



Railways Act 1993

1993 CHAPTER 43

PART I

THE PROVISION OF RAILWAY SERVICES

Franchising of passenger services

23 Passenger services to be subject to franchise agreements.

(1) It shall be the duty of the [^{F1}Authority] from time to time to designate [^{F2}such services for the carriage of passengers by railway (other than services which are, by virtue of section 24 below, exempt from designation under this subsection) as it considers ought to be provided under franchise agreements.].

(2) The [^{F3}Authority] may perform [^{F3}its] duty under subsection (1) above by designating particular services or services of a class or description.

[^{F4}(2A) A designation may be varied or revoked; but a variation or revocation of the designation of particular services, or services of a class or description, shall not affect any franchise agreement previously entered into with respect to those services or services of that class or description.

(2B) The Authority shall publish designations, and any variations or revocations of designations, in such manner as it considers appropriate.]

(3) In this Part—

“franchise agreement” means an agreement with the [^{F5}Authority] under which another party undertakes either—

(a) to provide, or

(b) to secure that a wholly owned subsidiary of his provides,

throughout the franchise term those services for the carriage of passengers by railway to which the agreement relates;

Status: Point in time view as at 01/02/2001.

Changes to legislation: There are currently no known outstanding effects for the Railways Act 1993, Cross Heading: Franchising of passenger services. (See end of Document for details)

“franchise operator”, in relation to any franchise agreement, means the person (whether the franchisee or, as the case may be, the wholly owned subsidiary of the franchisee) who is to provide the franchised services;

“franchise period”, in relation to any franchise agreement, means the franchise term, except where the franchise agreement is terminated before the end of that term, in which case it means so much of that term as ends with that termination;

“franchise term”, in relation to any franchise agreement, means the period specified in the franchise agreement as the period throughout which the franchisee is to provide, or secure that a wholly owned subsidiary of his provides, the franchised services, and includes any such extension of that period as is mentioned in section 29(3) below;

“franchised services”, in relation to any franchise agreement, means the services for the carriage of passengers by railway which are to be provided under that franchise agreement;

“franchisee” means—

- (a) in relation to a franchise agreement under which a party undertakes to secure that a wholly owned subsidiary of his provides the franchised services, the party so undertaking; or
- (b) in relation to any other franchise agreement, the person who is to provide the franchised services.

- (4) Any reference in this Part to the provision of services under a franchise agreement is a reference to the provision of those services by the franchise operator; and where the franchise operator is, or is to be, a wholly owned subsidiary of the franchisee, any reference to the provision of services by the franchisee under a franchise agreement shall accordingly be construed as a reference to his securing their provision by the franchise operator.

Textual Amendments

- F1** Words in s. 23(1) substituted (1.2.2001) by 2000 c. 38, s. 215, **Sch. 16 para. 14(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. 23(1) substituted (1.2.2001) by 2000 c. 38, s. 212(1) (with **Sch. 28 para. 3**); S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I** (subject to savings and transitional provisions in **Sch. 2 Pt. II**)
- F3** Words in s. 23(2) substituted (1.2.2001) by 2000 c. 38, s. 215, **Sch. 16 para. 14(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)**)
- F4** S. 23(2A)(2B) inserted (1.2.2001) by 2000 c. 38, s. 212(2) (with **Sch. 28 para. 3**); S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I** (subject to savings and transitional provisions in **Sch. 2 Pt. II**)
- F5** S. 23(3): words in definition of “franchise agreement” substituted (1.2.2001) by 2000 c. 38, s. 215, **Sch. 16 para. 14(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)**)

Modifications etc. (not altering text)

- C1** S. 23(1) excluded (1.4.1994) by S.I. 1994/606, **art. 6**
- S. 23(1) excluded (13.12.1999) by S.I. 1999/3112, **art. 3**

Status: Point in time view as at 01/02/2001.

Changes to legislation: There are currently no known outstanding effects for the Railways Act 1993, Cross Heading: Franchising of passenger services. (See end of Document for details)

Commencement Information

- II** S. 23 wholly in force at 1.4.1994; s. 23 not in force at Royal Assent see s. 154(2); s. 23(3)(4) in force at 6.1.1994 by [S.I. 1993/3237](#), [art. 2\(2\)](#); s. 23 in force at 1.4.1994 insofar as not already in force by [S.I. 1994/571](#), [art. 5](#)

24 Exemption of passenger services from section 23(1).

- (1) The Secretary of State may by order grant exemption from designation under section 23(1) above in respect of such services for the carriage of passengers by railway as may be specified in the order, but subject to compliance with such conditions (if any) as may be so specified.
- (2) A franchise exemption under subsection (1) above may be granted—
 - (a) to persons of a particular class or description or to a particular person; and
 - (b) in respect of services generally, services of a particular class or description or a particular service, or in respect of part only of any such services or service;and a franchise exemption granted to persons of a particular class or description shall be published in such manner as the Secretary of State considers appropriate for bringing it to the attention of persons of that class or description.
- (3) If a person who provides, or who proposes to introduce, services for the carriage of passengers by railway makes an application to the Secretary of State under this subsection for the grant of an exemption from designation under section 23(1) above in respect of any such service which he provides or proposes to introduce, the Secretary of State, after consultation with the Regulator and the [^{F6}Authority]—
 - (a) may either grant or refuse the exemption, whether wholly or to such extent as he may specify in the exemption; and
 - (b) if and to the extent that he grants it, may do so subject to compliance with such conditions (if any) as he may so specify.
- (4) Before granting a franchise exemption under subsection (3) above, the Secretary of State shall give notice—
 - (a) stating that he proposes to grant the franchise exemption,
 - (b) stating the reasons why he proposes to grant the franchise exemption, and
 - (c) specifying the time (not being less than 28 days from the date of publication of the notice) within which representations or objections with respect to the proposed franchise exemption may be made,and shall consider any representations or objections which are duly made and not withdrawn.
- (5) A notice under subsection (4) above shall be given by publishing the notice in such manner as the Secretary of State considers appropriate for bringing it to the attention of persons likely to be affected by the grant of the franchise exemption.
- (6) If any condition (the “broken condition”) of a franchise exemption is not complied with, the Secretary of State may give to any relevant person a direction declaring that the franchise exemption is revoked, so far as relating to that person, to such extent and as from such date as may be specified in the direction.
- (7) For the purposes of subsection (6) above—

“condition”, in relation to a franchise exemption, means any condition subject to compliance with which the franchise exemption was granted;

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- “relevant person”, in the case of any franchise exemption, means a person who has the benefit of the franchise exemption and who—
- (a) is a person who failed to comply with the broken condition or with respect to whom the broken condition is not complied with; or
 - (b) provides any of the services in relation to which the broken condition is not complied with.
- (8) Subject to subsection (6) above, a franchise exemption, unless previously revoked in accordance with any term contained in the franchise exemption, shall continue in force for such period as may be specified in, or determined by or under, the franchise exemption.
- (9) Any application for a franchise exemption under subsection (3) above must be made in writing; and where any such application is made, the Secretary of State may require the applicant to furnish him with such information as the Secretary of State may consider necessary to enable him to decide whether to grant or refuse the franchise exemption.
- (10) Any franchise exemption granted under subsection (3) above shall be in writing.
- (11) Subsections (1) and (3) above apply in relation to the grant of a franchise exemption whether it is to become effective on, or after, the day on which section 23(1) above comes into force.
- (12) Franchise exemptions may make different provision for different cases.
- (13) In this Part, “franchise exemption” means an exemption from designation under section 23(1) above granted under any provision of this section in respect of any service for the carriage of passengers by railway.

Textual Amendments

- F6** Words in s. 24(3) substituted (1.2.2001) by 2000 c. 38, s. 215, **Sch. 16 para. 15**; 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)**)

25 Public sector operators not to be franchisees.

- (1) The following bodies and persons (in this Part referred to as “public sector operators”) shall not be franchisees—
- (a) any Minister of the Crown, Government department or other emanation of the Crown;
 - (b) any local authority;
 - ^{F7}(bb) the Greater London Authority;
 - ^{F8}(bc) Transport for London;]
 - (c) any metropolitan county passenger transport authority;
 - (d) any body corporate whose members are appointed by a Minister of the Crown, a Government department, a local authority [^{F9}, the Greater London Authority, Transport for London] or a metropolitan county passenger transport authority or by a body corporate whose members are so appointed;
 - (e) a company—
 - (i) a majority of whose issued shares are held by or on behalf of any of the bodies or persons falling within paragraphs (a) to (d) above;

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- (ii) in which the majority of the voting rights are held by or on behalf of any of those bodies or persons;
- (iii) a majority of whose board of directors can be appointed or removed by any of those bodies or persons; or
- (iv) in which the majority of the voting rights are controlled by any of those bodies or persons, pursuant to an agreement with other persons;
- (f) a subsidiary of a company falling within paragraph (e) above.

(2) Expressions used in sub-paragraphs (i) to (iv) of subsection (1)(e) above and in section 736 of the ^{M1}Companies Act 1985 have the same meaning in those sub-paragraphs as they have in that section.

- ^{F10}(3)
- ^{F10}(4)
- ^{F10}(5)
- ^{F10}(6)
- ^{F10}(7)
- ^{F10}(8)
- ^{F10}(9)

Textual Amendments

- F7** S. 25(1)(bb) inserted (3.7.2000) by 1999 c. 29, s. 202(2) (with Sch. 12 para. 9(1)); S.I. 2000/801, art. 3, **Sch Pt. 3**
- F8** S. 25(1)(bc) inserted (3.7.2000) by 1999 c. 29, s. 202(2) (with Sch. 12 para. 9(1)); S.I. 2000/801, art. 3, **Sch Pt. 3**
- F9** Words in s. 25(1)(d) inserted (3.7.2000) by 1999 c. 29, s. 202(3) (with Sch. 12 para. 9(1)); S.I. 2000/801, art. 3, **Sch Pt. 3**
- F10** S. 25(3)-(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**)

Commencement Information

- I2** S. 25 wholly in force at 1.4.1994; s. 25 not in force at Royal Assent see s. 154(2); s. 25(1)(2) in force at 6.1.1994 for specified purposes by S.I. 1993/3237, **art. 2(2)**; s. 25 in force at 1.4.1994 insofar as not already in force by S.I. 1994/571, **art. 5**

Marginal Citations

- M1** 1985 c. 6.

26 Invitations to tender for franchises.

(1) Unless the Secretary of State otherwise directs, the person who is to be the franchisee under any franchise agreement shall be selected by the [^{F11}Authority] from among those who submit tenders in response to an invitation to tender under this section for the right to provide, or to secure that a wholly owned subsidiary provides, services for the carriage of passengers by railway under that franchise agreement.

Status: Point in time view as at 01/02/2001.

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- (2) The [^{F12}Authority] shall prepare any such invitation to tender and shall issue that invitation to such persons as [^{F12}it] may, after consultation with the Regulator, think fit.
- (3) The [^{F12}Authority] shall not issue an invitation to tender under this section to (or entertain such a tender from) any person unless [^{F12}it] is of the opinion that the person has, or is likely by the commencement of the franchise term to have, an appropriate financial position and managerial competence, and is otherwise a suitable person, to be the franchisee.
- [^{F13}(4) The directions which may be given under subsection (1) above (at any time when the Secretary of State considers it inappropriate that the person who is to be the franchisee under a franchise agreement should be selected after an invitation to tender) include—
- (a) a direction that that person is to be the person specified in the direction, and
 - (b) a direction requiring the Authority to select that person in such manner as is so specified,
- (as well as a direction authorising the Authority to select that person in such other manner as it may consider appropriate).
- (5) The Secretary of State shall prepare and publish a statement of policy with respect to directions under subsection (1) above.
- (6) The statement shall (in particular) contain the Secretary of State's policy about—
- (a) when he will consider giving a direction (including, in particular, when he will consider doing so in relation to a franchise agreement which is to replace an earlier franchise agreement before the end of its franchise term); and
 - (b) the sorts of direction which he will consider giving in particular circumstances.
- (7) In deciding whether to give a direction, and (if so) what direction to give, the Secretary of State shall have regard to the statement of policy.
- (8) The Secretary of State—
- (a) may at any time alter or replace a statement of policy; and
 - (b) shall publish the altered or replacement statement.
- (9) The Secretary of State shall undertake appropriate consultation when preparing, altering or replacing a statement of policy.
- (10) When a statement of policy is prepared, altered or replaced, a copy of the statement shall be laid before each House of Parliament.]

Textual Amendments

- F11** Words in s. 26(1) substituted (1.2.2001) by 2000 c. 38, s. 215, **Sch. 16 para. 16(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))
- F12** Words in s. 26(2)(3) substituted (1.2.2001) by 2000 c. 38, s. 215, **Sch. 16 para. 16(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))
- F13** S. 26(4)-(10) inserted (1.2.2001) by 2000 c. 38, s. 212(3) (with **Sch. 28 para. 3**); 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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[^{F14}26A No tenders for franchise.

- (1) The Authority shall give notice to the Secretary of State if it has—
 - (a) issued an invitation to tender for the provision of any services under section 26 above (otherwise than in compliance with a direction under section 26B(3)(b) below); but
 - (b) received no tenders in response to the invitation.
- (2) On receipt of the notice under subsection (1) above the Secretary of State shall (after considering the matter) give to the Authority—
 - (a) a direction to issue new invitations to tender for the provision of the services under section 26 above, or
 - (b) a direction not to seek to secure the provision of the services under a franchise agreement,
as he considers appropriate.
- (3) The Secretary of State may at any time—
 - (a) revoke a direction under subsection (2)(b) above; and
 - (b) instead direct the Authority to issue new invitations to tender for the provision of the services under section 26 above.]

Textual Amendments

F14 S. 26A inserted (1.2.2001) by 2000 c. 38, s. 212(4) (with Sch. 28 para. 3); S.I. 2001/57, art. 3(1), Sch. 2 Pt. I (subject to savings and transitional provisions in Sch. 2 Pt. II)

^{F15}26B No adequate tenders for franchise.

- (1) The Authority shall give notice under subsection (2) below if—
 - (a) it has issued an invitation to tender for the provision of any services under section 26 above (otherwise than in compliance with a direction under subsection (3)(b) below); but
 - (b) although it has received a tender or tenders in response to the invitation, it considers that the services would be provided more economically and efficiently than under a franchise agreement entered into pursuant to the tender or any of the tenders if the Authority provided them or secured their provision otherwise than under a franchise agreement.
- (2) The notice shall be given to—
 - (a) the Secretary of State; and
 - (b) the person, or each of the persons, who submitted a tender.
- (3) On receipt of the notice under paragraph (a) of subsection (2) above the Secretary of State shall (after considering the matter and any representations duly made in response to a notice under paragraph (b) of that subsection and not withdrawn) give to the Authority—
 - (a) a direction to reconsider the tender or tenders with a view to selecting a franchisee, or
 - (b) a direction to issue new invitations to tender for the provision of the services under section 26 above,
as he considers appropriate.

Status: Point in time view as at 01/02/2001.

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- (4) The Authority shall give notice under subsection (5) below if it has issued an invitation to tender for the provision of any services under section 26 above in compliance with a direction under subsection (3)(b) above but either—
- (a) it has received no tenders in response to the invitation; or
 - (b) although it has received a tender or tenders in response to the invitation, it considers that the services would be provided more economically and efficiently than under a franchise agreement entered into pursuant to the tender or any of the tenders if the Authority provided them or secured their provision otherwise than under a franchise agreement.
- (5) The notice shall be given to—
- (a) the Secretary of State; and
 - (b) if the Authority received a tender or tenders, the person, or each of the persons, who submitted a tender.
- (6) In a case where the Authority has received no tenders, on receipt of the notice under subsection (5)(a) above the Secretary of State shall give to the Authority a direction not to seek to secure the provision of the services under a franchise agreement.
- (7) In a case where the Authority has received a tender or tenders, on receipt of the notice under paragraph (a) of subsection (5) above the Secretary of State shall (after considering the matter and any representations duly made in response to a notice under paragraph (b) of that subsection and not withdrawn) give to the Authority—
- (a) a direction to reconsider the tender or tenders with a view to selecting a franchisee, or
 - (b) a direction not to seek to secure the provision of the services under a franchise agreement,
- as he considers appropriate.
- (8) Any notice under subsection (2)(b) or (5)(b) above shall specify a period (not being less than 28 days from the date of the service of the notice) within which representations may be made to the Secretary of State.
- (9) The Secretary of State may at any time—
- (a) revoke a direction under subsection (6) or (7)(b) above; and
 - (b) instead direct the Authority to issue new invitations to tender for the provision of the services under section 26 above.

Textual Amendments

F15 S. 26ZA substituted (24.7.2005 for certain purposes and 16.10.2005 in so far as not already in force) for ss. 26A, 26B, 26C by [Railways Act 2005 \(c. 14\)](#), ss. 1, 60, [Sch. 1 para. 16](#); [S.I. 2005/1909](#), [art. 2](#), [Sch.](#); [S.I. 2005/2812](#), [art. 2\(1\)](#), [Sch. 1](#)

^{F16}26C Review of directions.

- (1) If the Secretary of State gives a direction under section 26B(3) or (7) above, he shall give notice to the person or persons who submitted the tender or tenders that he has done so.
- (2) An application for the review of a decision of the Secretary of State to give a direction under section 26B(3) or (7) above may be made to the court by any person who

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submitted a tender within 42 days from the date of service on him of the notice under subsection (1) above.

- (3) Except as provided by subsection (2) above, a direction under section 26A or 26B above shall not be questioned by any legal proceedings whatever.
- (4) In subsection (2) above “the court” means—
 - (a) the High Court in relation to England and Wales; and
 - (b) the Court of Session in relation to Scotland.

Textual Amendments

F16 S. 26ZA substituted (24.7.2005 for certain purposes and 16.10.2005 in so far as not already in force) for ss. 26A, 26B, 26C by [Railways Act 2005 \(c. 14\)](#), ss. 1, 60, [Sch. 1 para. 16](#); [S.I. 2005/1909](#), [art. 2](#), [Sch.](#); [S.I. 2005/2812](#), [art. 2\(1\)](#), [Sch. 1](#)

27 Transfer of franchise assets and shares.

- (1) It shall be the duty of the [^{F17}Authority] before entering into a franchise agreement to satisfy [^{F17}itself] that if the franchise agreement is entered into—
 - (a) the initial franchise assets (if any) for that franchise agreement will be vested in the person who is to be the franchise operator; and
 - (b) if the franchise agreement is to be one under which the franchisee undertakes to secure that a wholly owned subsidiary of his provides the franchised services, that the franchise operator will be a wholly owned subsidiary of the franchisee.
- (2) After a franchise agreement has been entered into, it shall be the duty of the [^{F17}Authority], before any property, rights or liabilities are subsequently designated as franchise assets in accordance with the terms of, or by amendment to, the franchise agreement, to satisfy [^{F17}itself] that, if the property, rights or liabilities in question are so designated, they will be vested in the franchise operator.
- (3) Without the consent of the [^{F18}Authority], the franchise operator shall not—
 - (a) if and to the extent that the franchise assets are property or rights—
 - (i) transfer or agree to transfer, or create or agree to create any security over, any franchise assets or any interest in, or right over, any franchise assets; or
 - (ii) create or extinguish, or agree to create or extinguish, any interest in, or right over, any franchise assets; and
 - (b) if and to the extent that the franchise assets are liabilities, shall not enter into any agreement under which any such liability is released or discharged, or transferred to some other person.
- (4) Where the franchise agreement is one under which the franchisee undertakes to secure that a wholly owned subsidiary of his provides the franchised services, the franchisee shall not, without the consent of the [^{F18}Authority], take any action which would result in the franchise operator ceasing to be a wholly owned subsidiary of his.
- (5) Any transaction which is entered into in contravention of subsection (3) or (4) above shall be void.

Status: Point in time view as at 01/02/2001.

Changes to legislation: There are currently no known outstanding effects for the Railways Act 1993, Cross Heading: Franchising of passenger services. (See end of Document for details)

- (6) In England and Wales, no execution or other legal process may be commenced or continued, and no distress may be levied, against any property which is, or rights which are, franchise assets in the case of any franchise agreement.
- (7) In Scotland, no diligence or other legal process may be carried out or continued against any property which is, or rights which are, franchise assets in the case of any franchise agreement.
- (8) In any case where—
- (a) there are to be initial franchise assets in relation to a franchise agreement,
 - (b) a franchise agreement is to be one which provides for subsequent designation of property, rights or liabilities as franchise assets, or
 - (c) property, rights or liabilities are to be designated as franchise assets by an amendment made to a franchise agreement,
- the [^{F18}Authority] shall ensure that the franchise agreement includes provision specifying, or providing for the determination of, amounts to be paid in respect of the property, rights and liabilities which, immediately before the end of the franchise period, constitute the franchise assets in relation to that franchise agreement if and to the extent that they are transferred by [^{F19}a scheme under Schedule 21 to the Transport Act 2000]at or after the end of that period.
- (9) Without prejudice to the generality of the provisions that may be included in a franchise agreement with respect to the acquisition, provision, disposal or other transfer of property, rights or liabilities (whether franchise assets or not), the [^{F20}Authority] may undertake in a franchise agreement to exercise [^{F20}its] powers under [^{F21}Schedule 21 to the Transport Act 2000] to transfer franchise assets to [^{F20}itself] or another in such circumstances as may be specified in the franchise agreement.
- (10) The [^{F22}Authority] shall ensure that every franchise agreement includes such provision (if any) as [^{F22}it] may consider appropriate in the particular case for the purpose of securing—
- (a) that the franchise assets are adequately maintained, protected and preserved; and
 - (b) that, at the end of the franchise period, possession of such of the franchise assets as may be specified for the purpose in the agreement, or by the Franchising Director in accordance with the agreement, is delivered up to the Franchising Director or such other person as may be so specified.
- (11) In this Part, “franchise assets”, in relation to any franchise agreement, means—
- (a) any property, rights or liabilities which are designated as franchise assets in the franchise agreement as originally made (in this section referred to as the “initial franchise assets”), and
 - (b) any property, rights or liabilities which, after the making of the franchise agreement, are designated as franchise assets in accordance with the terms of, or by an amendment made to, the franchise agreement,
- but does not include any property, rights or liabilities which, in accordance with the terms of, or by an amendment made to, the franchise agreement, have for the time being ceased to be designated as franchise assets.
- (12) No rights or liabilities under contracts of employment shall be designated as franchise assets.

Status: Point in time view as at 01/02/2001.

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(13) In this section “security” has the meaning given by section 248(b) of the ^{M2}Insolvency Act 1986.

^{F23}(14)

^{F23}(15)

Textual Amendments

- F17** Words in s. 27(1)(2) substituted (1.2.2001) by 2000 c. 38, s. 215, **Sch. 16 para. 17(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))
- F18** Words in s. 27(3)(4)(8) substituted (1.2.2001) by 2000 c. 38, s. 215, **Sch. 16 para. 17(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))
- F19** Words in s. 27(8) substituted (1.2.2001) by 2000 c. 38, s. 252, **Sch. 27 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)
- F20** Words in s. 27(8) substituted (1.2.2001) by 2000 c. 38, s. 215, **Sch. 16 para. 17(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))
- F21** Words in s. 27(9) substituted (1.2.2001) by 2000 c. 38, s. 252, **Sch. 27 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)
- F22** Words in s. 27(10) substituted (1.2.2001) by 2000 c. 38, s. 215, **Sch. 16 para. 17(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))
- F23** S. 27(14)(15) 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)

Marginal Citations

M2 1986 c. 45.

28 Fares and approved discount fare schemes.

- (1) A franchise agreement may include provision with respect to the fares to be charged for travel by means of the franchised services.
- (2) Subject to the other provisions of this Act, if it appears to the [^{F24}Authority] that the interests of persons who use, or who are likely to use, franchised services so require, [^{F24}it] shall ensure that the franchise agreement in question contains any such provision as [^{F24}it] may consider necessary for the purpose of securing that any fares, or any fares of a class or description, which are to be charged are, in [^{F24}its] opinion, reasonable in all the circumstances of the case.
- (3) Every franchise agreement shall include provision requiring the franchise operator—
 - (a) to participate in every approved discount fare scheme,
 - (b) to charge fares, in cases to which such a scheme applies, at rates which are not in excess of the levels or, as the case may be, the maximum levels set by the scheme, and
 - (c) otherwise to comply with the requirements of every such scheme,if and to the extent that the franchised services are services, or services of a class or description, in relation to which the approved discount fare scheme in question applies.

Status: Point in time view as at 01/02/2001.

Changes to legislation: There are currently no known outstanding effects for the Railways Act 1993, Cross Heading: Franchising of passenger services. (See end of Document for details)

- (4) The discount fare schemes which are to be regarded for the purposes of this section as “approved” are those which are from time to time approved for the purposes of this section by the [^{F25}Authority].
- (5) In this section—
 - “discount fare scheme” means any scheme for enabling persons who are young, elderly or disabled to travel by railway at discounted fares, subject to compliance with such conditions (if any) as may be imposed by or under the scheme;
 - “discounted fare” means a lower fare than the standard fare for the journey in question;
 - “scheme” includes any agreement or arrangements.

Textual Amendments

F24 Words in s. 28(2) substituted (1.2.2001) by 2000 c. 38, s. 215, **Sch. 16 para. 18(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)**)

F25 Words in s. 28(4) substituted (1.2.2001) by 2000 c. 38, s. 215, **Sch. 16 para. 18(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)**)

29 Other terms and conditions of franchise agreements.

- (1) The [^{F26}Authority] may enter into a franchise agreement on conditions requiring—
 - (a) the rendering to the Franchising Director by the franchisee or the franchise operator of payments of such amounts and at such intervals as may be specified in, or determined by or under, the franchise agreement; ^{F27} . . .
 - ^{F27}(b)
- (2) A franchise agreement may include provision requiring the franchisee—
 - (a) to operate any additional railway asset; or
 - (b) to secure the operation of any additional railway asset by the franchise operator or any other wholly owned subsidiary of the franchisee.
- (3) A franchise agreement shall include provision specifying the franchise term and may include provision enabling that term to be extended by such further term as may be specified in the franchise agreement.
- (4) Without prejudice to the generality of the provisions relating to property, rights and liabilities that may be included in a franchise agreement, a franchise agreement may include provision requiring the franchise operator—
 - (a) to acquire from such person as may be specified in the franchise agreement, and to use, such property or rights as may be so specified; or
 - (b) to undertake such liabilities as may be so specified.
- (5) Subject to any requirements imposed by or under this Act, a franchise agreement may contain any such provisions as the [^{F26}Authority] may think fit.

^{F28}(6)

^{F28}(7)

Status: Point in time view as at 01/02/2001.

Changes to legislation: There are currently no known outstanding effects for the Railways Act 1993, Cross Heading: Franchising of passenger services. (See end of Document for details)

- (8) In this Part, “additional railway asset” means any network, station or light maintenance depot, and any reference to an additional railway asset includes a reference to any part of an additional railway asset.

Textual Amendments

- F26** Words in s. 29(1)(5) substituted (1.2.2001) by 2000 c. 38, s. 215, **Sch. 16 para. 19**; 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** S. 29(1)(b) and word “or” immediately preceding it 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**)
- F28** S. 29(6)(7) 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**)

Commencement Information

- I3** S. 29 wholly in force at 1.4.1994; s. 29 not in force at Royal Assent see s. 154(2); s. 29(8) in force at 6.1.1994 by S.I. 1993/3237, art. 2(2); s. 29 in force at 1.4.1994 insofar as not already in force by S.I. 1994/571, art. 5

[^{F29}30 Duty of Authority in absence of franchise.

- (1) The Authority shall provide, or secure the provision of, services for the carriage of passengers by railway where—
- a direction not to seek to secure the provision of the services under a franchise agreement has been given to the Authority under section 26A or 26B above (and not revoked); or
 - a franchise agreement in respect of the services is terminated or otherwise comes to an end but no further franchise agreement has been entered into in respect of the services (otherwise than because of such a direction).
- (2) The duty in subsection (1) above in relation to any services ceases if the services begin (or again begin) to be provided under a franchise agreement.
- (3) Subsection (1) above does not—
- require the Authority to provide or secure the provision of services if and to the extent that, in its opinion, adequate alternative railway passenger services are available;
 - preclude it from giving notice under subsection (5) of section 38 below in relation to any of the services, in which case its duty under this section to secure the provision of the services to which the notice relates will (subject to subsections (5) and (6) of that section) terminate on the day specified in the notice in pursuance of paragraph (b) of that subsection; or
 - preclude it from ceasing to provide or secure the provision of any of the services in any case falling within any of paragraphs (a) to (d) of subsection (2) of that section.]

Status: Point in time view as at 01/02/2001.

Changes to legislation: There are currently no known outstanding effects for the Railways Act 1993, Cross Heading: Franchising of passenger services. (See end of Document for details)

Textual Amendments

F29 S. 30 substituted (1.2.2001) by 2000 c. 38, s. 212(5) (with Sch. 28 para. 3); S.I. 2001/57, art. 3(1), Sch. 2 Pt. I (subject to savings and transitional provisions in Sch. 2 Pt. II)

31 Leases granted in pursuance of franchise agreements: no security of tenure.

(1) In any case where—

- (a) a franchise agreement makes provision for the franchisee, the franchise operator or a wholly owned subsidiary of the franchisee to enter into an agreement (“the contemplated agreement”) with a person who has an interest in a network or a railway facility,
- (b) the network or railway facility is to be used for or in connection with the provision of any of the franchised services, and
- (c) the contemplated agreement creates a tenancy of any property which (whether in whole or in part) constitutes, or is comprised in, the network or railway facility,

neither Part II of the ^{M3}Landlord and Tenant Act 1954 (security of tenure of business premises) nor the ^{M4}Tenancy of Shops (Scotland) Act 1949 (security of tenure of shop premises in Scotland) shall apply to that tenancy.

(2) For the purposes of this section, a person shall be regarded as having an interest in a network or railway facility if he has an estate or interest in, or right over, any of the property which constitutes, or is comprised in, the network or railway facility.

(3) Any reference in this section to a network or a railway facility includes a reference to any part of a network or railway facility.

(4) In this section—

“agreement” includes a lease, underlease or sublease (as well as a tenancy agreement or an agreement for a lease, underlease or sublease);

“tenancy” has the same meaning as it has in Part II of the ^{M5}Landlord and Tenant Act 1954 or, in Scotland, as it has in the ^{M6}Tenancy of Shops (Scotland) Act 1949.

Marginal Citations

M3 1954 c. 56.

M4 1949 c. 25.

M5 1954 c. 56.

M6 1949 c. 25.

Status:

Point in time view as at 01/02/2001.

Changes to legislation:

There are currently no known outstanding effects for the Railways Act 1993, Cross Heading: Franchising of passenger services.