))
- F6** Words in s. 37(6) substituted (1.2.2001) by 2000 c. 38, s. 234(1) (with Sch. 28 paras. 12, 17); S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I** (subject to savings and transitional provisions in Sch. 2 Pt. II)
- F7** Words in s. 37(7) substituted (1.2.2001) by 2000 c. 38, s. 215, **Sch. 16 para. 22(5)**; S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I** (subject to savings and transitional provisions in Sch. 2 Pt. II) (which S.I. was amended by S.I. 2001/115, art. 2(2))
- F8** Words in s. 37(8) substituted (1.2.2001) by 2000 c. 38, s. 215, **Sch. 16 para. 22(6)**; S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I** (subject to savings and transitional provisions in Sch. 2 Pt. II) (which S.I. was amended by S.I. 2001/115, art. 2(2))

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- F9** Words in s. 37(8)(b) inserted (1.2.2001) by 2000 c. 38, s. 236(4); S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I** (subject to savings and transitional provisions in Sch. 2 Pt. II)
- F10** S. 37(9): words in definition of “the final decision on the closure question” substituted (1.2.2001) for paragraphs (a) and (b) by 2000 c. 38, s. 234(2) (with Sch. 28 paras. 12, 17); S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I** (subject to savings and transitional provisions in Sch. 2 Pt. II)
- F11** S. 37(9): words in definition of “minor closure” repealed (1.2.2001) by 2000 c. 38, ss. 216, 274, Sch. 17 para. 25(2), **Sch. 31 Pt. IV**; S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I** (subject to savings and transitional provisions in Sch. 2 Pt. II)
- F12** Words in s. 37(10) substituted (1.2.2001) by 2000 c. 38, s. 215, **Sch. 16 para. 22(7)**; S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I** (subject to savings and transitional provisions in Sch. 2 Pt. II) (which S.I. was amended by S.I. 2001/115, art. 2(2))
- F13** Words in s. 37(10) repealed (1.2.2001) by 2000 c. 38, s. 274, **Sch. 31 Pt. IV**; S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I** (subject to savings and transitional provisions in Sch. 2 Pt. II)
- F14** S. 37(11) repealed (1.2.2001) by 2000 c. 38, s. 274, **Sch. 31 Pt. IV**; S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I** (subject to savings and transitional provisions in Sch. 2 Pt. II)

Modifications etc. (not altering text)

- C1** S. 37 excluded (1.4.1994) by S.I. 1994/606, art. 7(1)
S. 37 excluded (21.7.1994) by 1994 c. xi, s. 17
S. 37 excluded (21.7.1994) by 1994 c. xv, s. 17(4)
S. 37 excluded (24.5.1996) by S.I. 1996/1356, art. 3(1)
S. 37 excluded (23.7.1997) by S.I. 1997/1531, art. 3(1)
S. 37 excluded (13.12.1999) by S.I. 1999/3112, art. 4(1)

Marginal Citations

- M1** 1962 c. 46.

38 Proposals to discontinue franchised etc. passenger services.

- (1) This section applies in any case where—
- (a) any railway passenger services on any line or from any station are provided on behalf of the [^{F15}Authority] and [^{F15}it] proposes to discontinue those services, or
 - (b) any railway passenger services on any line or from any station are provided in satisfaction of requirements imposed by a franchise agreement, but—
 - (i) the person so providing those services intends not to continue to provide them when the requirement so to provide them comes to an end, and
 - (ii) the [^{F15}Authority] proposes that they should then be discontinued;
- and any reference in this section to a closure is a reference to a discontinuance falling within paragraph (a) or (b) above.
- (2) If in a case to which this section applies—
- (a) the closure is [^{F16}determined by the Authority to be] a minor closure,
 - (b) the closure in question is one in respect of which, in consequence of the application of section 49(6) below, neither section 37 above nor Schedule 5 to this Act is to apply,

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- (c) the closure is one in respect of which neither of the conditions in subsection (3) below is satisfied, and any requirement imposed by a franchise agreement to provide the services in question has come to an end, or
 - (d) the services in question fall within any of paragraphs (a) to (c) of subsection (4) below,
- the [^{F17}Authority] may discontinue the services in question, notwithstanding any duty imposed on [^{F17}it] by or under this Part to secure their provision, and subsections (5) and (6) below shall not apply in relation to the closure.
- (3) The conditions mentioned in subsection (2)(c) above are—
 - (a) that all the railway passenger services on the line or from the station in question are provided on behalf of the [^{F18}Authority] and [^{F18}it] proposes to discontinue all such services on that line or from that station; or
 - (b) that all the railway passenger services on the line or from the station in question are provided in satisfaction of requirements imposed by a franchise agreement, and—
 - (i) the person so providing those services intends not to continue providing them when the requirement so to provide them comes to an end, and
 - (ii) the [^{F18}Authority] proposes that all such services on that line or from that station should then be discontinued.
 - (4) In determining, for the purposes of paragraph (a) or (b) of subsection (3) above, whether all the railway passenger services on a line or from a station are provided as mentioned in that paragraph there shall be left out of account any services—
 - (a) which involve travel through the Channel Tunnel;
 - (b) which are provided otherwise than as regular scheduled services for that line or for that station, as the case may be;
 - (c) which are designated, or which are of a class or description designated, by order under section 49(2) below as services in relation to which section 37 above is not to have effect; or
 - (d) which are experimental passenger services, within the meaning of section 48 below, or which are provided on an experimental basis, for the purposes of section 56A of the ^{M2}Transport Act 1962;and this section shall not have effect in relation to any services falling within paragraph (d) above.
 - (5) Subject to subsection (2) above, where this section applies, the [^{F19}Authority] shall publish in two successive weeks in a local newspaper circulating in the area affected and in two national newspapers, and in such other manner as appears to [^{F19}it] to be appropriate, a notice containing—
 - (a) particulars of the proposal to effect the closure,
 - (b) the date on which it is proposed that the closure will take effect,
 - (c) particulars of any alternative transport services which appear to [^{F19}it] to be available,
 - (d) the addresses of the premises at which a statement of the reasons for the proposed closure can be inspected, or from which a copy of that statement can be obtained, and any fees payable for copies of the statement,
 - (e) a statement that objections to the proposed closure may be lodged with the [^{F20}Secretary of State] within such period as may be specified for the purpose

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in the notice (being not less than six weeks from the date of the last publication of the notice in a local newspaper),

and shall be under a duty during the interim period to secure the provision of the services to which the proposed closure relates.

(6) Without prejudice to any subsequent application of this section in relation to the services in question—

- (a) if the final decision on the closure question is that the proposed closure will not be allowed to take effect, the [^{F21}Authority] shall be under a duty to secure the provision of those services after the interim period; and
- (b) if the final decision on the closure question is that the proposed closure will be allowed to take effect subject to compliance with conditions, the [^{F21}Authority] shall be under a duty to comply with those conditions or to secure [^{F22}(in accordance with sections 55 to 58 below)]that they are complied with.

(7) In this section—

“the area affected” means the area in which is situated the station or, as the case may be, the line mentioned in subsection (1) above;

“the final decision on the closure question” means— [^{F23}the Secretary of State’s decision under section 43(9) below with respect to the proposed closure;]

“the interim period” means—

- (a) in a case falling within paragraph (a) of subsection (1) above, the period beginning with the date mentioned in subsection (5)(b) above and ending four weeks after the date of the final decision on the closure question; or
- (b) in a case falling within paragraph (b) of that subsection, the period beginning immediately after the requirement mentioned in subparagraph (i) of that paragraph comes to an end and ending four weeks after the date of the final decision on the closure question;

“minor closure” has the same meaning as it has in section 37 above.

(8) The services which are to be regarded for the purposes of this section as provided on behalf of the [^{F24}Authority] are the same services as are to be so regarded for the purposes of section 37 above.

^{F25}(9)

Textual Amendments

- F15** Words in s. 38(1) substituted (1.2.2001) by 2000 c. 38, s. 215), Sch. 16 para. 23(2); S.I. 2001/57, art. 3(1), Sch. 2 Pt. I (subject to savings and transitional provisions in Sch. 2 Pt. II) (which S.I. was amended by S.I. 2001/115, art. 2(2))
- F16** Words in s. 38(2) substituted (1.2.2001) by 2000 c. 38, s. 216, Sch. 17 para. 25(1); S.I. 2001/57, art. 3(1), Sch. 2 Pt. I (subject to savings and transitional provisions in Sch. 2 Pt. II) (which S.I. was amended by S.I. 2001/115, art. 2(2))
- F17** Words in s. 38(2) substituted (1.2.2001) by 2000 c. 38, s. 215, Sch. 16 para. 23(3); S.I. 2001/57, art. 3(1), Sch. 2 Pt. I (subject to savings and transitional provisions in Sch. 2 Pt. II) (which S.I. was amended by S.I. 2001/115, art. 2(2))
- F18** Words in s. 38(3) substituted (1.2.2001) by 2000 c. 38, s. 215, Sch. 16 para. 23(4); S.I. 2001/57, art. 3(1), Sch. 2 Pt. I (subject to savings and transitional provisions in Sch. 2 Pt. II) (which S.I. was amended by S.I. 2001/115, art. 2(2))

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- F19** Words in s. 38(5) substituted (1.2.2001) by 2000 c. 38, s. 215, **Sch. 16 para. 23(5)**; S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I** (subject to savings and transitional provisions in Sch. 2 Pt. II) (which S.I. was amended by S.I. 2001/115, **art. 2(2)**)
- F20** Words in s. 38(5) substituted (1.2.2001) by 2000 c. 38, s. 234(1) (with Sch. 28 paras. 12, 17); S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I** (subject to savings and transitional provisions in Sch. 2 Pt. II)
- F21** Words in s. 38(6) substituted (1.2.2001) by 2000 c. 38, s. 215, **Sch. 16 para. 23(6)**; S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I** (subject to savings and transitional provisions in Sch. 2 Pt. II) (which S.I. was amended by S.I. 2001/115, **art. 2(2)**)
- F22** Words in s. 38(6)(b) inserted (1.2.2001) by 2000 c. 38, s. 236(4); S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I** (subject to savings and transitional provisions in Sch. 2 Pt. II)
- F23** S. 38(7): words in definition of “the final decision on the closure question” substituted (1.2.2001) for paragraphs (a) and (b) by 2000 c. 38, s. 234(2) (with Sch. 28 paras. 12, 17); S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I** (subject to savings and transitional provisions in Sch. 2 Pt. II)
- F24** Words in s. 38(8) substituted (1.2.2001) by 2000 c. 38, s. 215, **Sch. 16 para. 23(7)**; S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I** (subject to savings and transitional provisions in Sch. 2 Pt. II) (which S.I. was amended by S.I. 2001/115, **art. 2(2)**)
- F25** S. 38(9) repealed (1.2.2001) by 2000 c. 38, s. 274, **Sch. 31 Pt. IV**; S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I** (subject to savings and transitional provisions in Sch. 2 Pt. II)

Modifications etc. (not altering text)

- C2** S. 38 excluded (21.7.1994) by 1994 c. xv, s. 17(4)
S. 38 restricted (18.12.1996) by 1996 c. 61, s. 18

Marginal Citations

- M2** 1962 c. 46.

39 Notification of proposals to close operational passenger networks.

- (1) Subject to subsection (2) below, in any case where—
- the operator of a network proposes to discontinue the operation of the network or some part of it (in this section referred to as a “closure”),
 - the network or, as the case may be, the part of the network in question has, at any time within the preceding five years, been used for or in connection with the provision of any services for the carriage of passengers by railway, and
 - the network or, as the case may be, the part of the network in question is not one which is operated on behalf of the [^{F26}Authority],
- then, unless the closure is [^{F27}determined by the Authority to be] a minor closure [^{F28}and the operator has agreed to comply with any conditions imposed by the Authority], the operator shall give notice of the proposal to the [^{F26}Authority] not less than three months before the date specified pursuant to subsection (4)(b) below as the date on which it is proposed that the closure should take effect and shall not discontinue the operation of the network or, as the case may be, the part of the network in question before that date.
- (2) This section does not apply if and to the extent that the proposal mentioned in subsection (1) above is a proposal to discontinue the operation of part of a multiple track railway between any two places, where the circumstances are such that the railway line in question will continue to be at least a single track railway between those two places.

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- (3) In determining for the purposes of subsection (1)(b) above whether the network or, as the case may be, the part of the network in question has at any time within the period there mentioned been used for or in connection with the provision of services for the carriage of passengers by railway, there shall be left out of account any use for or in connection with the provision of services—
- (a) which involve travel through the Channel Tunnel;
 - (b) which are experimental passenger services, within the meaning of section 48 below, or which are provided on an experimental basis, for the purposes of section 56A of the ^{M35}Transport Act 1962; or
 - (c) which are provided otherwise than as regular scheduled services on that network or, as the case may be, the part of the network in question;
- and this section shall not have effect in relation to any networks which are designated, or which are of a class or description designated, by order under section 49(4) below as networks in relation to which this section is not to have effect.
- (4) A notice under subsection (1) above shall be accompanied by a statement of—
- (a) the operator's reasons for the proposal;
 - (b) the date on which it is proposed that the closure will take effect; and
 - (c) any alternative transport services which appear to him to be available.
- (5) Where notice is given to the [^{F29}Authority] under subsection (1) above, [^{F29}it] must consider, and form an opinion on, the question whether the proposed closure should or should not be permitted to take effect.
- (6) If the [^{F29}Authority] is of the opinion that the proposed closure should not be permitted to take effect, [^{F29}it] shall be under a duty to secure the continued operation of the network or, as the case may be, the part of the network in question after the date on which the operator proposes that the closure should take effect.
- (7) If the [^{F30}Authority] is of the opinion that the proposed closure should be permitted to take effect, [^{F30}it] shall publish in two successive weeks in a local newspaper circulating in the area affected and in two national newspapers, and in such other manner as appears to [^{F30}it] to be appropriate, a notice containing—
- (a) particulars of the proposal to effect the closure,
 - (b) the date on which it is proposed that the closure will take effect,
 - (c) particulars of any alternative transport services which appear to [^{F30}it] to be available,
 - (d) the addresses of the premises at which a statement of the reasons for the proposed closure can be inspected, or from which a copy of that statement can be obtained, and any fees payable for copies of the statement,
 - (e) a statement that objections to the proposed closure may be lodged with the [^{F31}Secretary of State] within such period as may be specified for the purpose in the notice (being not less than six weeks from the date of the last publication of the notice in a local newspaper),
- and shall be under a duty during the interim period to secure the operation of the network or, as the case may be, the part of the network to which the proposed closure relates.
- (8) The reasons contained in the statement referred to in subsection (7)(d) above may consist of or include the reasons included in the statement under subsection (4) above, with or without other reasons of the [^{F32}Authority's].

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(9) Without prejudice to the provisions of section 40 below in relation to the network or the part of the network in question—

- (a) if the final decision on the closure question is that the proposed closure will not be allowed to take effect, the [^{F33}Authority] shall be under a duty to secure the operation of the network or, as the case may be, the part of the network after the interim period; and
- (b) if the final decision on the closure question is that the proposed closure will be allowed to take effect subject to compliance with conditions, the [^{F33}Authority] shall be under a duty to comply with those conditions or to secure [^{F34}(in accordance with sections 55 to 58 below)] that they are complied with.

(10) In this section—

“the area affected” means the area in which is situated the network or, as the case may be, the part of the network in question;

“the final decision on the closure question” means— [^{F35}the Secretary of State’s decision under section 43(9) below with respect to the proposed closure;]

“the interim period” means the period beginning with the date mentioned in subsection (7)(b) above and ending four weeks after the date of the final decision on the closure question;

“minor closure” means discontinuance of the operation of—

- (a) any part of a network which consists of a stretch of track, or installations associated with a stretch of track, along which there is no station (or no station in use) where the circumstances are ^{F36} . . . such that—
 - (i) any trains that would otherwise use that part of the network in travelling between any two stations will instead pass along an alternative route; and
 - (ii) any passengers travelling on any such trains will not be required to make any additional change of train and will not incur any significant increase in the time which their journey takes; ^{F36} . . .
 - [^{F37}(aa) any part of a network which consists of a stretch of track, or installations associated with a stretch of track, doing no more than serve a station or light maintenance depot, or some part of it, where the circumstances are such that—
 - (i) that part of the network is not necessary for the use of the station or light maintenance depot, or that part of it, for the purpose of or in connection with the provision of services for the carriage of passengers by railway; or
 - (ii) the use of the station or light maintenance depot, or that part of it, has been or is proposed to be subject to termination constituting a minor closure within the meaning of section 41 below; or]
 - (b) any part of a network (other than track) which ^{F36} . . . is not necessary for the use of the network for or in connection with the provision of services for the carriage of passengers by railway;
- “multiple track railway” means a railway line between any two places which consists of two or more continuous sets of track taking the same route between those two places;
- “single track railway” means a railway line between any two places which consists of one continuous set of track between the two places.

Status: Point in time view as at 05/07/2004.

Changes to legislation: Railways Act 1993, Cross Heading: Closures is up to date with all changes known to be in force on or before 29 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (11) The networks, and the parts of networks, which are to be regarded for the purposes of this section as operated on behalf of the [^{F38}Authority] are those whose operation [^{F38}it] is for the time being under a duty to secure, in consequence of—
- (a) subsection (6) or (9)(a) above,
 - (b) section 40(6)(a) below, or
 - (c) any closure condition imposed under section 43(9) ^{F39} . . . below,
- and those whose operation [^{F38}it] is for the time being securing ^{F39} . . .

^{F40}(12)

Textual Amendments

- F26** Words in s. 39(1) substituted (1.2.2001) by 2000 c. 38, s. 215, **Sch. 16 para. 24(2)**; S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I** (subject to savings and transitional provisions in Sch. 2 Pt. II) (which S.I. was amended by S.I. 2001/115, **art. 2(2)**)
- F27** Words in s. 39(1) substituted (1.2.2001) by 2000 c. 38, s. 216, **Sch. 17 para. 25(1)**; S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I** (subject to savings and transitional provisions in Sch. 2 Pt. II)
- F28** Words in s. 39(1) inserted (1.2.2001) by 2000 c. 38, s. 236(2); S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I** (subject to savings and transitional provisions in Sch. 2 Pt. II)
- F29** Words in s. 39(5)(6) substituted (1.2.2001) by 2000 c. 38, s. 215, **Sch. 16 para. 24(3)**; S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I** (subject to savings and transitional provisions in Sch. 2 Pt. II) (which S.I. was amended by S.I. 2001/115, **art. 2(2)**)
- F30** Words in s. 39(7) substituted (1.2.2001) by 2000 c. 38, s. 215, **Sch. 16 para. 24(4)**; S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I** (subject to savings and transitional provisions in Sch. 2 Pt. II) (which S.I. was amended by S.I. 2001/115, **art. 2(2)**)
- F31** Words in s. 39(7) substituted (1.2.2001) by 2000 c. 38, s. 234(1) (with Sch. 28 paras. 12, 17); S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I** (subject to savings and transitional provisions in Sch. 2 Pt. II)
- F32** Words in s. 39(8) substituted (1.2.2001) by 2000 c. 38, s. 215, **Sch. 16 para. 24(5)**; S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I** (subject to savings and transitional provisions in Sch. 2 Pt. II) (which S.I. was amended by S.I. 2001/115, **art. 2(2)**)
- F33** Words in s. 39(9) substituted (1.2.2001) by 2000 c. 38, s. 215, **Sch. 16 para. 24(6)**; S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I** (subject to savings and transitional provisions in Sch. 2 Pt. II) (which S.I. was amended by S.I. 2001/115, **art. 2(2)**)
- F34** Words in s. 39(9)(b) inserted (1.2.2001) by 2000 c. 38, s. 236(4); S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I** (subject to savings and transitional provisions in Sch. 2 Pt. II)
- F35** S. 39(10): words in definition of “the final decision on the closure question” substituted (1.2.2001) for paragraphs (a) and (b) by 2000 c. 38, s. 234(2) (with Sch. 28 paras. 12, 17); S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I** (subject to savings and transitional provisions in Sch. 2 Pt. II)
- F36** S. 39(10): words in definition of “minor closure” and word “or” at the end of para (a) in that definition repealed (1.2.2001) by 2000 c. 38, ss. 216, 274, **Sch. 17 para. 25(2)**, **Sch. 31 Pt. IV**; S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I** (subject to savings and transitional provisions in Sch. 2 Pt. II)
- F37** S. 39(10): para (aa) in definition of “minor closure” inserted (1.2.2001) by 2000 c. 38, s. 237; S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I** (subject to savings and transitional provisions in Sch. 2 Pt. II)
- F38** Words in s. 39(11) substituted (1.2.2001) by 2000 c. 38, s. 215, **Sch. 16 para. 24(7)**; S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I** (subject to savings and transitional provisions in Sch. 2 Pt. II) (which S.I. was amended by S.I. 2001/115, **art. 2(2)**)

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F39 Words in s. 39(11) repealed (1.2.2001) by 2000 c. 38, s. 274, **Sch. 31 Pt. IV**; S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I** (subject to savings and transitional provisions in **Sch. 2 Pt. II**)

F40 Words in s. 39(12) repealed (1.2.2001) by 2000 c. 38, s. 274, **Sch. 31 Pt. IV**; S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I** (subject to savings and transitional provisions in **Sch. 2 Pt. II**)

Modifications etc. (not altering text)

C3 S. 39 excluded (1.4.1994) by S.I. 1994/606, **art. 7(2)**

S. 39 excluded (21.7.1994) by 1994 c. xv, s. 17(4)

S. 39 excluded (24.5.1996) by S.I. 1996/1356, **art. 3(2)**

S. 39 excluded (23.7.1997) by S.I. 1997/1531, **art. 3(2)**

S. 39 excluded (13.12.1999) by S.I. 1999/3112, **art. 4(2)**

S. 39 excluded (13.12.1999) by S.I. 1999/3111, **art. 3(1)**

S. 39 excluded (26.5.2000) by S.I. 2000/1178, **art. 2**

S. 39 excluded (1.6.2001 for specified purposes and otherwise 1.7.2001) by S.I. 2001/1768, **arts. 1, 3**

Marginal Citations

M3 1962 c. 46.

40 Proposals to close passenger networks operated on behalf of the [F41 Authority].

(1) This section applies in any case where—

- (a) a network or a part of a network is operated on behalf of the [F42 Authority]; and
- (b) the [F42 Authority] proposes to discontinue the operation of the network or, as the case may be, the part of the network in question (in this section referred to as a “closure”).

(2) If in a case where this section applies—

- (a) the closure is [F43 determined by the Authority to be] a minor closure,
- (b) the closure is one to which subsection (3) below applies,
- (c) the network or, as the case may be, the part of the network in question has at no time within the preceding five years been used for or in connection with the provision of any services for the carriage of passengers by railway, or
- (d) the network in question is one of those which are designated, or which are of a class or description designated, by order under section 49(4) below as networks in relation to which section 39 above is not to have effect,

the [F44 Authority] may discontinue the operation of the network or, as the case may be, the part of the network in question, notwithstanding any duty imposed upon [F44 the Authority] by or under this Part to secure its operation, and subsections (5) and (6) below shall not apply in relation to the closure.

(3) This subsection applies to a closure if and to the extent that it is the closure of part of a multiple track railway running between any two places, where the circumstances are such that the railway line in question will continue to be at least a single track railway between those two places.

(4) In determining for the purposes of subsection (2)(c) above whether the network or, as the case may be, the part of the network in question has at any time within the period there mentioned been used for or in connection with the provision of services for the carriage of passengers by railway, there shall be left out of account any use for or in connection with the provision of services—

- (a) which involve travel through the Channel Tunnel;

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- (b) which are experimental passenger services, within the meaning of section 48 below, or which are provided on an experimental basis, for the purposes of section 56A of the ^{M47}Transport Act 1962; or
 - (c) which are provided otherwise than as regular scheduled services on that network or, as the case may be, the part of the network in question.
- (5) Subject to subsection (2) above, where this section applies, the [^{F45}Authority] shall publish in two successive weeks in a local newspaper circulating in the area affected and in two national newspapers, and in such other manner as appears to [^{F45}it] to be appropriate, a notice containing—
- (a) particulars of the proposal to effect the closure,
 - (b) the date on which it is proposed that the closure will take effect,
 - (c) particulars of any alternative transport services which appear to [^{F45}it] to be available,
 - (d) the addresses of the premises at which a statement of the reasons for the proposed closure can be inspected, or from which a copy of that statement can be obtained, and any fees payable for copies of the statement,
 - (e) a statement that objections to the proposed closure may be lodged with the [^{F46}Secretary of State] within such period as may be specified for the purpose in the notice (being not less than six weeks from the date of the last publication of the notice in a local newspaper),
- and shall be under a duty during the interim period to secure the operation of the network or, as the case may be, the part of the network to which the proposed closure relates.
- (6) Subject to subsection (2) above and without prejudice to any subsequent application of this section in relation to the network or the part of the network in question—
- (a) if the final decision on the closure question is that the proposed closure will not be allowed to take effect, the [^{F47}Authority] shall be under a duty to secure the operation of the network or, as the case may be, the part of the network after the interim period; and
 - (b) if the final decision on the closure question is that the proposed closure will be allowed to take effect subject to compliance with conditions, the [^{F47}Authority] shall be under a duty to comply with those conditions or to secure [^{F48}(in accordance with sections 55 to 58 below)] that they are complied with.
- (7) In this section—
- “the area affected” means the area in which is situated the network or, as the case may be, the part of the network in question;
 - “the final decision on the closure question” means— [^{F49}the Secretary of State’s decision under section 43(9) below with respect to the proposed closure;]
 - “the interim period” means the period beginning with the date mentioned in subsection (5)(b) above and ending four weeks after the date of the final decision on the closure question;
 - “minor closure”, “multiple track railway” and “single track railway” have the same meaning as they have in section 39 above.
- (8) The networks and parts of networks that are to be regarded for the purposes of this section as operated on behalf of the [^{F41}Authority] are the same networks and parts of networks as are to be so regarded for the purposes of section 39 above.

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Changes to legislation: Railways Act 1993, Cross Heading: Closures is up to date with all changes known to be in force on or before 29 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

F⁵⁰(9)

Textual Amendments

- F41** Words in s. 40(8) and sidenote substituted (1.2.2001) by 2000 c. 38, s. 215, 275(1), **Sch. 16 para. 25(6)**; S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I** (subject to savings and transitional provisions in Sch. 2 Pt. II) (which S.I. was amended by S.I. 2001/115, art. 2(2))
- F42** Words in s. 40(1) substituted (1.2.2001) by 2000 c. 38, s. 215, **Sch. 16 para. 25(2)**; S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I** (subject to savings and transitional provisions in Sch. 2 Pt. II) (which S.I. was amended by S.I. 2001/115, art. 2(2))
- F43** Words in s. 40(2) substituted (1.2.2001) by 2000 c. 38, s. 216, **Sch. 17 para. 25(1)**; S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I** (subject to savings and transitional provisions in Sch. 2 Pt. II)
- F44** Words in s. 40(2) substituted (1.2.2001) by 2000 c. 38, s. 215, **Sch. 16 para. 25(3)**; S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I** (subject to savings and transitional provisions in Sch. 2 Pt. II) (which S.I. was amended by S.I. 2001/115, art. 2(2))
- F45** Words in s. 40(5) substituted (1.2.2001) by 2000 c. 38, s. 215, **Sch. 16 para. 25(4)**; S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I** (subject to savings and transitional provisions in Sch. 2 Pt. II) (which S.I. was amended by S.I. 2001/115, art. 2(2))
- F46** Words in s. 40(5) substituted (1.2.2001) by 2000 c. 38, s. 234(1) (with Sch. 28 paras. 12, 17); S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I** (subject to savings and transitional provisions in Sch. 2 Pt. II)
- F47** Words in s. 40(6) substituted (1.2.2001) by 2000 c. 38, s. 215, **Sch. 16 para. 25(5)**; S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I** (subject to savings and transitional provisions in Sch. 2 Pt. II) (which S.I. was amended by S.I. 2001/115, art. 2(2))
- F48** Words in s. 40(6)(b) inserted (1.2.2001) by 2000 c. 38, s. 236(4); S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I** (subject to savings and transitional provisions in Sch. 2 Pt. II)
- F49** S. 40(7): words in definition of “the final decision on the closure question” substituted (1.2.2001) by 2000 c. 38, s. 234(2) (with Sch. 28 paras. 12, 17); S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I** (subject to savings and transitional provisions in Sch. 2 Pt. II)
- F50** s. 40(9) repealed (1.2.2001) by 2000 c. 38, s. 274, **Sch. 31 Pt. IV**; S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I** (subject to savings and transitional provisions in Sch. 2 Pt. II)

Modifications etc. (not altering text)

- C4** S. 40 excluded (21.7.1994) by 1994 c. xv, s. 17(4)

Marginal Citations

- M4** 1962 c. 46.

41 Notification of proposals to close railway facilities used in connection with passenger services.

(1) In any case where—

- (a) the operator of a station or light maintenance depot (“the relevant facility”) proposes to terminate the use of that station or light maintenance depot, or some part of it, as such (in this section referred to as a “closure”),
- (b) the relevant facility or, as the case may be, the part of the relevant facility in question has, at any time within the preceding five years, been used in connection with the provision of any services for the carriage of passengers by railway, and
- (c) the relevant facility or, as the case may be, the part of the relevant facility in question is not one which is operated on behalf of the [F⁵¹Authority],

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then, unless the closure is ^{F52}determined by the Authority to be] a minor closure ^{F53}and the operator has agreed to comply with any conditions imposed by the Authority], the operator shall give notice of the proposal to the ^{F51}Authority] not less than three months before the date specified pursuant to subsection (3)(b) below as the date on which it is proposed that the closure should take effect and shall not terminate the use of the relevant facility or, as the case may be, the part of the relevant facility in question before that date.

(2) In determining for the purposes of subsection (1)(b) above whether the relevant facility or, as the case may be, the part of the relevant facility in question has at any time within the period there mentioned been used in connection with the provision of services for the carriage of passengers by railway, there shall be left out of account any use in connection with the provision of services—

- (a) which involve travel through the Channel Tunnel;
- (b) which are experimental passenger services, within the meaning of section 48 below, or which are provided on an experimental basis, for the purposes of section 56A of the ^{M5}Transport Act 1962; or
- (c) which are provided otherwise than as regular scheduled services;

and this section shall not have effect in relation to any stations or light maintenance depots which are designated, or which are of a class or description designated, by order under section 49(5) below as stations or light maintenance depots in relation to which this section is not to have effect.

(3) A notice under subsection (1) above shall be accompanied by a statement of—

- (a) the operator's reasons for the proposal;
- (b) the date on which it is proposed that the closure will take effect; and
- (c) any alternative facilities which appear to the operator to be available for the provision of services corresponding to those provided by means of the relevant facility or, as the case may be, the part of the relevant facility in question.

(4) Where notice is given to the ^{F54}Authority] under subsection (1) above, ^{F54}it] must consider, and form an opinion on, the question whether the proposed closure should or should not be permitted to take effect.

(5) If the ^{F54}Authority] is of the opinion that the proposed closure should not be permitted to take effect, ^{F54}it] shall be under a duty to secure the continued operation of the relevant facility or, as the case may be, the part of the relevant facility in question after the date on which the operator proposes that the closure should take effect.

(6) If the ^{F55}Authority] is of the opinion that the proposed closure should be permitted to take effect, ^{F55}it] shall publish in two successive weeks in a local newspaper circulating in the area affected and in two national newspapers, and in such other manner as appears to ^{F55}it] to be appropriate, a notice containing—

- (a) particulars of the proposal to effect the closure,
- (b) the date on which it is proposed that the closure will take effect,
- (c) particulars of any alternative facilities which appear to ^{F55}it] to be available for the provision of services corresponding to those provided by means of the relevant facility or, as the case may be, the part of the relevant facility in question,
- (d) the addresses of the premises at which a statement of the reasons for the proposed closure can be inspected, or from which a copy of that statement can be obtained, and any fees payable for copies of the statement,

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Changes to legislation: Railways Act 1993, Cross Heading: Closures is up to date with all changes known to be in force on or before 29 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (e) a statement that objections to the proposed closure may be lodged with the [^{F56}Secretary of State] within such period as may be specified for the purpose in the notice (being not less than six weeks from the date of the last publication of the notice in a local newspaper),
and shall be under a duty during the interim period to secure the operation of the relevant facility or, as the case may be, the part of the relevant facility to which the proposed closure relates.
- (7) The reasons contained in the statement referred to in subsection (6)(d) above may consist of or include the reasons included in the statement under subsection (3) above, with or without other reasons of the [^{F57}Authority's].
- (8) Without prejudice to the provisions of section 42 below in relation to the relevant facility or the part of the relevant facility in question—
- (a) if the final decision on the closure question is that the proposed closure will not be allowed to take effect, the [^{F58}Authority] shall be under a duty to secure the operation of the relevant facility or, as the case may be, the part of the relevant facility after the interim period; and
- (b) if the final decision on the closure question is that the proposed closure will be allowed to take effect subject to compliance with conditions, the [^{F58}Authority] shall be under a duty to comply with those conditions or to secure [^{F59}(in accordance with sections 55 to 58 below)]that they are complied with.
- (9) In this section—
- “the area affected”—
- (a) in a case where the relevant facility is a station, means the area served by the station; and
- (b) in a case where the relevant facility is a light maintenance depot, means the area in which the light maintenance depot is situated;
- “the final decision on the closure question” means— [^{F60}the Secretary of State's decision under section 43(9) below with respect to the proposed closure;]
- “the interim period” means the period beginning with the date mentioned in subsection (6)(b) above and ending four weeks after the date of the final decision on the closure question;
- “minor closure”—
- (a) in relation to a station, means discontinuance of the operation of a part of the station which ^{F61}. . . is not necessary for the use of the station for the purpose of, or in connection with, the provision of services for the carriage of passengers by railway; and
- (b) in relation to a light maintenance depot, means any such discontinuance as would not ^{F61}. . . jeopardise the provision of any services for the carriage of passengers by railway.
- (10) The stations and light maintenance depots, and the parts of stations or light maintenance depots, which are to be regarded for the purposes of this section as operated on behalf of the [^{F62}Authority] are those whose operation [^{F62}it] is for the time being under a duty to secure, in consequence of—
- (a) subsection (5) or (8)(a) above,
- (b) section 42(5)(a) below, or
- (c) any closure condition imposed under section 43(9) ^{F63}. . . below,

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and those whose operation [^{F62}it] is for the time being securing ^{F63}. . . .

^{F64}(11)

Textual Amendments

- F51** Words in s. 41(1) substituted (1.2.2001) by 2000 c. 38, s. 215, **Sch. 16 para. 26(2)**; S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I** (subject to savings and transitional provisions in Sch. 2 Pt. II) (which S.I. was amended by S.I. 2001/115, **art. 2(2)**)
- F52** Words in s. 41(1) substituted (1.2.2001) by 2000 c. 38, s. 216, **Sch. 17 para. 25(1)**; S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I** (subject to savings and transitional provisions in Sch. 2 Pt. II)
- F53** Words in s. 41(1) inserted (1.2.2001) by 2000 c. 38, s. 236(2); S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I** (subject to savings and transitional provisions in Sch. 2 Pt. II)
- F54** Words in s. 41(4)(5) substituted (1.2.2001) by 2000 c. 38, s. 215, **Sch. 16 para. 26(3)**; S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I** (subject to savings and transitional provisions in Sch. 2 Pt. II) (which S.I. was amended by S.I. 2001/115, **art. 2(2)**)
- F55** Words in s. 41(6) substituted (1.2.2001) by 2000 c. 38, s. 215, **Sch. 16 para. 26(4)**; S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I** (subject to savings and transitional provisions in Sch. 2 Pt. II) (which S.I. was amended by S.I. 2001/115, **art. 2(2)**)
- F56** Words in s. 41(6) substituted (1.2.2001) by 2000 c. 38, s. 234(1) (with Sch. 28 paras. 12, 17); S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I** (subject to savings and transitional provisions in Sch. 2 Pt. II)
- F57** Words in s. 41(7) substituted (1.2.2001) by 2000 c. 38, s. 215, **Sch. 16 para. 26(5)**; S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I** (subject to savings and transitional provisions in Sch. 2 Pt. II) (which S.I. was amended by S.I. 2001/115, **art. 2(2)**)
- F58** Words in s. 41(8) substituted (1.2.2001) by 2000 c. 38, s. 215, **Sch. 16 para. 26(6)**; S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I** (subject to savings and transitional provisions in Sch. 2 Pt. II) (which S.I. was amended by S.I. 2001/115, **art. 2(2)**)
- F59** Words in s. 41(8)(b) inserted (1.2.2001) by 2000 c. 38, s. 236(4); S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I** (subject to savings and transitional provisions in Sch. 2 Pt. II)
- F60** S. 41(9): words in definition of “the final decision on the closure question” substituted (1.2.2001) for paragraphs (a) and (b) by 2000 c. 38, s. 234(2) (with Sch. 28 paras. 12, 17); S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I** (subject to savings and transitional provisions in Sch. 2 Pt. II)
- F61** S. 41(9): words in definition of “minor closure” repealed (1.2.2001) by 2000 c. 38, ss. 216, 274, Sch. 17 para. 25(2), **Sch. 31 Pt. IV**; S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I** (subject to savings and transitional provisions in Sch. 2 Pt. II)
- F62** Words in s. 41(10) substituted (1.2.2001) by 2000 c. 38, s. 215, **Sch. 16 para. 26(7)**; S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I** (subject to savings and transitional provisions in Sch. 2 Pt. II) (which S.I. was amended by S.I. 2001/115, **art. 2(2)**)
- F63** Words in s. 41(10) repealed (1.2.2001) by 2000 c. 38, s. 274, **Sch. 31 Pt. IV**; S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I** (subject to savings and transitional provisions in Sch. 2 Pt. II)
- F64** S. 41(11) repealed (1.2.2001) by 2000 c. 38, s. 274, **Sch. 31 Pt. IV**; S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I** (subject to savings and transitional provisions in Sch. 2 Pt. II)

Modifications etc. (not altering text)

- C5** S. 41 excluded (1.4.1994) by S.I. 1994/606, **art. 7(3)(4)**
S. 41 excluded (21.7.1994) by 1994 c. xv, s. 17(4)
S. 41 excluded (24.5.1996) by S.I. 1996/1356, **art. 3(3)**
S. 41 excluded (23.7.1997) by S.I. 1997/1531, **art. 3(3)**
s. 41 excluded (13.12.1999) by S.I. 1999/3112, **art. 4(3)**
S. 41 excluded (13.12.1999) by S.I. 1999/3111, **art. 3(2)**
S. 41 excluded (1.6.2001 for specified purposes and otherwise 1.7.2001) by S.I. 2001/1768, **arts. 1, 4**

Status: Point in time view as at 05/07/2004.

Changes to legislation: Railways Act 1993, Cross Heading: Closures is up to date with all changes known to be in force on or before 29 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

Marginal Citations

M5 1962 c. 46.

42 Proposals to close passenger railway facilities operated on behalf of the [^{F65} Authority].

- (1) This section applies in any case where—
 - (a) the whole or some part of a station or light maintenance depot (“the relevant facility”) is operated on behalf of the [^{F66} Authority]; and
 - (b) the [^{F66} Authority] proposes to discontinue the operation of the relevant facility or of some part of the relevant facility (in this section referred to as a “closure”).
- (2) If in a case where this section applies—
 - (a) the closure is [^{F67} determined by the Authority to be] a minor closure,
 - (b) the relevant facility or, as the case may be, the part of the relevant facility in question has at no time within the preceding five years been used in connection with the provision of any services for the carriage of passengers by railway, or
 - (c) the relevant facility is, or is part of, one of those stations or light maintenance depots which are designated, or which are of a class or description designated, by order under section 49(5) below as stations or light maintenance depots in relation to which section 41 above is not to have effect,the [^{F68} Authority] may discontinue the operation of the relevant facility or, as the case may be, the part of the relevant facility in question, notwithstanding any duty imposed upon [^{F68} the Authority] by or under this Part to secure its operation, and subsections (4) and (5) below shall not apply in relation to the closure.
- (3) In determining for the purposes of subsection (2)(b) above whether the relevant facility or, as the case may be, the part of the relevant facility in question has at any time within the period there mentioned been used in connection with the provision of services for the carriage of passengers by railway, there shall be left out of account any use in connection with the provision of services—
 - (a) which involve travel through the Channel Tunnel;
 - (b) which are experimental passenger services, within the meaning of section 48 below, or which are provided on an experimental basis, for the purposes of section 56A of the ^{M6}Transport Act 1962; or
 - (c) which are provided otherwise than as regular scheduled services.
- (4) Subject to subsection (2) above, where this section applies, the [^{F69} Authority] shall publish in two successive weeks in a local newspaper circulating in the area affected and in two national newspapers, and in such other manner as appears to [^{F69} it] to be appropriate, a notice containing—
 - (a) particulars of the proposal to effect the closure,
 - (b) the date on which it is proposed that the closure will take effect,
 - (c) particulars of any alternative facilities which appear to [^{F69} it] to be available for the provision of services corresponding to those provided by means of the relevant facility or, as the case may be, the part of the relevant facility in question,

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- (d) the addresses of the premises at which a statement of the reasons for the proposed closure can be inspected, or from which a copy of that statement can be obtained, and any fees payable for copies of the statement,
- (e) a statement that objections to the proposed closure may be lodged with the [^{F70}Secretary of State] within such period as may be specified for the purpose in the notice (being not less than six weeks from the date of the last publication of the notice in a local newspaper),

and shall be under a duty during the interim period to secure the operation of the relevant facility or, as the case may be, the part of the relevant facility to which the proposed closure relates.

- (5) Subject to subsection (2) above and without prejudice to any subsequent application of this section in relation to the relevant facility or the part of the relevant facility in question—
 - (a) if the final decision on the closure question is that the proposed closure will not be allowed to take effect, the [^{F71}Authority] shall be under a duty to secure the operation of the relevant facility or, as the case may be, the part of the relevant facility after the interim period; and
 - (b) if the final decision on the closure question is that the proposed closure will be allowed to take effect subject to compliance with conditions, the [^{F71}Authority] shall be under a duty to comply with those conditions or to secure [^{F72}(in accordance with sections 55 to 58 below)] that they are complied with.

(6) In this section—

“the area affected” means the area in which is situated the relevant facility or, as the case may be, the part of the relevant facility in question;

“the final decision on the closure question” means— [^{F73}the Secretary of State’s decision under section 43(9) below with respect to the proposed closure;]

“the interim period” means the period beginning with the date mentioned in subsection (4)(b) above and ending four weeks after the date of the final decision on the closure question;

“minor closure” has the same meaning as it has in section 41 above.

(7) The stations and light maintenance depots and the parts of stations and light maintenance depots that are to be regarded for the purposes of this section as operated on behalf of the [^{F65}Authority] are the same stations and light maintenance depots and parts of stations and light maintenance depots as are to be so regarded for the purposes of section 41 above.

^{F74}(8)

Textual Amendments

- F65** Words in s. 42(7) and sidenote substituted (1.2.2001) by 2000 c. 38, s. 215, **Sch. 16 para. 27(6)**; S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I** (subject to savings and transitional provisions in **Sch. 2 Pt. II**) (which S.I. was amended by S.I. 2001/115, **art. 2(2)**)
- F66** Words in s. 42(1) substituted (1.2.2001) by 2000 c. 38, s. 215, **Sch. 16 para. 27(2)**; S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I** (subject to savings and transitional provisions in **Sch. 2 Pt. II**) (which S.I. was amended by S.I. 2001/115, **art. 2(2)**)
- F67** Words in s. 42(2)(a) substituted (1.2.2001) by 2000 c. 38, s. 216, Sch. 17 para. 25(1); S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I** (subject to savings and transitional provisions in **Sch. 2 Pt. II**)

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- F68** Words in s. 42(2) substituted (1.2.2001) by 2000 c. 38, s. 215, **Sch. 16 para. 27(3)**; S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I** (subject to savings and transitional provisions in Sch. 2 Pt. II) (which S.I. was amended by S.I. 2001/115, **art. 2(2)**)
- F69** Words in s. 42(4) substituted (1.2.2001) by 2000 c. 38, s. 215, **Sch. 16 para. 27(4)**; S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I** (subject to savings and transitional provisions in Sch. 2 Pt. II) (which S.I. was amended by S.I. 2001/115, **art. 2(2)**)
- F70** Words in s. 42(4)(e) substituted (1.2.2001) by 2000 c. 38, s. 234(1) (with Sch. 28 paras. 12, 17); S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I** (subject to savings and transitional provisions in Sch. 2 Pt. II)
- F71** Words in s. 42(6) substituted (1.2.2001) by 2000 c. 38, s. 215, **Sch. 16 para. 27(5)**; S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I** (subject to savings and transitional provisions in Sch. 2 Pt. II) (which S.I. was amended by S.I. 2001/115, **art. 2(2)**)
- F72** Words in s. 42(5)(b) inserted (1.2.2001) by 2000 c. 38, s. 236(4); S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I** (subject to savings and transitional provisions in Sch. 2 Pt. II)
- F73** S. 42(6): words in definition of “the final decision on the closure question” substituted (1.2.2001) by 2000 c. 38, s. 234(2) (with Sch. 28 paras. 12, 17); S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I** (subject to savings and transitional provisions in Sch. 2 Pt. II)
- F74** S. 42(8) repealed (1.2.2001) by 2000 c. 38, s. 274, **Sch. 31 Pt. IV**; S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I** (subject to savings and transitional provisions in Sch. 2 Pt. II)

Modifications etc. (not altering text)

- C6** S. 42 excluded (21.7.1994) by 1994 c. xv, s. 17(4)

Marginal Citations

- M6** 1962 c. 46.

43 Notification to, and functions of, the [^{F75}Secretary of State] and the relevant [^{F76}Rail Passengers Committees].

- (1) Where the [^{F77}Authority] is required by any provision of sections 37 to 42 above to publish any notice, [^{F77}it] shall also send the following documents, that is to say—
- a copy of the notice,
 - a copy of the statement of reasons to which the notice refers, and
 - a statement of [^{F77}its] recommendations with respect to the conditions (if any) to be attached to any consent to the closure,
- to the [^{F78}Secretary of State][^{F79}, to the Mayor of London if the whole or any part of the area affected by the closure is in Greater London,] and to every [^{F80}Rail Passengers’ Committee] whose area consists of or includes the whole or any part of the area affected by the proposed closure.

[^{F81}(1A) The Authority shall also—

- send a copy of the notice to every person who is the operator of a station within the area affected; and
 - require him to publish it at the station.]
- (2) The [^{F78}Secretary of State] shall send to every [^{F80}Rail Passengers’ Committee] whose area consists of or includes the whole or any part of the area affected a copy of every objection to the proposed closure which is lodged with him in accordance with the terms of the statement published pursuant to paragraph (e) of whichever of sections 37(6), 38(5), 39(7), 40(5), 41(6) or 42(4) above is applicable in the case of that proposed closure.

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- (3) On receipt of the copy of the notice referred to in subsection (1)(a) above, a [^{F82}Rail Passengers' Committee] shall—
- (a) consider whether or not the proposed closure will cause any hardship;
 - (b) identify any reasonable means of alleviating any such hardship; and
 - (c) prepare, and send to the [^{F78}Secretary of State], a report of the conclusions which it has reached in the discharge of its functions under paragraphs (a) and (b) above;
- and, for the purposes of paragraph (b) above, a [^{F82}Rail Passengers' Committee] shall not conclude that any particular means of alleviating hardship is reasonable unless, balancing the cost to the [^{F83}Authority] (or any other public authority) of employing those means against the benefit of any alleviation thereby secured, the [^{F82}Rail Passengers' Committee] is of the opinion, on the basis of the information available to it, that the expenditure involved represents good value for money.
- (4) Any [^{F84}Rail Passengers' Committee] which has prepared a report under subsection (3) (c) above shall send a copy of the report to the [^{F84}Rail Passengers' Council] and may publish the report in any manner which it considers appropriate.
- (5) For the purpose of facilitating the discharge of its functions under subsection (3) above, a [^{F85}Rail Passengers' Committee] may, after consultation with the [^{F78}Secretary of State], hold public hearings.
- (6) In deciding whether to hold a public hearing for the purposes of this section, and in conducting any such hearing, a [^{F85}Rail Passengers' Committee] shall take into account such matters as may be notified to it by the [^{F78}Secretary of State].
- (7) The report required by subsection (3)(c) above shall be sent to the [^{F78}Secretary of State] before the expiration of the period of 12 weeks, or such longer period as the [^{F78}Secretary of State] may allow in any particular case, immediately following the end of the period within which objections to the proposed closure may be lodged with the [^{F78}Secretary of State].
- (8) The [^{F78}Secretary of State] shall only allow a longer period for the purposes of subsection (7) above if, on an application made to him by the [^{F85}Rail Passengers' Committee] in question, he considers it appropriate to do so in the circumstances of the particular case.
- (9) It shall be for the [^{F78}Secretary of State] to decide whether the proposed closure should, or should not, be allowed to take effect; and a decision may be given allowing the proposed closure to take effect subject to compliance with such conditions (if any) as the [^{F78}Secretary of State] may see fit to impose.
- (10) Before deciding whether or not to allow the proposed closure to take effect, or whether to impose any and, if so, what conditions, the [^{F78}Secretary of State] shall consider—
- (a) the reasons for the proposed closure set out in the copy of the statement sent to him pursuant to subsection (1)(b) above;
 - (b) any objections to the proposed closure which have been lodged with him; and
 - (c) every report relating to the proposed closure which is sent to him by a [^{F85}Rail Passengers' Committee] pursuant to subsection (3)(c) above.
- ^{F86}(11)
- (12) When the [^{F78}Secretary of State] has made a decision with respect to the proposed closure, he shall send a copy of the decision to—

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- (a) [^{F87}the Office of Rail Regulation]^{F88},
- (b) the [^{F83}Authority],
- (c) every such [^{F85}Rail Passengers' Committee] as is mentioned in subsection (1) above, and
- (d) either—
 - (i) in a case falling within section 37 above, the service operator, within the meaning of that section, or
 - (ii) in a case falling within section 39 or 41 above, the operator of the network, station or light maintenance depot in question who gave the notice required by subsection (1) of the section in question,

^{F89} . . .

[^{F90}(12A) The Secretary of State shall also—

- (a) send a copy of the decision to every person who is the operator of a station within the area affected; and
- (b) require him to publish it at the station.]

(13) In this section, “the area affected”, in relation to a proposed closure, shall be construed in accordance with the section under or by virtue of which the [^{F83}Authority] is required to publish the notice referred to in subsection (1) above.

Textual Amendments

- F75** S. 43: words in sidenote substituted (1.2.2001) by 2000 c. 38, s. 234(3)(a) (with Sch. 28 paras. 12, 17); S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I** (subject to savings and transitional provisions in Sch. 2 Pt. II)
- F76** Words in s. 43 sidenote substituted (1.2.2001) by 2000 c. 38, s. 227, **Sch. 22 Pt. I para. 4(6)**; S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I** (subject to savings and transitional provisions in Sch. 2 Pt. II)
- F77** Words in s. 43(1) substituted (1.2.2001) by 2000 c. 38, s. 215, **Sch. 16 para. 28(2)**; S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I** (subject to savings and transitional provisions in Sch. 2 Pt. II) (which S.I. was amended by S.I. 2001/115, art. 2(2))
- F78** Word in s. 43 substituted (1.2.2001) by 2000 c. 38, s. 234(3)(a) (with Sch. 28 paras. 12, 17); S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I** (subject to savings and transitional provisions in Sch. 2 Pt. II)
- F79** Words in s. 43(1) inserted (3.7.2000) by 1999 c. 29, s. 203 (with Sch. 12 para. 9(1)); S.I. 2000/801, art. 3, **Sch Pt. 3**
- F80** Words in s. 43(1)(2) substituted (1.2.2001) by 2000 c. 38, s. 227, **Sch. 22 Pt. I para. 4(2)**; S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I** (subject to savings and transitional provisions in Sch. 2 Pt. II)
- F81** S. 43(1A) inserted (1.2.2001) by 2000 c. 38, s. 235(1); S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I** (subject to savings and transitional provisions in Sch. 2 Pt. II)
- F82** Words in s. 43(3) substituted (1.2.2001) by 2000 c. 38, s. 227, **Sch. 22 Pt. I para. 4(3)**; S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I** (subject to savings and transitional provisions in Sch. 2 Pt. II)
- F83** Words in s. 43(3)(12)(13) substituted (1.2.2001) by 2000 c. 38, s. 215, **Sch. 16 para. 28(3)**; S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I** (subject to savings and transitional provisions in Sch. 2 Pt. II) (which S.I. was amended by S.I. 2001/115, art. 2(2))
- F84** Words in s. 43(4) substituted (1.2.2001) by 2000 c. 38, s. 227, **Sch. 22 Pt. I para. 4(4)**; S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I** (subject to savings and transitional provisions in Sch. 2 Pt. II)
- F85** Words in s. 43(5)(6)(8)(10)(12) substituted (1.2.2001) by 2000 c. 38, s. 227, **Sch. 22 Pt. I para. 4(5)**; S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I** (subject to savings and transitional provisions in Sch. 2 Pt. II)
- F86** S. 43(11) repealed (1.2.2001) by 2000 c. 38, ss. 234(3)(b), 274, **Sch. 31 Pt. IV** (with Sch. 28 paras. 12, 17); S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I** (subject to savings and transitional provisions in Sch. 2 Pt. II)
- F87** Words in s. 43 substituted (5.7.2004) by Railways and Transport Safety Act 2003 (c. 20), ss. 16, 120, {Sch. 2 para. 3(a) Table}; S.I. 2004/827, art. 4(g)

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- F88** Word in s. 43(12)(a) substituted (1.2.2001) by 2000 c. 38, s. 234(3)(c)(with Sch. 28 paras. 12, 17); S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I** (subject to savings and transitional provisions in Sch. 2 Pt. II)
- F89** Words in s. 43(12) repealed (1.2.2001) by 2000 c. 38, s. 274, **Sch. 31 Pt. IV**; S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I** (subject to savings and transitional provisions in Sch. 2 Pt. II)
- F90** S. 43(12A) inserted (1.2.2001) by 2000 c. 38, s. 235(2); S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I** (subject to savings and transitional provisions in Sch. 2 Pt. II)

Modifications etc. (not altering text)

- C7** S. 43 excluded (21.7.1994) by 1994 c. xv, s. 17(4)
- C8** S. 43 modified (27.7.2005) (temp.) by The Railways Act 2005 (Transitional Provisions and Savings) Order 2005 (S.I. 2005/1738, art. 3 (with art. 4))

F91 44

Textual Amendments

- F91** S. 44 repealed (1.2.2001) by 2000 c. 38, ss. 234(4), 274, **Sch. 31 Pt. IV** (with Sch. 28 paras. 12, 17); S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I** (subject to savings and transitional provisions in Sch. 2 Pt. II)

45 Closure conditions: general.

- (1) In this Part, “closure conditions” means the conditions subject to compliance with which consent to a closure is given.
- (2) Closure conditions—
- (a) may impose requirements on the [^{F92}Authority] with respect to the times at which, or stages by which, a closure is to take effect;
 - (b) may require the [^{F92}Authority] to secure the provision of [^{F93}an alternative service for the carriage of passengers by road (in this Part referred to as a “bus substitution service”)]
- (3) The provisions of this section are without prejudice to the generality of the closure conditions that may be imposed in any case.

Textual Amendments

- F92** Words in s. 45(2) substituted (1.2.2001) by 2000 c. 38, s. 215, **Sch. 16 para. 29**; S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I** (subject to savings and transitional provisions in Sch. 2 Pt. II) (which S.I. was amended by S.I. 2001/115, art. 2(2))
- F93** Words in s. 45(2)(b) substituted (1.2.2001) by 2000 c. 38, s. 252, **Sch. 27 para. 27**; S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I** (subject to savings and transitional provisions in Sch. 2 Pt. II)

Modifications etc. (not altering text)

- C9** S. 45 excluded (21.7.1994) by 1994 c. xv, s. 17(4)

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46 Variation of closure conditions.

- (1) The [^{F94}Secretary of State] may [^{F95}, subject to subsection (1A),] from time to time vary or revoke any conditions for the time being required to be complied with in connection with a closure ^{F96F97} . . .
- (a)
 - (b)

[^{F98}(1A) The Secretary of State may not vary or revoke a condition imposed under Schedule 5 to this Act.

- (1B) The Secretary of State may only—
- (a) revoke a condition requiring the Authority to secure the provision of a bus substitution service, or
 - (b) vary such a condition so as to permit the Authority to withdraw the service from any locality or point,
- in accordance with section 47B below.]

- (2) Where, in exercise of his power under subsection (1) above, the [^{F99}Secretary of State] decides to vary or revoke any closure condition, he shall send a copy of his decision to—
- (a) [^{F100}the Office of Rail Regulation],
 - (b) the [^{F101}Authority],
 - (c) every [^{F102}Rail Passengers’ Committee] whose area consists of or includes the whole or any part of the area affected by the closure to which the condition relates, and
 - (d) either—
 - (i) if the closure in question is one falling within section 37 above, the service operator, within the meaning of that section, or
 - (ii) if the closure in question is one falling within section 39 or 41 above, the operator of the network, station or light maintenance depot in question who gave the notice required by subsection (1) of the section in question,

and shall publish notice of the decision at every station within the area affected by the closure to which the condition relates.

^{F103}(3)

- (4) In this section—
- “the area affected”, in relation to any closure, shall be construed in accordance with the section under or by virtue of which the [^{F101}Authority] was required to publish in connection with that closure the notice referred to in section 43(1) above;
- “closure” includes any closure within the meaning of subsection (7) of section 56 of the ^{M7}Transport Act 1962, whether that subsection applied in relation to the closure or not.

Textual Amendments

F94 Words in s. 46(1) substituted (1.2.2001) by 2000 c. 38, s. 234(5)(a) (with Sch. 28 paras. 12, 17); S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I** (subject to savings and transitional provisions in Sch. 2 Pt. II)

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- F95** Words in s. 46(1) inserted (1.2.2001) by 2000 c. 38, s. 252, **Sch. 27 para. 28(2)(a)**; S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I** (subject to savings and transitional provisions in Sch. 2 Pt. II)
- F96** Words in s. 46(1) repealed (1.2.2001) by 2000 c. 38, ss. 234(5)(a), 274, **Sch. 31 Pt. IV** (with Sch. 28 paras. 12, 17); S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I** (subject to savings and transitional provisions in Sch. 2 Pt. II)
- F97** Words in s. 46(1) omitted (1.2.2001) by virtue of 2000 c. 38, s. 252, **Sch. 27 para. 28(2)(b)**; S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I** (subject to savings and transitional provisions in Sch. 2 Pt. II)
- F98** S. 46(1A)(1B) inserted (1.2.2001) by 2000 c. 38, s. 252, **Sch. 27 para. 28(3)**; S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I** (subject to savings and transitional provisions in Sch. 2 Pt. II)
- F99** Words in s. 46(2) substituted (1.2.2001) by 2000 c. 38, s. 234(5)(b) (with Sch. 28 paras. 12, 17); S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I** (subject to savings and transitional provisions in Sch. 2 Pt. II)
- F100** Words in s. 46 substituted (5.7.2004) by Railways and Transport Safety Act 2003 (c. 20), ss. 16, 120, {Sch. 2 para. 3(a) Table}; S.I. 2004/827, **art. 4(g)**
- F101** Words in s. 46(2)(4) substituted (1.2.2001) by 2000 c. 38, s. 215, **Sch. 16 para. 30**; S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I**; S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I** (subject to savings and transitional provisions in Sch. 2 Pt. II) (which S.I. was amended by S.I. 2001/115, **art. 2(2)**)
- F102** Words in s. 46(2)(c) substituted (1.2.2001) by 2000 c. 38, s. 227, **Sch. 22 Pt. I para. 5**; S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I** (subject to savings and transitional provisions in Sch. 2 Pt. II)
- F103** S. 46(3) repealed (1.2.2001) by 2000 c. 38, ss. 234(5)(c), 275(1), **Sch. 31 Pt. IV** (with Sch. 28 paras. 12, 17); S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I** (subject to savings and transitional provisions in Sch. 2 Pt. II)

Modifications etc. (not altering text)

- C10** S. 46 excluded (21.7.1994) by 1994 c. xv, s. 17(4)
- C11** S. 46 modified (temp.) (27.7.2005) by (The Railways Act 2005 (Transitional Provisions and Savings) Order 2005 (S.I. 2005/1738, **art. 3** (with art. 4)

Marginal Citations

- M7** 1962 c. 46.

[^{F104}46A General determinations of minor closures.

- (1) The Authority may make a general determination for the purposes of any or all of sections 37(1), 38(2), 39(1), 40(2), 41(1) and 42(2) above that closures of a particular class or description are minor closures.
- (2) Where the Authority makes or revokes a general determination under subsection (1) above, it shall—
 - (a) give a copy of the determination or revocation to [^{F105}the Office of Rail Regulation] ; and
 - (b) publish it in such manner as it considers appropriate.
- (3) The revocation of a general determination made under subsection (1) above shall not affect any closure if its status as a minor closure by virtue of the general determination has been relied on before the revocation as the ground for not giving a notice or for discontinuing any services or the operation of the whole or part of any network or facility.]

Textual Amendments

- F104** S. 46A inserted (1.2.2001) by 2000 c. 38, s. 238; S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I** (subject to savings and transitional provisions in Sch. 2 Pt. II)

Status: Point in time view as at 05/07/2004.

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F105 Words in s. 46A substituted (5.7.2004) by Railways and Transport Safety Act 2003 (c. 20), ss. 16, 120, {Sch. 2 para. 3(a) Table}; S.I. 2004/827, art. 4(g)

[^{F106}46B Notification of minor closures to Regulator.

The Authority shall notify [^{F107}the Office of Rail Regulation] of every determination under section 37(1), 38(2), 39(1), 40(2), 41(1) or 42(2) above that a closure is a minor closure.]

Textual Amendments

F106 S. 46B inserted (1.2.2001) by 2000 c. 38, s. 216, Sch. 17 para. 25(3); S.I. 2001/57, art. 3(1), Sch. 2 Pt. I (subject to savings and transitional provisions in Sch. 2 Pt. II)

F107 Words in s. 46B substituted (5.7.2004) by Railways and Transport Safety Act 2003 (c. 20), ss. 16, 120, {Sch. 2 para. 3(a) Table}; S.I. 2004/827, art. 4(g)

[^{F108}47 Withdrawal of bus substitution service.

- (1) Where the Authority proposes to seek—
 - (a) revocation of a condition requiring it to secure the provision of a bus substitution service, or
 - (b) variation of such a condition so as to permit the Authority to withdraw such a service from any locality or point,it shall, not less than six weeks before the date proposed for the withdrawal of the service, publish in two successive weeks in two local newspapers circulating in the area affected, and in such other manner as appears to it appropriate, a notice complying with subsection (2) below.
- (2) The notice shall—
 - (a) give particulars of the proposed withdrawal of service, of any alternative services which it appears to the Authority will be available and of any proposals of the Authority for securing or augmenting the provision of alternative services; and
 - (b) state that objections to the revocation or variation may be lodged with the appropriate Rail Passengers' Committee within six weeks of a date specified in the notice.
- (3) The date so specified shall be the date on which the notice is last published in a local newspaper as required by subsection (1) above.
- (4) Copies of the notice published under subsection (1) above shall be sent to—
 - (a) the Rail Passengers' Committee for the area in which any locality or point affected by the proposed withdrawal of service is situated; and
 - (b) the Passenger Transport Executive for any passenger transport area in which any such locality or point is situated.
- (5) Where the proposed withdrawal of service relates to a service which is subsidised by the Passenger Transport Executive for any passenger transport area under any agreement made with the Authority, the Authority shall not publish a notice with respect to the proposed withdrawal under subsection (1) above without the consent of—

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- (a) the Executive; or
 - (b) the Secretary of State, who shall not give his consent before affording a reasonable opportunity to the Executive to make representations.
- (6) References in this section and section 47A below to a Rail Passengers' Committee shall be construed, in relation to the Greater London area within the meaning of section 2 above, as references to the London Transport Users' Committee.]

Textual Amendments

F108 Ss. 47-47B substituted (1.2.2001) for s. 47 by 2000 c. 38, s. 215, **Sch. 16 para. 31**; S.I. 2001/57, **art. 3(1)**, **Sch. 2 Pt. I** (subject to savings and transitional provisions in **Sch. 2 Pt. II**) (which S.I. was amended by S.I. 2001/115, **art. 2(2)**)

Modifications etc. (not altering text)

C12 S. 47 modified (temp.) (27.7.2005) by (The Railways Act 2005 (Transitional Provisions and Savings) Order 2005 (S.I. 2005/1738, **art. 3** (with **art. 4**))

^{F109}47A Objections to withdrawal of bus substitution service.

- (1) Where a notice has been published by the Authority under section 47 above, any user of any service affected (and any body representing users of any such service) may within the period specified in the notice lodge an objection in writing with the Rail Passengers' Committee for the area in a locality or point affected by the proposed withdrawal of service is situated.
- (2) Where a Rail Passengers' Committee receives objections pursuant to a notice under section 47 above, it shall—
 - (a) immediately inform the Secretary of State and the Authority;
 - (b) consider the objection and any representations made by the Authority; and
 - (c) report to the Secretary of State as soon as possible on the hardship, if any, which they consider will be caused by the proposed withdrawal of service (and the report may contain proposals for alleviating that hardship).
- (3) Where objections with respect to any proposed withdrawal of service have been lodged with two or more Rail Passengers' Committees, they may—
 - (a) report to the Secretary of State jointly under this section; or
 - (b) agree that their functions under this sections shall be delegated to one any of them.
- (4) The Secretary of State may require a further report from any committee making a report to him under subsection (1) above.
- (5) Copies of every report under subsection (1) or (2) above shall be sent to the Rail Passengers' Council and to the Authority.
- (6) Where the proposed withdrawal of service—
 - (a) relates to a service which is subsidised by the Passenger Transport Executive for a passenger transport area, or
 - (b) would affect a locality or point in the passenger transport area of a Passenger Transport Executive,

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the Executive may, within the period specified in the notice for objecting to the withdrawal, send the Secretary of State a statement in writing that they oppose the withdrawal and of their reasons for opposing it (even if they consented to the publication of the notice).

- (7) Where the Passenger Transport Executive for any passenger transport area send such a statement to the Secretary of State they shall send a copy of it to the Authority.

Textual Amendments

F109 Ss. 47-47B substituted (1.2.2001) for s. 47 by 2000 c. 38, s. 215, **Sch. 16 para. 31**; S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I** (subject to savings and transitional provisions in **Sch. 2 Pt. II**) (which S.I. was amended by S.I. 2001/115, **art. 2(2)**)

Modifications etc. (not altering text)

C13 S. 47A modified (temp.) (27.7.2005) by (The Railways Act 2005 (Transitional Provisions and Savings) Order 2005 (S.I. 2005/1738, **art. 3** (with **art. 4**))

^{F110} 47B Revocation or variation of bus substitution conditions.

- (1) Where an objection to a proposed withdrawal of service is lodged in accordance with subsection (1) of section 47A above, the Secretary of State may revoke or vary the condition in question—
- when he has received the report required by subsection (3) of that section and any further report required by him under subsection (4) of that section (unless he considers that any such report has been unreasonably delayed); and
 - after considering any statement under subsection (4) of that section.
- (2) Where the Secretary of State revokes or varies a condition under subsection (1), he may—
- impose such conditions as he thinks fit, including a condition requiring the Authority to secure the provision of another bus substitution service; and
 - from time to time give such directions to the Authority as he thinks fit in connection with the withdrawal of the bus substitution service required by that condition;
- and such a condition may be varied or revoked as if it had been made under section 43 above.
- (3) Where no objections are lodged in accordance with section 47A above, the Secretary of State shall revoke or vary the condition in question in accordance with the Authority's proposals.

Textual Amendments

F110 Ss. 47-47B substituted (1.2.2001) for s. 47 by 2000 c. 38, s. 215, **Sch. 16 para. 31**; S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I** (subject to savings and transitional provisions in **Sch. 2 Pt. II**) (which S.I. was amended by S.I. 2001/115, **art. 2(2)**)

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48 Experimental railway passenger services.

- (1) Sections 37, 38 ^[F111]and 43] above shall not apply in relation to any proposal to discontinue an experimental passenger service on any line or from any station.
- (2) In any case where—
 - (a) an experimental passenger service on any line or from any station is provided in satisfaction of requirements imposed by a franchise agreement,
 - (b) the requirement so to provide that service comes to an end, and
 - (c) the operator intends to discontinue that service,
 the ^[F112]Authority] shall give due notice if ^[F112]it] proposes not to secure its continued provision.
- (3) In any case where—
 - (a) an experimental passenger service on any line or from any station is provided otherwise than as mentioned in subsection (2)(a) above, and
 - (b) the operator proposes to discontinue that service,
 he shall give due notice of that proposal and shall not discontinue that service before the expiry of the notice period.
- (4) For the purposes of subsection (2) above, the ^[F113]Authority] shall be taken to have given due notice of a proposal if, and only if, after consultation with every ^[F114]Rail Passengers' Committee] whose area consists of or includes the whole or any part of the area affected, ^[F113]the Authority] has, not less than six weeks before giving effect to the proposal,—
 - (a) published a notice giving details of the proposal in two successive weeks in a local newspaper circulating in the area affected and in two national newspapers and in such other manner as may appear to ^[F113]the Authority] appropriate; and
 - (b) sent a copy of that notice to every such ^[F114]Rail Passengers' Committee].
- (5) For the purposes of subsection (3) above, the operator shall be taken to have given due notice of a proposal if, and only if, not less than six weeks before giving effect to the proposal, he has published in two successive weeks in a local newspaper circulating in the area affected and in two national newspapers, and in such other manner as may appear to him appropriate, a notice giving details of the proposal.
- (6) In this Part “experimental passenger service”, in relation to any line or station, means a railway passenger service on that line or from that station which is designated by the ^[F115]Authority] as experimental and which either—
 - (a) was so designated before its introduction; or
 - (b) before being designated under this section as experimental, was at some time provided on an experimental basis, within the meaning of section 56A of the ^{M8}Transport Act 1962.
- (7) Where the ^[F116]Authority] decides to designate a service as experimental, ^[F116]it] shall—
 - (a) if the service is to be provided otherwise than in satisfaction of requirements imposed by a franchise agreement, give notice of the designation to the person who is to be the operator of the service;
 - (b) send a copy of that notice to the ^[F111]Secretary of State] and to every ^[F114]Rail Passengers' Committee] whose area consists of or includes the whole or any part of the area affected; and

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- (c) publish notice of the designation in two successive weeks in a local newspaper circulating in the area affected and in two national newspapers.
- (8) No service may be designated as experimental for a period exceeding 5 years.
- (9) Where a service is designated as experimental for a period of less than 5 years, the designation may subsequently be extended, but the aggregate of the periods for which a service is designated as experimental shall not exceed 5 years.
- (10) In determining for the purposes of subsection (8) or (9) above the period or periods for which a service is designated as experimental—
- (a) there shall be left out of account so much of any period when the service was designated as experimental as falls before the day on which the service was introduced; but
 - (b) if the service is one which has been provided on an experimental basis, within the meaning of section 56A of the ^{M9}Transport Act 1962, every period during which it was so provided, or during which the provisions of that section had effect in relation to it by virtue of subsection (11)(b) below, shall be counted as a period during which the service was designated as experimental.
- (11) Where, immediately before the coming into force of section 49(1) below so far as relating to section 56A of the ^{M10}Transport Act 1962 (proposals to discontinue services provided on an experimental basis), a railway passenger service is being provided on an experimental basis within the meaning of the said section 56A—
- (a) none of the following provisions, that is to say, sections 37 and 38 above, section 49(2) and (3) below and Schedule 5 to this Act, shall have effect in relation to that service until such time as a franchise agreement is entered into in respect of that service or in respect of some or all of the other railway passenger services provided in the area in which, or on the line on which, that service is provided; and
 - (b) the provisions of the said section 56A shall continue to have effect with respect to that service—
 - (i) until the time mentioned in paragraph (a) above, or
 - (ii) until the service becomes an experimental passenger service under this section,whichever first occurs.
- (12) In this section—
- “the area affected”, in relation to an experimental service on any line or from any station, means the area in which is situated the line or, as the case may be, the station in question;
- “operator”, in relation to any service, means—
- (a) in the case of a service provided in satisfaction of requirements imposed by a franchise agreement, the franchisee; or
 - (b) in the case of a service provided otherwise than in satisfaction of requirements imposed by a franchise agreement, the person who provides the service.
- (13) In this Part, “notice period”, in relation to the duty of an operator to give due notice of a proposed discontinuance of an experimental passenger service, means the period of six weeks immediately following the fulfilment by the operator of that duty.

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Textual Amendments

- F111** Words in s. 48(1)(7) substituted (1.2.2001) by 2000 c. 38, s. 234(6) (with Sch. 28 paras. 12, 17); S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I** (subject to savings and transitional provisions in Sch. 2 Pt. II)
- F112** Words in s. 48(2) substituted (1.2.2001) by 2000 c. 38, s. 215, **Sch. 16 para. 32(2)**; S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I** (subject to savings and transitional provisions in Sch. 2 Pt. II) (which S.I. was amended by S.I. 2001/115, art. 2(2))
- F113** Words in s. 48(4) substituted (1.2.2001) by 2000 c. 38, s. 215, **Sch. 16 para. 32(3)**; S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I** (subject to savings and transitional provisions in Sch. 2 Pt. II) (which S.I. was amended by S.I. 2001/115, art. 2(2))
- F114** Words in s. 48(4)(7) substituted (1.2.2001) by 2000 c. 38, s. 227, **Sch. 22 Pt. I para. 6**; S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I** (subject to savings and transitional provisions in Sch. 2 Pt. II)
- F115** Words in s. 48(6) substituted (1.2.2001) by 2000 c. 38, s. 215, **Sch. 16 para. 32(4)**; S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I** (subject to savings and transitional provisions in Sch. 2 Pt. II) (which S.I. was amended by S.I. 2001/115, art. 2(2))
- F116** Words in s. 48(7) substituted (1.2.2001) by 2000 c. 38, s. 215, **Sch. 16 para. 32(5)**; S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I** (subject to savings and transitional provisions in Sch. 2 Pt. II) (which S.I. was amended by S.I. 2001/115, art. 2(2))

Modifications etc. (not altering text)

- C14** S. 48 excluded (21.7.1994) by 1994 c. xv, s. 17(4)
- C15** S. 48 modified (temp.) (27.7.2005) by The Railways Act 2005 (Transitional Provisions and Savings) Order 2005 (S.I. 2005/1738, art. 3 (with art. 4))
- C16** S. 48(3) restricted (18.12.1996) by 1996 c. 61, s. 18

Marginal Citations

- M8** 1962 c. 46.
M9 1962 c. 46.
M10 1962 c. 46.

49 Abolition of former closure procedures, exemptions from new procedures and imposition of alternative procedure.

- (1) The former closure provisions, that is to say—
- (a) section 56(7) to (10) and (13) of the ^{M11}Transport Act 1962,
 - (b) section 56A of that Act,
 - (c) section 54 of the ^{M12}Transport Act 1968, and
 - (d) any other enactment (including an enactment comprised in local legislation) to the extent that it applies the enactments specified in paragraphs (a) to (c) above, with or without modification,
- shall, subject to the provisions of this Act, cease to have effect.
- (2) Section 37 above shall not have effect in relation to any railway passenger services, or any railway passenger services of a class or description, which the Secretary of State may by order designate as services in relation to which that section is not to have effect.
- (3) Schedule 5 to this Act (which makes similar provision to that made by section 56(7) to (10) and (13) of the ^{M13}Transport Act 1962) shall have effect in relation to such of the railway passenger services, or railway passenger services of a class or description, in relation to which section 37 above does not have effect as the Secretary of State may

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by order designate as railway passenger services in relation to which that Schedule is to have effect.

- (4) Section 39 above shall not have effect with respect to any networks, or any networks of a class or description, which the Secretary of State may by order designate as networks in relation to which that section is not to have effect.
- (5) Section 41 above shall not have effect in relation to any stations or light maintenance depots, or stations or light maintenance depots of a class or description, which the Secretary of State may by order designate as stations, or (as the case may be) light maintenance depots, in relation to which that section is not to have effect.
- (6) Where any enactment or instrument passed or made before the relevant date contains provision to the effect that section 56 of the ^{M14}Transport Act 1962 is not to apply in respect of the discontinuance of specified railway passenger services or railway passenger services of a specified class or description, that provision shall (notwithstanding anything in subsection (1) above) have effect in relation to any such discontinuance after the relevant date as if references in that provision to that section were references—
 - (a) to section 37 above; and
 - (b) to Schedule 5 to this Act;and in this subsection “the relevant date” means the date on which the provisions mentioned in paragraphs (a) and (b) above come into force.
- (7) Any reference in this section to railway passenger services, networks, stations or light maintenance depots includes a reference to part of a railway passenger service, network, station or light maintenance depot, as the case may be.
- (8) For the purposes of this section, “railway” has its wider meaning.

Modifications etc. (not altering text)

C17 S. 49 excluded (21.7.1994) by 1994 c. xv, s. 17(4)

C18 S. 49(3) applied (21.7.1994) by 1994 c. xi, s. 48

Marginal Citations

M11 1962 c. 46.

M12 1968 c. 73.

M13 1962 c. 46.

M14 1962 c. 46.

50 Exclusion of liability for breach of statutory duty.

- (1) The obligations of the [^{F117}Authority], imposed by or under any provision of this Part—
 - (a) to comply with any closure conditions,
 - ^{F118}(b) . . .
 - (c) to secure the provision of any services, or
 - (d) to secure the operation of any additional railway asset,shall not give rise to any form of duty or liability enforceable by civil proceedings for breach of statutory duty.
- (2) Subject to section 57 below, the obligations of—

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- (a) any service operator (within the meaning of section 37 above), imposed by or under section 37(1) above, not to discontinue any railway passenger services,
- (b) any operator (within the meaning of section 48 above), imposed by or under section 48(3) above, not to discontinue any experimental passenger services, or
- (c) any operator of an additional railway asset, imposed by or under section 39(1) or 41(1) above, not to discontinue the operation of any additional railway asset,

shall not give rise to any form of duty or liability enforceable by civil proceedings for breach of statutory duty.

Textual Amendments

F117 Words in s. 50(1) substituted (1.2.2001) by 2000 c. 38, s. 215, **Sch. 16 para. 33**; S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I** (subject to savings and transitional provisions in **Sch. 2 Pt. II**) (which S.I. was amended by S.I. 2001/115, **art. 2(2)**)

F118 S. 50(1)(b) repealed (1.2.2001) by 2000 c. 38, s. 274, **Sch. 31 Pt. IV**; S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I** (subject to savings and transitional provisions in **Sch. 2 Pt. II**)

Modifications etc. (not altering text)

C19 S. 50 excluded (21.7.1994) by 1994 c. xv, s. 17(4)

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