



Railways Act 1993

1993 CHAPTER 43

PART I

THE PROVISION OF RAILWAY SERVICES

Access agreements

20 Exemption of railway facilities from sections 17 and 18

- (1) The Secretary of State may, after consultation with the Regulator, by order grant exemption from sections 17 and 18 above in respect of such railway facilities as may be specified in the order, but subject to compliance with such conditions (if any) as may be so specified.
- (2) A facility 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 railway facilities of a particular class or description or a particular railway facility, or in respect of part only of any such railway facilities or facility;and a facility 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 facility owner makes an application under this subsection to the Regulator for the grant of an exemption from sections 17 and 18 above in respect of the whole or any part of his railway facility, the Regulator, after consultation with the Secretary of State—
 - (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 facility exemption under subsection (3) above, the Regulator shall give notice—

Status: This is the original version (as it was originally enacted).

- (a) stating that he proposes to grant the facility exemption,
 - (b) stating the reasons why he proposes to grant the facility 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 facility exemption may be made,and shall consider any representations or objections which are duly made and not withdrawn.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 Regulator considers appropriate for bringing it to the attention of persons likely to be affected by the grant of the facility exemption.
- (6) If any condition (the “broken condition”) of a facility exemption is not complied with—
 - (a) the Secretary of State, in the case of a facility exemption under subsection (1) above, or
 - (b) the Regulator, in the case of a facility exemption under subsection (3) above, may give to any relevant person a direction declaring that the facility 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 facility exemption, means any condition subject to compliance with which the facility exemption was granted;
 - “relevant person”, in the case of any facility exemption, means a person who has the benefit of the facility 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) is the facility owner in the case of the railway facility in relation to which the broken condition is not complied with.
- (8) Subject to subsection (6) above, a facility exemption, unless previously revoked in accordance with any term contained in the facility exemption, shall continue in force for such period as may be specified in, or determined by or under, the facility exemption.
- (9) Subsection (1) above applies in relation to the grant of any facility exemption which is to become effective on the day on which sections 17 and 18 above come into force; and subsection (3) above applies in relation to the grant of any facility exemption which is not to become effective until after that day.
- (10) Any application for a facility exemption under subsection (3) above must be made in writing; and where any such application is made, the Regulator may require the applicant to furnish him with such information as the Regulator may consider necessary to enable him to decide whether to grant or refuse the facility exemption.
- (11) Facility exemptions may make different provision, or be granted subject to compliance with different conditions, for different cases.
- (12) A facility exemption may be granted in respect of the whole or any part of a railway facility notwithstanding that the railway facility or the part is one which—
 - (a) is proposed to be constructed; or
 - (b) is in the course of construction;

and any reference in this section to a railway facility or part of a railway facility shall be construed accordingly.

- (13) In this Part “facility exemption” means an exemption from sections 17 and 18 above granted under any provision of this section in respect of the whole or any part of a railway facility; and a railway facility is an “exempt facility” if and to the extent that it is the subject of such an exemption.