



Railways Act 1993

1993 CHAPTER 43

PART I

THE PROVISION OF RAILWAY SERVICES

Closures

39 Notification of proposals to close operational passenger networks

- (1) Subject to subsection (2) below, in any case where—
- (a) 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”),
 - (b) 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
 - (c) 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 Franchising Director,

then, unless the closure is certified by the Regulator as being a minor closure, the operator shall give notice of the proposal to the Franchising Director 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.
- (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

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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 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 Franchising Director under subsection (1) above, he 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 Franchising Director is of the opinion that the proposed closure should not be permitted to take effect, he 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 Franchising Director is of the opinion that the proposed closure should be permitted to take effect, he 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 him 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 him 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 Regulator 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 Franchising Director's.
- (9) Without prejudice to the provisions of section 40 below in relation to the network or the part of the network in question—

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- (a) if the final decision on the closure question is that the proposed closure will not be allowed to take effect, the Franchising Director 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 Franchising Director shall be under a duty to comply with those conditions or to secure 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—

- (a) in a case where the decision of the Regulator under section 43(9) below with respect to the proposed closure is not referred to the Secretary of State under section 44 below, that decision; or
- (b) in a case where that decision is referred to the Secretary of State under section 44 below, the disposal of that reference by the Secretary of State;

“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, in the opinion of the Regulator, such that—
 - (b) 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; or
- (d) any part of a network (other than track) which, in the opinion of the Regulator, 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.

(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 Franchising Director are those whose operation he 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) or 44(2) below,

and those whose operation he is for the time being securing in pursuance of his power under section 30 above.

(12) Any sums received by the Franchising Director under this section shall be paid into the Consolidated Fund.