



Railways Act 1993

1993 CHAPTER 43

PART I

THE PROVISION OF RAILWAY SERVICES

Franchising of passenger services

27 Transfer of franchise assets and shares.

- (1) It shall be the duty of the [^{F1}responsible authority] before entering into a franchise agreement to satisfy [^{F2}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 [^{F1}responsible 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 [^{F2}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 [^{F1}responsible 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

Status: Point in time view as at 13/06/2018.

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- (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 [^{F1}responsible 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.
- (6) In England and Wales, no execution or other legal process may be commenced or continued, and no distress may be levied [^{F3}and no power to use the procedure in Schedule 12 to the Tribunals, Courts and Enforcement Act 2007 may be exercised], 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 [^{F4}responsible 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 [^{F5}a scheme under [^{F6}section 12 of the Railways Act 2005]] 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 [^{F4}responsible authority] may undertake in a franchise agreement to exercise [^{F7}its] powers under [^{F6}section 12 of the Railways Act 2005] to transfer franchise assets to [^{F7}itself] or another in such circumstances as may be specified in the franchise agreement.
- (10) The [^{F4}responsible authority] shall ensure that every franchise agreement includes such provision (if any) as [^{F8}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.

[^{F9}(10A) In this section the “responsible authority”—

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- (a) in relation to a Scottish franchise agreement, means the Scottish Ministers;
 - (b) in relation to a Welsh franchise agreement the franchised services under which consist of Wales-only services, means the Welsh Ministers; and
 - (c) in relation to any other franchise agreement, means the Secretary of State.]
- (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.
- (13) In this section “security” has the meaning given by section 248(b) of the ^{M1}Insolvency Act 1986.

^{F10}(14)

^{F10}(15)

Textual Amendments

- F1** Words in s. 27(1)-(4) substituted (13.6.2018) by [The Welsh Ministers \(Transfer of Functions\) \(Railways\) Order 2018 \(S.I. 2018/631\)](#), art. 1(2)(b)(iii), **Sch. para. 9(2)**
- F2** 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))
- F3** Words in s. 27(6) inserted (6.4.2014) by [Tribunals, Courts and Enforcement Act 2007 \(c. 15\)](#), s. 148, **Sch. 13 para. 112** (with s. 89); S.I. 2014/768, art. 2(1)(b)
- F4** Words in s. 27(8)-(10) substituted (13.6.2018) by [The Welsh Ministers \(Transfer of Functions\) \(Railways\) Order 2018 \(S.I. 2018/631\)](#), art. 1(2)(b)(iii), **Sch. para. 9(2)**
- F5** 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)
- F6** Words in s. 27(8)(9) substituted (24.7.2005 for certain purposes and 16.10.2005 in so far as not already in force) by [Railways Act 2005 \(c. 14\)](#), ss. 1, 60, **Sch. 1 para. 17(2)**; S.I. 2005/1909, art. 2, Sch.; S.I. 2005/2812, art. 2(1), Sch. 1
- F7** 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))
- F8** 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))
- F9** S. 27(10A) inserted (13.6.2018) by [The Welsh Ministers \(Transfer of Functions\) \(Railways\) Order 2018 \(S.I. 2018/631\)](#), art. 1(2)(b)(iii), **Sch. para. 9(3)**
- F10** 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)

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Marginal Citations

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