



Transport Act 2000

2000 CHAPTER 38

PART IV

RAILWAYS

CHAPTER I

THE STRATEGIC RAIL AUTHORITY

The Authority

201 The Authority.

- (1) There shall be a body corporate known as the Strategic Rail Authority (but in this Part referred to as “the Authority”).
- (2) The Authority shall not be regarded as the servant or agent of the Crown or as enjoying any status, immunity or privilege of the Crown; and its property shall not be regarded as property of, or held on behalf of, the Crown.

202 Membership and chairing.

- (1) The Authority shall consist of—
 - (a) a member who is to chair it, and
 - (b) not fewer than seven, nor more than fourteen, other members.
- (2) But the Secretary of State may by order alter either or both of the numbers for the time being specified in subsection (1); and an order under this subsection shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (3) Both the member who is to chair the Authority and the other members shall be appointed by the Secretary of State; but the other members shall include—

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- (a) one person appointed by him after consultation with the Scottish Ministers, and
 - (b) one person appointed by him after consultation with the National Assembly for Wales.
- (4) In making any appointment to membership of the Authority the Secretary of State shall have regard to the desirability of appointing a person who has experience of, and has shown capacity in, some matter relevant to the functions of the Authority.
- (5) In making an appointment to membership after consultation with the Scottish Ministers or the National Assembly for Wales the Secretary of State shall also have regard to the desirability of appointing a person who is familiar with the special requirements and circumstances of Scotland, or of Wales.
- (6) The Secretary of State shall consult the member appointed to chair the Authority before appointing any other person to membership of the Authority.

203 Other senior appointments.

- (1) The Secretary of State may, after consulting the member appointed to chair the Authority, appoint another of its members to act as deputy to that member.
- (2) The Authority shall, with the approval of the Secretary of State, appoint a chief executive of the Authority.
- (3) A person appointed as chief executive of the Authority shall (if not already a member of the Authority) be appointed as a member.

204 Further provisions.

Schedule 14 contains further provisions about the Authority.

Purposes, strategies and exercise of functions

205 Purposes.

The purposes of the Authority are—

- (a) to promote the use of the railway network for the carriage of passengers and goods,
- (b) to secure the development of the railway network, and
- (c) to contribute to the development of an integrated system of transport of passengers and goods.

206 Strategies.

- (1) The Authority shall formulate, and keep under review, strategies with respect to its purposes.
- (2) The Authority shall consult—
 - (a) the Scottish Ministers,
 - (b) the National Assembly for Wales,
 - (c) the Regulator, and

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- (d) such other persons as the Authority thinks fit,
before formulating a strategy and from time to time as part of keeping its strategies under review.
- (3) The Secretary of State may give the Authority directions and guidance in relation to its strategies, in particular in relation to—
 - (a) the matters to be covered by them,
 - (b) the issues to be taken into account in formulating them,
 - (c) the strategy to be adopted in relation to any matter, and
 - (d) the updating of them.
- (4) The strategies formulated by the Authority shall include one relating to services in various parts of Great Britain for facilitating the carriage of passengers or goods by rail by way of the Channel Tunnel.
- (5) The Authority shall publish its strategies in such manner as it considers appropriate.

207 Manner of exercise of functions.

- (1) The Authority shall exercise its functions with a view to furthering its purposes and shall do so in accordance with any such strategies as it has formulated with respect to them (except when exercising the function of reviewing those strategies).
- (2) In exercising its functions in accordance with subsection (1) the Authority shall act in the way best calculated—
 - (a) to protect the interests of users of railway services,
 - (b) to contribute to the achievement of sustainable development,
 - (c) to promote efficiency and economy on the part of persons providing railway services,
 - (d) to promote measures designed to facilitate the making by passengers of journeys which involve the use of the services of more than one passenger service operator (including, in particular, arrangements for the issue and use of through tickets),
 - (e) to impose on the operators of railway services the minimum restrictions which are consistent with the performance of the Authority's functions, and
 - (f) to enable persons providing railway services to plan the future of their businesses with a reasonable degree of assurance.
- (3) In exercising its functions in accordance with subsections (1) and (2) the Authority shall have regard to—
 - (a) the need to protect all persons from dangers arising from the operation of railways (including, in particular, by taking into account any advice given by the Health and Safety Executive),
 - (b) the interests of persons who are disabled, and
 - (c) the effect on the environment of activities connected with the provision of railway services.
- (4) The Authority shall secure that any grants or other payments or loans made by it, any guarantees given by it and any investment in bodies corporate by it are such as it reasonably considers will further its purposes (in accordance with any strategies which it has formulated) efficiently and economically.

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- (5) Subject to subsection (4), the Secretary of State may give the Authority—
- (a) directions and guidance as to the manner in which it is to exercise any of its functions in order to comply with subsections (1) to (3), and
 - (b) directions not to exercise any of its functions in a particular manner (or not to do so without consulting, or obtaining the consent of, the Secretary of State).

Modifications etc. (not altering text)

- C1** S. 207 excluded (1.2.2001) by 1996 c. 61, s. 42A (as inserted by 2000 c. 38, s. 252, Sch. 27 para. 55; S.I. 2001/57, art. 3, Sch. 2 Pt. I (subject to transitional provision in Sch. 2 Pt. II))

208 Directions, guidance and advice by Scottish Ministers.

- (1) The Scottish Ministers may give the Authority—
- (a) directions and guidance in relation to services for the carriage of passengers by rail which start and end in Scotland and are provided under a franchise agreement,
 - (b) directions and guidance in relation to services for the carriage of passengers by rail which either start or end in Scotland, include sleeping facilities and are provided under a franchise agreement by a person who also provides services within paragraph (a), and
 - (c) advice in relation to services for the carriage of passengers by rail which either start or end in Scotland and are provided under a franchise agreement (other than services within paragraph (b)).
- (2) The Authority shall not comply with any direction or have regard to any guidance given under subsection (1) to the extent that to do so would be inconsistent with any direction or guidance given under section 206(3) or 207(5) or with the Authority's financial framework.
- (3) The Authority need not comply with any direction or have regard to any guidance given under paragraph (b) of subsection (1) to the extent that to do so—
- (a) would require the expenditure by the Authority of any money not provided to it out of the Scottish Consolidated Fund, or
 - (b) would adversely affect any railway services other than those mentioned in that subsection.

Modifications etc. (not altering text)

- C2** S. 208 excluded (1.2.2001) by 1996 c. 61, s. 42A (as inserted by 2000 c. 38, s. 252, Sch. 27 para. 55; S.I. 2001/57, art. 3, Sch. 2 Pt. I (subject to transitional provision in Sch. 2 Pt. II))

209 Directions, guidance and advice: supplementary.

- (1) Any direction or guidance to the Authority under this Act, or any advice given under section 208(1)(c), shall be published by the person by whom it is given in such manner as he considers appropriate.
- (2) The Authority shall comply with any direction given to it under this Act (but subject to section 208(2) and (3)).

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- (3) In exercising its functions the Authority shall have regard to any guidance given to it under this Act (but subject to section 208(2) and (3)).
- (4) The Authority—
 - (a) shall take note of any advice given under section 208(1)(c), and
 - (b) in exercising its functions, may have regard to that advice (but subject to subsections (2) and (3)).
- (5) Any power to give a direction or guidance to the Authority under this Act includes power to vary or revoke the direction or guidance.

210 Validity of transactions.

- (1) A transaction entered into by the Authority is not invalidated merely by reason of a contravention by the Authority of a requirement imposed by section 207(1), (2), (3) or (4) or 209(2), (3) or (4)(a).
- (2) Subsection (1) applies whether or not any person who entered into the transaction with the Authority enquired whether the Authority was acting in contravention of such a requirement.

Securing provision of railway services and assets etc.

211 Financial assistance etc.

- (1) The Authority may enter into agreements or other arrangements—
 - (a) for the purpose of securing the provision, improvement or development by others of any railway services or railway assets, or
 - (b) for any other purpose relating to any railway or railway services.
- (2) Agreements or other arrangements entered into under this section may provide for the Authority—
 - (a) to make grants or other payments or loans,
 - (b) to give guarantees, or
 - (c) to invest in bodies corporate,on such terms and subject to any such conditions as the Authority considers appropriate.
- (3) The Authority shall not enter into agreements or other arrangements under this section with—
 - (a) the franchise operator,
 - (b) the franchisee, or
 - (c) any servant, agent or independent contractor of the franchise operator or franchisee,in respect of any services provided under a franchise agreement otherwise than in accordance with the provisions of the franchise agreement.
- (4) The Authority shall not enter into agreements or other arrangements under this section for the purpose of securing the provision, improvement or development in Scotland of—
 - (a) services for the carriage of goods by railway, or

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- (b) facilities for or in connection with the carriage of goods by railway or the loading or unloading of goods carried or intended to be carried by railway, if the Scottish Ministers have power to do so under section 249.
- (5) Schedule 15 contains provision for the transfer to the Authority of certain property, rights and liabilities of the Secretary of State in consequence of sections 137 and 139 of the ^{M1}Railways Act 1993 being superseded by this section.
- (6) In this section—
 “facilities” includes track, rolling stock, depots, access roads and equipment for use in connection with the carriage, loading or unloading of goods, and
 “railway” has its wider meaning.

Marginal Citations

M1 1993 c. 43.

212 Securing of services by franchising.

- (1) In section 23 of the ^{M2}Railways Act 1993, in subsection (1) (duty of Authority to designate passenger services as eligible for provision under franchise agreements), for the words after “designate” substitute “ 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) In that section, after subsection (2) insert—
 “(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 section 26 of that Act (invitations to tender for franchise), after subsection (3) insert—
 “(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.

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- (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.”
- (4) After that section insert—

“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.

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

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- (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.
- (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.

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- (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.

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 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.”
- (5) For section 30 of that Act substitute—

“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) 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
 - (b) 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—
 - (a) 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;
 - (b) 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

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- section) terminate on the day specified in the notice in pursuance of paragraph (b) of that subsection; or
- (c) 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.”
- (6) In section 18 of that Act (access agreements: contracts requiring approval of Regulator), after subsection (6) insert—

“(6A) The grounds on which the Regulator may reject, or approve subject to modifications, a proposed access contract submitted to him pursuant to subsection (5) above include that he considers that the use of the facility for which it provides might impede the provision of services—

- (a) under a franchise agreement; or
- (b) under an agreement entered into by the Authority pursuant to its duty under section 30 below.”

Commencement Information

II S. 212 wholly in force at 1.2.2001, see s. 275(1)(2) and S.I. 2001/57, art. 3(1), Sch. 2 Pt. I (subject to the transitional provision and saving in Sch. 2 Pt. II)

Marginal Citations

M2 1993 c. 43.

213 Limited additional powers to provide railway services.

- (1) The Authority may provide services for the carriage of passengers or goods by railway if the Secretary of State consents to the provision of the services by the Authority and either—
- (a) the services are the same as, or broadly correspond to, services which were provided by a person other than the Authority before the Authority begins to provide them, or
- (b) a scheme under Schedule 19 provides for the transfer to the Authority of a liability to provide them.
- (2) The Authority may for the purposes of, or in connection with, any services which it provides under this section—
- (a) provide or operate network services, station services or light maintenance services, or
- (b) store goods or consign them from any place to which they have been carried by rail.
- (3) The Authority may not provide services for the carriage of passengers or goods by railway except in pursuance of the power conferred by this section or in compliance with a duty imposed by the ^{M3}Railways Act 1993.

Commencement Information

I2 S. 213 wholly in force at 1.2.2001, see s. 275(1)(2) and S.I. 2001/57, art. 3(1), Sch. 2 Pt. I (subject to the transitional provision and saving in Sch. 2 Pt. II)

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Marginal Citations

M3 1993 c. 43.

214 Securing provision of substitute bus and taxi services.

- (1) The Authority may secure the provision by other persons of services for the carriage of passengers by road, by means of public service vehicles or licensed taxis or private hire vehicles, where railway services have been temporarily interrupted or discontinued.
- (2) Where it is not practicable for a service by road to correspond precisely to the railway service which has been interrupted or discontinued, it may deviate from the route of that railway service.
- (3) Even where it is practicable for it to do so, the route and stopping places of a service by road provided where a railway service has been discontinued need not correspond precisely with the discontinued service so long as it broadly corresponds with the discontinued service in terms of the localities it serves.
- (4) Before entering into any agreement with any person in pursuance of this section for the provision of a service by road in a case where a railway service has been discontinued, the Authority shall invite other persons to submit tenders to provide the service by road service for such period, and on such basis, as may be specified in the invitation to tender.
- (5) Subsection (4)—
 - (a) does not apply in relation to an agreement for the provision of a service in a case where such a service provided under an agreement entered into by the Authority in pursuance of this section has been temporarily interrupted, and
 - (b) does not require the Authority to accept any tender submitted in response to an invitation to tender.
- (6) In this section “licensed taxis or private hire vehicles” means—
 - (a) in England and Wales, vehicles licensed under section 37 of the ^{M4}Town Police Clauses Act 1847, section 6 of the ^{M5}Metropolitan Public Carriage Act 1869, section 48 of the ^{M6}Local Government (Miscellaneous Provisions) Act 1976 or section 7 of the ^{M7}Private Hire Vehicles (London) Act 1998 or under any similar enactment, and
 - (b) in Scotland, taxis or private hire cars licensed under section 10 of the ^{M8}Civic Government (Scotland) Act 1982.
- (7) In this section—

“public service vehicles” has the meaning given by section 1 of the ^{M9}Public Passenger Vehicles Act 1981, and

“stopping places”, in relation to a service, means points at which passengers are taken up or set down in the course of the service.

Commencement Information

I3 S. 214 wholly in force at 1.2.2001, see s. 275(1)(2) and S.I. 2001/57, art. 3(1), Sch. 2 Pt. I (subject to the transitional provision and saving in Sch. 2 Pt. II)

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- M4** 1847 c. 89.
- M5** 1869 c. 115.
- M6** 1976 c. 57.
- M7** 1998 c. 34.
- M8** 1982 c. 45.
- M9** 1981 c. 14.

Functions of Franchising Director, Regulator and Board

215 Assumption of functions of Franchising Director.

- (1) Schedule 16 transfers to the Authority the functions of the Franchising Director.
- (2) All the property, rights and liabilities of the Franchising Director (including any rights and liabilities relating to staff appointed by him) are by virtue of this section transferred to the Authority.
- (3) Nothing in this Part affects the validity of anything done by or in relation to the Franchising Director.
- (4) There may be continued by or in relation to the Authority anything (including legal proceedings) which is in the process of being done by or in relation to the Franchising Director when his functions, property, rights and liabilities are transferred to the Authority.
- (5) Anything done by the Franchising Director which is in effect immediately before his functions, property, rights or liabilities are transferred to the Authority shall be treated as if done by the Authority.
- (6) The Authority shall be substituted for the Franchising Director in private Acts, instruments made under Acts, other documents and legal proceedings.
- (7) For the purposes of the ^{M10}Employment Rights Act 1996, where a person employed in the civil service of the state becomes an employee of the Authority by virtue of this section—
 - (a) his period of employment in the civil service of the state counts as a period of employment with the Authority, and
 - (b) the change of employment does not break the continuity of the period of employment.
- (8) In consequence of the preceding provisions of this section the office of Franchising Director is abolished.
- (9) If the Secretary of State determines that there are special circumstances which make it right that the person who is the Franchising Director immediately before the office is abolished should receive compensation, the Secretary of State shall pay to that person such compensation as may be determined by the Secretary of State.

Commencement Information

- I4** S. 215 wholly in force at 1.2.2001, see s. 275(1)(2) and S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I** (subject to the transitional provision and saving in **Sch. 2 Pt. II**)

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Marginal Citations

M10 1996 c. 18.

216 Assumption of certain functions of Regulator.

Schedule 17 makes provision for the transfer to the Authority of certain functions of the Regulator and of associated property, rights and liabilities.

Commencement Information

I5 S. 216 wholly in force at 1.2.2001; s. 216 not in force at Royal Assent see s. 275(1)(2); s. 216 in force (30.1.2001) for certain purposes by S.I. 2001/57, art. 2, Sch. 1; s. 216 in force (1.2.2001) in so far as it is not already in force by S.I. 2001/57, art. 3(1), Sch. 2 Pt. I (subject to the transitional provision and saving in Sch, 2Pt. II)

217 Assumption of Board's functions relating to transport police.

- (1) Schedule 18 transfers to the Authority the functions of the Board relating to the British Transport Police and associated property, rights and liabilities.
- (2) The Authority shall exercise its functions relating to the British Transport Police Force in such manner and to such extent as appears to the Authority to be best calculated to promote the efficiency and effectiveness of that Force; and section 207 does not apply to those functions.

Commencement Information

I6 S. 217 wholly in force at 1.2.2001, see s. 275(1)(2) and S.I. 2001/57, art. 3(1), Sch. 2 Pt. I (subject to the transitional provision and saving in Sch. 2 Pt. II)

218 Functions relating to Board's property.

- (1) Schedule 19 makes provision for the transfer to the Authority of other property, rights and liabilities of the Board.
- (2) Any property, rights and liabilities which are transferred to the Authority by virtue of Schedule 19 but are not required by the Authority for the discharge of any of its other functions shall be disposed of or otherwise dealt with by the Authority—
 - (a) in accordance with directions given to it by the Secretary of State, and
 - (b) subject to that, in the way which appears to the Authority most economic and efficient.
- (3) For the purposes of subsection (2) (and subject to directions given to it by the Secretary of State), the Authority may (in particular)—
 - (a) retain and manage property,
 - (b) develop land with a view to disposing of it, and
 - (c) acquire land for the purpose of developing it with the land which it adjoins.
- (4) Section 207 does not apply to the functions in subsections (2) and (3).

Status: Point in time view as at 01/12/2003. This version of this part contains provisions that are not valid for this point in time.

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Other powers

219 Power to make bye-laws.

- (1) The Authority may make bye-laws regulating—
 - (a) the use and working of railway assets,
 - (b) travel on or by means of railway assets,
 - (c) the maintenance of order on railway assets, and
 - (d) the conduct of persons while on railway assets.
- (2) The Authority may, in particular, make bye-laws—
 - (a) with respect to tickets issued for entry on railway assets or travel by railway and the evasion of payment of fares or other charges,
 - (b) with respect to interference with, or obstruction of, the working of any railway or any railway asset or the provision of any railway service,
 - (c) prohibiting or restricting the smoking of tobacco in railway carriages and elsewhere,
 - (d) with respect to the prevention of nuisance,
 - (e) with respect to the receipt and delivery of goods, and
 - (f) for regulating the passage of bicycles and other vehicles on footways and other premises intended for the use of those on foot.
- (3) Schedule 20 makes further provision about bye-laws under this section.
- (4) For the purposes of this section and that Schedule “railway assets” includes rolling stock other than trains (as well as what is specified in section 6(2) of the ^{M11}Railways Act 1993); and “operator”, in relation to such rolling stock, means the person having management of the rolling stock for the time being.

Commencement Information

I7 S. 219 wholly in force at 1.2.2001, see s. 275(1)(2) and S.I. 2001/57, art. 3(1), Sch. 2 Pt. I (subject to the transitional provision and saving in Sch. 2 Pt. II)

Marginal Citations

M11 1993 c. 43.

220 Power to make transfer schemes.

Schedule 21 makes provision for the making of transfer schemes by the Authority.

Commencement Information

I8 S. 220 wholly in force at 1.2.2001, see s. 275(1)(2) and S.I. 2001/57, art. 3(1), Sch. 2 Pt. I (subject to the transitional provision and saving in Sch. 2 Pt. II)

221 Power to promote and oppose Bills.

The Authority—

- (a) may promote in Parliament Bills relating to railways, and

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- (b) may oppose any Bill in Parliament.

Commencement Information

- 19** S. 221 wholly in force at 1.2.2001, see s. 275(1)(2) and S.I. 2001/57, art. 3(1), Sch. 2 Pt. I (subject to the transitional provision and saving in Sch. 2 Pt. II)

222 Other incidental powers.

- (1) The Authority may do anything which it considers—
- (a) is necessary or appropriate for or for facilitating, or
 - (b) is incidental or conducive to,
- the exercise of any of its functions.
- (2) In particular, the Authority may—
- (a) enter into agreements,
 - (b) acquire or dispose of property,
 - (c) invest money,
 - (d) form bodies corporate or acquire or dispose of interests in bodies corporate, and
 - (e) promote or assist in the promotion of publicity.
- (3) This section has effect subject to any provision of this Part, or of any other enactment, limiting the powers of the Authority.

CHAPTER II

OTHER PROVISIONS ABOUT RAILWAYS

VALID FROM 15/10/2005

Directions to provide etc. railway facilities

223 Regulator's power to require provision etc. of railway facilities.

In the ^{M12}Railways Act 1993, after section 16 insert—

“ Directions to provide, improve or develop railway facilities

16A Provision, improvement and development of railway facilities.

- (1) The Regulator may, on an application—
- (a) made by the Authority, or
 - (b) made by any other person with the consent of the Authority,
- give to the operator of a network, station or light maintenance depot a direction to provide a new railway facility if the Regulator considers him to be an appropriate person to provide the new railway facility.

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- (2) The Regulator may, on an application—
 - (a) made by the Authority, or
 - (b) made by any other person with the consent of the Authority,
 give to a person who has an estate or interest in, or right over, an existing railway facility a direction to improve or develop the railway facility if the Regulator considers him to be an appropriate person to improve or develop the railway facility.
- (3) The Authority's consent to the making by any other person of an application under subsection (1) or (2) above may be given subject to compliance with conditions (and may be withdrawn if any condition is not complied with before the Regulator decides whether to give the direction).

16B Exemption of railway facilities from section 16A.

- (1) The Secretary of State may, after consultation with the Regulator, by order grant exemption from subsection (1) or (2) of section 16A above (or from both of those subsections) 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) An exemption under subsection (1) above may be granted in respect of—
 - (a) railway facilities of a particular class or description, or
 - (b) a particular railway facility,
 or in respect of part only of railway facilities of a particular class or description or a particular railway facility.
- (3) An exemption under subsection (1) above may be granted generally, to persons of a particular class or description or to a particular person.
- (4) If a person fails to comply with any condition subject to compliance with which an exemption was granted, the Secretary of State may give a direction declaring that the 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.
- (5) Subject to subsection (4) above, an exemption, unless previously revoked in accordance with any term contained in the exemption, shall continue in force for such period as may be specified in, or determined by or under, the exemption.
- (6) Exemptions may make different provision, or be granted subject to compliance with different conditions, for different cases.

16C Making of applications for directions.

- (1) An application for a direction under section 16A above must be made to the Regulator in writing.
- (2) The application must—
 - (a) specify the person to whom the direction would be given;
 - (b) state what it would require him to do; and

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- (c) give the applicant's reasons for considering that person to be an appropriate person to do what the direction would require him to do.
- (3) The applicant may at any time vary what the direction would require that person to do by giving to the Regulator notice in writing of the variation; but if the applicant is a person other than the Authority such a notice may only be given with the consent of the Authority.
- (4) The application or notice of a variation may be accompanied by any written representations which the applicant wishes to make in relation to the direction.

16D Procedure for considering applications.

- (1) When the Regulator has received the application or notice of a variation, he must—
- (a) send a copy to the person specified in the application, the Authority (if it is not the applicant) and any other persons who the Regulator considers ought to be sent one; and
 - (b) invite them to make written representations within a period specified in the invitation.
- (2) If the person specified in the application makes representations that he is not an appropriate person to do what the direction would require him to do, the Regulator must decide that issue in advance of considering any other matters which may be relevant in deciding whether to give the direction.
- (3) If that person makes such representations but the Regulator decides that he is an appropriate person to do what the direction would require him to do, the Regulator must—
- (a) notify him of that decision; and
 - (b) invite him to make written representations within a period specified in the invitation about any other matters which may be relevant in deciding whether to give the direction.
- (4) The Regulator must—
- (a) send the applicant a copy of any representations received by him in response to any invitation under subsection (1) or (3) above; and
 - (b) invite him to make further written representations within a period specified in the invitation.
- (5) Subject to subsection (6) below, the Regulator may substitute as the applicant any other person if—
- (a) the applicant,
 - (b) the other person, and
 - (c) the Authority (if it is neither the applicant nor the other person), consent to the substitution.
- (6) The applicant may, by giving notice in writing to the Regulator, withdraw or suspend the application at any time before the Regulator decides whether to give the direction.
- (7) The Regulator may direct—

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- (a) the person specified in the application,
 - (b) the applicant, or
 - (c) any other person (apart from the Authority),
- to provide him with any information required by him in order to decide whether to give the direction.
- (8) If a person fails to comply with a direction under subsection (7) above, the High Court or the Court of Session may, on the application of the Regulator, make such order as it thinks fit for requiring the failure to be made good.
- (9) Such an order may provide that all the costs or expenses of and incidental to the application shall be borne by—
- (a) the person who failed to comply; or
 - (b) in the case of a company or other association, any officers who are responsible for the failure to comply.

16E Decisions on applications: adequate reward.

- (1) The Regulator may only give a direction to a person under section 16A above to provide, improve or develop a railway facility if he is satisfied that the person will be adequately rewarded for providing, improving or developing the railway facility in accordance with the direction.
- (2) In considering whether he is so satisfied the Regulator shall take into account (in particular)—
- (a) any receipts obtained or likely to be obtained by the person (from the Authority, passengers, operators of railway services or any other persons) in connection with, or as a result of, the provision, improvement or development of the railway facility; and
 - (b) any other benefit obtained or likely to be obtained by him in consequence of its provision, improvement or development.
- (3) Representations made by the applicant for a direction—
- (a) under section 16C(4) above, or
 - (b) in response to an invitation under section 16D(4) above,
- may, in particular, include representations as to matters which he considers the Regulator should take into account in deciding whether the person to whom the direction would be given would be adequately rewarded for doing what it would require him to do.

16F Other provisions about decisions.

- (1) If the Regulator does not consider it right to give a direction under section 16A above in the terms applied for (or to reject the application), he may give a direction under that section in modified terms.
- (2) The Regulator may include supplementary provisions in any direction under section 16A above, including (in particular)—
- (a) provision adding detail (for instance, as to the time by which, or standard to which, the person to whom it is given is to do anything which it requires him to do); and

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- (b) provision imposing requirements on the applicant (for instance, to make arrangements for rewarding the person to whom the direction is given or to make payments to him).
- (3) Before giving a direction under section 16A above which is in modified terms or includes supplementary provisions, the Regulator shall—
 - (a) notify his intention to give a direction to the applicant, the Authority (if it is not the applicant) and any other persons who the Regulator considers ought to be notified; and
 - (b) invite them to make written representations within a period specified in the invitation;and if the applicant makes representations that the direction should not be given, the Regulator shall not give it.
- (4) Whatever the Regulator’s decision on an application he shall notify the decision to—
 - (a) the person specified in the application;
 - (b) the applicant; and
 - (c) any other persons who he considers ought to be notified.
- (5) The Regulator may direct the person specified in the application or the applicant to pay to—
 - (a) the other of those persons, or
 - (b) any other person directed to provide information under section 16D(7) above,any such amount as he considers appropriate in respect of costs incurred in connection with the application.

16G Directions: compliance, variation and revocation.

- (1) A person shall not be regarded as failing to comply with a direction under section 16A above if he has done everything which it is reasonably practicable to do in order to comply with the direction.
- (2) If a person is unable to comply with such a direction because he does not have the necessary powers or rights (including rights over land), he shall not be taken to have done everything which it is reasonably practicable to do in order to comply with the direction unless he has done everything which it is reasonably practicable to do in order to obtain those powers or rights.
- (3) A direction under section 16A above may only be revoked or varied by the Regulator—
 - (a) on the application of the person to whom the direction was given, the applicant for the direction or the Authority (if it was not the applicant); and
 - (b) after consultation with the other persons with power to apply for a revocation or variation.
- (4) Such a direction may only be varied on an application by the applicant for the direction or the Authority if the Regulator is satisfied that the person to whom the direction was given will be adequately rewarded for providing, improving or developing the railway facility in accordance with

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the varied direction, taking into account (in particular) the matters specified in section 16E(2) above.

- (5) The Regulator may grant an application for the variation or revocation of a direction under section 16A above by the applicant for the direction or the Authority on condition that he or it secures that any such compensation as the Regulator may specify is paid to the person to whom the direction was given in respect of any liabilities incurred, or other things done, by him in complying with the direction.

16H Code of practice.

- (1) The Regulator shall prepare, and from time to time revise, a code of practice supplementing sections 16A to 16G above and shall publish it in such manner as he considers appropriate.
- (2) The Regulator shall have regard to the code of practice in the exercise of his functions under those sections.
- (3) The code of practice may (in particular)—
- (a) set out minimum periods to be specified in invitations to make representations;
 - (b) include provision about requesting the provision of information prior to giving a direction under section 16D(7) above;
 - (c) specify principles according to which directions to pay costs are to be given under section 16F(5) above; and
 - (d) make provision about the consultation required by section 16G(3) (b) above.

16I Supplementary.

- (1) References in sections 16A to 16H above and this section to a railway facility include part of a railway facility.
- (2) Nothing in any of those sections or a direction under section 16A above—
- (a) limits any power of the Regulator under any other provision of this Act; or
 - (b) affects any obligation to provide a new railway facility, or to improve or develop an existing railway facility, arising otherwise than from such a direction.”

Commencement Information

I10 S. 223 in force at 15.10.2005 by [S.I. 2005/2862](#), [art. 3](#)

Marginal Citations

M12 [1993 c. 43](#).

Status: Point in time view as at 01/12/2003. This version of this part contains provisions that are not valid for this point in time.
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Objectives of Regulator and Secretary of State

224 Amendment of objectives.

- (1) Section 4 of the ^{M13}Railways Act 1993 (general duties of Regulator and Secretary of State) is amended as follows.
- (2) In subsection (1) (objectives)—
 - (a) for “Secretary of State and the Regulator shall each” substitute “ Regulator shall ”,
 - (b) before paragraph (a) insert—
 - “(za) to facilitate the furtherance by the Authority of any strategies which it has formulated with respect to its purposes;”
 - (c) after paragraph (b) insert—
 - “(ba) to contribute to the development of an integrated system of transport of passengers and goods;
 - (bb) to contribute to the achievement of sustainable development;”

and

 - (d) in paragraph (d) (promotion of competition in provision of railway services), insert at the end “ for the benefit of users of railway services ”.
- (3) In subsection (2) (objectives)—
 - (a) for “Secretary of State and the Regulator shall each” substitute “ Regulator shall ”, and
 - (b) omit “the Secretary of State or, as the case may be,”.
- (4) In subsection (3) (safety and the environment), for “Secretary of State and the Regulator shall each” substitute “ Regulator shall ”.
- (5) After that subsection insert—

“(3A) Subsections (1) to (3) above shall have effect in relation to the Secretary of State as in relation to the Regulator, except that in their application to the Secretary of State—

 - (a) paragraph (za) of subsection (1) above shall be disregarded; and
 - (b) the references in each of the subsections to the functions transferred or assigned to the Secretary of State under or by virtue of this Part include only the functions transferred or assigned to him under or by virtue of sections 6 to 22 and 37 to 50 below.”
- (6) In subsection (5) (additional duties of Regulator), for paragraph (a) (duty until 31st December 1996 to take account of guidance of Secretary of State) substitute—

“(a) to have regard to any general guidance given to him by the Secretary of State about railway services or other matters relating to railways;”.
- (7) After subsection (7) insert—

“(7ZA) Any general guidance given by the Secretary of State to the Regulator about railway services or other matters relating to railways—

 - (a) shall be published by the Secretary of State in such manner as he considers appropriate; and

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(b) may be varied or revoked.”

Commencement Information

I11 S. 224 wholly in force at 1.2.2001, see s. 275(1)(2) and S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I** (subject to the transitional provision and saving in **Sch. 2 Pt. II**)

Marginal Citations

M13 1993 c. 43.

Enforcement regime

225 Penalties.

(1) In the ^{M14}Railways Act 1993, after section 57 insert—

“57A Penalties.

- (1) If the appropriate authority is satisfied that a relevant operator has contravened or is contravening—
 - (a) a relevant condition or requirement, or
 - (b) a final or provisional order made by the appropriate authority,
 the appropriate authority may impose on the relevant operator a penalty of such amount as is reasonable.
- (2) A penalty is payable to the Authority.
- (3) The amount of a penalty imposed on a relevant operator may not exceed 10 per cent. of his turnover determined in accordance with an order made by the Secretary of State; and an order under this subsection shall not be made unless a draft of the statutory instrument containing it has been laid before and approved by a resolution of each House of Parliament.
- (4) No penalty may be imposed in respect of any contravention of a final or provisional order if provision was made in the order by virtue of section 55(7A) above in relation to the contravention.
- (5) The Authority shall not impose a penalty on a licence holder or person under closure restrictions unless—
 - (a) it has given notice to the Regulator specifying a period within which he may give notice to it if he considers that the most appropriate way of proceeding is under the ^{M15}Competition Act 1998;
 - (b) that period has expired; and
 - (c) the Regulator has not given notice to the Authority within that period that he so considers (or, if he has, he has withdrawn it).
- (6) The Regulator shall not impose a penalty if he is satisfied that the most appropriate way of proceeding is under the ^{M16}Competition Act 1998.

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57B Statement of policy.

- (1) The Authority and the Regulator shall each prepare and publish a statement of policy with respect to the imposition of penalties and the determination of their amount.
- (2) A statement of policy may include provision for a decision whether to impose a penalty, or the determination of the amount of any penalty, in respect of the contravention of any relevant condition or requirement or order to be influenced by—
 - (a) the desirability of securing compliance with that relevant condition or requirement or order;
 - (b) the consequences or likely consequences of anything which has been or is being done or omitted to be done in contravention of that relevant condition or requirement or order; and
 - (c) the desirability of deterring contraventions of relevant conditions and requirements and final and provisional orders.
- (3) In deciding whether to impose a penalty, and in determining the amount of any penalty, in respect of a contravention the Authority and Regulator shall have regard to any statement of its or his policy published at the time when the contravention occurred.
- (4) The Authority and Regulator—
 - (a) may at any time alter or replace a statement of his or its policy; and
 - (b) shall publish the altered or replacement statement.
- (5) The Authority and Regulator shall undertake appropriate consultation when preparing, altering or replacing a statement of policy.
- (6) The Authority and Regulator shall publish a statement of policy in the manner that appears most suitable for bringing it to the attention of those likely to be affected by it.
- (7) This section applies in relation to sums required to be paid by virtue of section 55(7A) above as to penalties, but as if—
 - (a) references to the imposition of penalties were to the inclusion in an order of a requirement to pay a sum;
 - (b) references to relevant conditions or requirements were omitted; and
 - (c) the reference in subsection (2)(b) above to anything which has been or is being done or omitted to be done included a reference to anything which is likely to be done or omitted to be done.

57C Procedural requirements for penalties.

- (1) Before it imposes a penalty on a relevant operator, the appropriate authority shall give notice—
 - (a) stating that it proposes to impose a penalty on the relevant operator and the amount of the penalty proposed,
 - (b) setting out the relevant condition or requirement or order in question,
 - (c) specifying the acts or omissions which, in its opinion, constitute contraventions of that condition or requirement or order and the other

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- facts which, in its opinion, justify the imposition of a penalty and the amount of the penalty proposed,
- (d) specifying the manner in which, and place at which, it is proposed to require the penalty to be paid, and
 - (e) specifying the period (not being less than 21 days from the date of publication of the notice) within which representations or objections with respect to the proposed penalty may be made,
- and shall consider any representations or objections which are duly made and not withdrawn.
- (2) A notice under subsection (1) above shall be given—
 - (a) by publishing the notice in such manner as the appropriate authority considers appropriate; and
 - (b) by serving a copy of the notice on the relevant operator.
 - (3) Where the Regulator serves a copy of a notice under subsection (1) above on a licence holder, he shall also serve a copy on the Authority; and where the Authority so serves a copy of such a notice, it shall also serve a copy on the Regulator.
 - (4) The appropriate authority shall not modify a proposal to impose a penalty except—
 - (a) with the consent of the relevant operator;
 - (b) where the modifications consist of a reduction of the amount of the penalty or a deferral of the date by which it is to be paid; or
 - (c) after complying with the requirements of subsection (5) below.
 - (5) The requirements mentioned in subsection (4)(c) above are that the appropriate authority shall—
 - (a) give to the relevant operator such notice as appears to it requisite of its modified proposal;
 - (b) unless the proposed modifications are trivial, in that notice specify a period (not being less than seven days from the date of service of the notice) within which representations or objections with respect to the proposed modifications may be made; and
 - (c) consider any representations or objections which are duly made and not withdrawn.
 - (6) As soon as practicable after imposing a penalty, the appropriate authority shall give notice—
 - (a) stating that it has imposed a penalty on the relevant operator and its amount;
 - (b) setting out the relevant condition or requirement or order in question;
 - (c) specifying the acts or omissions which, in its opinion, constitute contraventions of that condition or requirement or order and the other facts which, in its opinion, justify the imposition of the penalty and its amount;
 - (d) specifying the manner in which, and place at which, the penalty is to be paid; and
 - (e) specifying the date (not being less than fourteen days from the date of publication of the notice) by which the penalty is to be paid.

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- (7) A notice under subsection (6) above shall be given—
 - (a) by publishing the notice in such manner as the appropriate authority considers appropriate; and
 - (b) by serving a copy of the notice on the relevant operator.
- (8) The relevant operator may, within 21 days of the date of service on him of the notice under subsection (6) above, make an application to the appropriate authority for it to specify different dates by which different portions of the penalty are to be paid.

57D Time limits.

- (1) No penalty may be imposed in respect of a contravention by a relevant operator—
 - (a) by virtue of paragraph (a) of subsection (1) of section 57A above in a case where no final or provisional order has been made in relation to the contravention, or
 - (b) by virtue of paragraph (b) of that subsection,unless a copy of the notice relating to the penalty under section 57C(1) above is served on the relevant operator within two years of the time of the contravention.
- (2) No penalty may be imposed in respect of a contravention by a relevant operator by virtue of section 57A(1)(a) above in a case where a final or provisional order has been made in relation to the contravention unless a copy of the notice relating to the penalty under section 57C(1) above is served on the relevant operator—
 - (a) within three months of the confirmation of the provisional order or the making of the final order; or
 - (b) where the provisional order is not confirmed, within six months of the making of the provisional order.

57E Interest and payment of instalments.

- (1) If the whole or any part of a penalty is not paid by the date by which it is to be paid, the unpaid balance from time to time shall carry interest at the rate for the time being specified in section 17 of the ^{M17}Judgments Act 1838.
- (2) If an application is made under subsection (8) of section 57C above in relation to a penalty, the penalty need not be paid until the application has been determined.
- (3) If the appropriate authority grants an application under that subsection in relation to a penalty but any portion of the penalty is not paid by the date specified in relation to it by the appropriate authority under that subsection, so much of the penalty as has not already been paid is to be paid immediately.

57F Validity and effect of penalties.

- (1) If the relevant operator to whom a penalty order relates is aggrieved by a penalty and desires to question its validity on the ground—
 - (a) that it was not within the powers of section 57A above,

Status: Point in time view as at 01/12/2003. This version of this part contains provisions that are not valid for this point in time.
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- (b) that any of the requirements of section 57C above have not been complied with in relation to it and his interests have been substantially prejudiced by the non-compliance, or
 - (c) that it was unreasonable of the appropriate authority not to grant an application under section 57C(8) above;
- he may make an application to the court under this section.
- (2) An application under this section by a person shall be made—
 - (a) where it is on the ground mentioned in subsection (1)(c) above, within 42 days from the date on which he is notified of the decision not to grant the application under section 57C(8) above, and
 - (b) in any other case, within 42 days from the date of service on him of the notice under section 57C(6) above.
 - (3) If an application is made under this section in relation to a penalty, the penalty need not be paid until the application has been determined.
 - (4) On an application under this section on the ground mentioned in subsection (1) (a) or (b) above the court, if satisfied that the ground is established, may quash the penalty or (instead of quashing it) make provision under either or both of paragraphs (a) and (b) of subsection (5) below.
 - (5) The provision referred to in subsection (4) above is—
 - (a) provision substituting a penalty of such lesser amount as the court considers appropriate in all the circumstances of the case; and
 - (b) provision substituting as the date by which the penalty, or any portion of the penalty, is to be paid a date later than that specified in the notice under section 57C(6) above.
 - (6) On an application under this section on the ground mentioned in subsection (1) (c) above the court, if satisfied that the ground is established, may specify different dates by which different portions of the penalty are to be paid.
 - (7) Where the court substitutes a penalty of a lesser amount it may require the payment of interest on the substituted penalty at such rate, and from such date, as it determines; and where it specifies as the date by which the penalty, or a portion of the penalty, is to be paid a date before the determination of the application it may require the payment of interest on the penalty, or portion, from that date at such rate as it determines.
 - (8) Except as provided by this section, the validity of a penalty shall not be questioned by any legal proceedings whatever.”
- (2) In section 55 of that Act (orders for securing compliance), for subsection (8) substitute—
- “(7A) The provision that may be made in a final or provisional order includes, in particular, provision requiring the relevant operator to pay to the Authority in the event of any specified contravention of the order such reasonable sum in respect of the contravention as is specified in, or determined in accordance with, the order in such manner, at such place and by such date as is so specified or determined.
 - (7B) The amount of the sum may not exceed 10 per cent. of the turnover of the relevant operator determined in accordance with an order made by the

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Secretary of State; and an order under this subsection shall not be made unless a draft of the statutory instrument containing it has been laid before and approved by a resolution of each House of Parliament.

(7C) If the whole or any part of the sum is not paid by the date by which it is to be paid, the unpaid balance from time to time shall carry interest at the rate for the time being specified in section 17 of the ^{M18}Judgments Act 1838.”

Commencement Information

I12 S. 225 wholly in force at 1.2.2001, see s. 275(1)(2) and S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I** (subject to the transitional provision and saving in **Sch. 2 Pt. II**)

Marginal Citations

M14 1993 c. 43.

M15 1998 c. 41.

M16 1998 c. 41.

M17 1838 c. 110.

M18 1838 c. 110.

226 Orders for securing compliance.

- (1) In section 55 of the ^{M19}Railways Act 1993 (orders for securing compliance)—
- (a) in subsection (5) (cases where order shall not be made or confirmed) omit paragraphs (b) and (c),
 - (b) after subsection (5A) insert—

“(5B) If the appropriate authority is satisfied—

 - (a) that the relevant operator has agreed to take, and is taking, all such steps as it appears to the appropriate authority for the time being to be appropriate for the relevant operator to take for the purpose of securing or facilitating compliance with the condition or requirement in question, or
 - (b) that the contravention or apprehended contravention will not adversely affect the interests of users of railway services or lead to any increase in public expenditure,

it shall only make a final order, or make or confirm a provisional order, if it considers it appropriate to do so.”,

and

 - (c) in subsection (6) (requirement to serve and publish notice that subsection (5) or (5A) applies), for the words from “is satisfied” to “so satisfied” substitute “does not make a final order, or make or confirm a provisional order, because of any provision contained in any of subsections (5) to (5B) above, it shall—
 - (a) serve notice of that fact”.
- (2) In section 56 of that Act (procedural requirements about orders)—
- (a) in subsection (1)(c) (requirement of at least 28 days’ notice for making representations or objections to proposed final order or proposed confirmation of provisional order), for “28” substitute “ 21 ”,

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- (b) in subsection (4)(b) (requirement of at least 28 days' notice for making representations or objections to proposed modifications), for "in that notice specify the period (not being less than 28" substitute " unless the proposed modifications are trivial, in that notice specify a period (not being less than seven ", and
- (c) in subsection (6)(b) (requirement of at least 28 days' notice for making representations or objections to proposal to revoke order), for "28" substitute " 21 ".

Commencement Information

I13 S. 226 wholly in force at 1.2.2001, see s. 275(1)(2) and S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I** (subject to the transitional provision and saving in **Sch. 2 Pt. II**)

Marginal Citations

M19 1993 c. 43.

Consultative committees

227 Renaming of committees.

- (1) The Central Rail Users' Consultative Committee is renamed the Rail Passengers' Council and the Rail Users' Consultative Committees are renamed Rail Passengers' Committees.
- (2) Schedule 22 makes amendments in consequence of subsection (1).
- (3) References in private Acts, instruments made under Acts, other documents and legal proceedings to the Central Rail Users' Consultative Committee shall have effect as references to the Rail Passengers' Council; and such references to a Rail Users' Consultative Committee shall have effect as references to a Rail Passengers' Committee.

Commencement Information

I14 S. 227 wholly in force at 1.2.2001, see s. 275(1)(2) and S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I** (subject to the transitional provision and saving in **Sch. 2 Pt. II**)

228 Extension of functions.

- (1) Sections 76 and 77 of the ^{M20}Railways Act 1993 (duties of Central Committee and consultative committees) are amended as follows.
- (2) In subsection (1) of each of those sections, for paragraph (a) (duty to investigate any matter which relates to the provision of railway passenger services by the Board or a subsidiary, under a franchise agreement or on behalf of the Franchising Director) substitute—
 - “(a) to the provision of railway passenger services, or”.
- (3) In—
 - (a) subsection (5)(b) of section 76, and

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- (b) subsection (4)(b) of section 77,
(matters to be referred), after “that” insert “ a franchisee is contravening, or is likely to contravene, any term of the franchise agreement or that ”.
- (4) After subsection (7) of section 76 insert—
- “(7A) It shall also be the duty of the Rail Passengers’ Council, so far as it appears expedient from time to time to do so—
- (a) to keep under review matters affecting the interests of the public in relation to railway passenger services and station services;
 - (b) to make representations to, and consult, such persons as they think appropriate about those matters; and
 - (c) to co-operate with other bodies representing the interests of users of public passenger transport services.
- (7B) The Secretary of State may, after consultation with the Rail Passengers’ Council, make an order excluding services from the duties imposed by this section; and an order under this subsection—
- (a) may exclude services of a particular class or description, particular services or services provided by a particular person;
 - (b) may provide that services are excluded subject to compliance with specified conditions; and
 - (c) may not revoke an exclusion except for breach of condition or in accordance with the order which made it.
- (7C) The Secretary of State may, after consultation with the Rail Passengers’ Council, make an order providing that the duties imposed by this section apply to services of a particular class or description, particular services or services provided by a particular person—
- (a) only to such extent as is specified by the order; or
 - (b) with such modifications as are so specified.”
- (5) After subsection (9) of section 77 insert—
- “(9A) It shall also be the duty of each Rail Passengers’ Committee, so far as it appears expedient from time to time to do so—
- (a) to keep under review matters affecting the interests of the public in relation to railway passenger services and station services; and
 - (b) to make representations to, and consult, such persons as they think appropriate about those matters; and
 - (c) to co-operate with other bodies representing the interests of users of public passenger transport services.
- (9B) The Secretary of State may, after consultation with the Rail Passengers’ Council, make an order excluding services from the duties imposed by this section; and an order under this subsection—
- (a) may exclude services of a particular class or description, particular services or services provided by a particular person;
 - (b) may provide that services are excluded subject to compliance with specified conditions; and
 - (c) may not revoke an exclusion except for breach of condition or in accordance with the order which made it.

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- (9C) The Secretary of State may, after consultation with the Rail Passengers' Council, make an order providing that the duties imposed by this section apply to services of a particular class or description, particular services or services provided by a particular person—
- (a) only to such extent as is specified by the order; or
 - (b) with such modifications as are so specified.”

Commencement Information

I15 S. 228 in force at 29.7.2003 by [S.I. 2003/1694](#), [art. 2](#)

Marginal Citations

M20 [1993 c. 43](#).

229 Financial and procedural changes.

Schedule 23 makes amendments of the provisions about the finances and procedures of consultative committees.

Commencement Information

I16 [S. 229](#) wholly in force at 1.2.2001, see [s. 275\(1\)\(2\)](#) and [S.I. 2001/57](#), [art. 3\(1\)](#), [Sch. 2 Pt. I](#) (subject to the transitional provision and saving in [Sch. 2 Pt. II](#))

Access agreements

230 Regulator's general approvals of access agreements etc.

- (1) In subsection (1) of section 18 of the ^{M21}Railways Act 1993 (access contracts requiring approval of Regulator), after paragraph (b) insert “or
- (c) the access contract is of a class or description specified in a general approval given by the Regulator;”;

and for the words from “which is” to the end substitute “ shall be void unless one of the conditions in paragraphs (a) to (c) above is satisfied. ”

- (2) After subsection (7) of that section insert—

“(7A) Where the Regulator gives or revokes a general approval under subsection (1) (c) above, he shall publish the approval or revocation in such manner as he considers appropriate.

(7B) The revocation of a general approval given under subsection (1)(c) above shall not affect the continuing validity of any access contract to which it applied.”

- (3) In subsection (3) of section 19 of that Act (installation access contracts requiring approval of Regulator), after paragraph (b) insert “or
- (c) the installation access contract is of a class or description specified in a general approval given by the Regulator;”;

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and for the words from “which is” to the end substitute “ shall be void unless one of the conditions in paragraphs (a) to (c) above is satisfied. ”

(4) After subsection (5) of that section insert—

“(5A) Where the Regulator gives or revokes a general approval under subsection (3) (c) above, he shall publish the approval or revocation in such manner as he considers appropriate.

(5B) The revocation of a general approval given under subsection (3)(c) above shall not affect the continuing validity of any installation access contract to which it applied.”

(5) In section 72(2)(b)(v) of that Act (provisions of general approvals under section 22(3) to be entered in register kept by Regulator), after “section” insert “ 18(1)(c), 19(3) (c) or ”.

(6) In section 83(1) of that Act (interpretation), in the definition of “access agreement”—

- (a) in paragraph (a), for “entered into pursuant to directions under section 17 or 18” substitute “ which satisfies one of the conditions in paragraphs (a) to (c) of section 18(1) ”, and
- (b) in paragraph (b), for “entered into pursuant to directions under section 19” substitute “ which satisfies one of the conditions in paragraphs (a) to (c) of section 19(3) ”.

Commencement Information

I17 S. 230 wholly in force at 1.2.2001, see s. 275(1)(2) and S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I** (subject to the transitional provision and saving in **Sch. 2 Pt. II**)

Marginal Citations

M21 1993 c. 43.

231 Review of access charges by Regulator.

(1) In the ^{M22}Railways Act 1993, after section 19 insert—

“19A Review of access charges by Regulator.

Schedule 4A to this Act (which contains provision about the review of access charges by the Regulator) shall have effect.”

(2) After Schedule 4 to that Act insert, as Schedule 4A, the Schedule set out in Schedule 24 to this Act.

Marginal Citations

M22 1993 c. 43.

Status: Point in time view as at 01/12/2003. This version of this part contains provisions that are not valid for this point in time.

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232 Amendment of access agreements.

- (1) In subsection (1) of section 22 of the ^{M23}Railways Act 1993 (amendment of access agreement void unless approved by Regulator), insert at the end “ or is made pursuant to directions under section 22A or 22C below or Schedule 4A to this Act. ”
- (2) After that section insert—

“22A Directions to require amendment permitting more extensive use.

- (1) The Regulator may, on the application of the person permitted by an access agreement to use the whole or part of a railway facility or network installation, give directions requiring the parties to the access agreement to make to the agreement—
 - (a) amendments permitting more extensive use of the railway facility or network installation by the applicant; and
 - (b) any amendments which the Regulator considers necessary or desirable in consequence of those amendments.
- (2) In subsection (1)(a) above “more extensive use” means—
 - (a) increased use for the purpose for which the applicant is permitted by the access agreement to use the railway facility or network installation, or
 - (b) (in the case of a railway facility) use for any other permitted purpose, and if the applicant is permitted to use only part of the railway facility or network installation, includes use for the purpose for which he is permitted to use it, or (in the case of a railway facility) for any other permitted purpose, of any other part of the railway facility or network installation.
- (3) In subsection (2) above “permitted purpose”, in relation to a railway facility, means a purpose for which directions may be given in relation to the railway facility under section 17 above.
- (4) No directions shall be given under this section in relation to a railway facility if and to the extent that—
 - (a) the railway facility is, by virtue of section 20 above, an exempt facility; or
 - (b) performance of the access agreement as amended would necessarily involve the facility owner in being in breach of another access agreement or an international railway access contract.
- (5) No directions shall be given under this section in relation to a railway facility or network installation if and to the extent that, as a result of an obligation or duty owed by the facility owner or installation owner which arose before the coming into force of section 17 or 19 above, the consent of some other person is required by him before he may make the amendments.
- (6) Nothing in this section authorises the Regulator to give directions to any person requiring him to grant a lease of the whole or any part of a railway facility or network installation.
- (7) In this section and section 22B below—
 - (a) “international railway access contract” and “lease” have the same meaning as in section 17 above; and

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- (b) “network installation” has the same meaning as in section 19 above.

22B Applications for directions under section 22A: procedure.

- (1) Schedule 4 to this Act shall have effect with respect to applications for directions under section 22A above as it has effect with respect to applications for directions under section 17 above (but subject as follows).
- (2) In its application by virtue of this section Schedule 4 to this Act has effect with the following modifications—
- (a) in paragraph 1, in the definition of “the facility owner”, for “17(1)” there shall be substituted “22A” and, in the definition of “interested person”, for “enter into the required access contract” there shall be substituted “make the amendments”;
 - (b) in paragraph 2(1), for “which the applicant proposes should be contained in the required access contract” and “to be contained in the required access contract” there shall be substituted “of the proposed amendments”;
 - (c) in paragraph 5(2), for “to the facility owner requiring him to enter into an access contract” there shall be substituted “under section 22A of this Act”;
 - (d) for paragraph 5(2)(a)(i) and (ii) there shall be substituted “the amendments to be made and the date by which they are to be made; and”;
 - (e) in paragraph 6(2), for the words from “facility owner’s” to the end of paragraph (c) there shall be substituted “making of the amendments, the performance of the access agreement as amended or failing to take any step to protect the interests of the interested person in connection with the application for directions or the making of the amendments,”; and
 - (f) in paragraph 6(3), for “any access contract which is entered into” there shall be substituted “the amendments made”;
- and the definition of “the required access contract”, and the words following that definition, in paragraph 1 and paragraph 5(4) shall be omitted.
- (3) In its application by virtue of this section in relation to an application relating to an installation access contract Schedule 4 to this Act has effect with the following further modifications—
- (a) references to the railway facility shall have effect as references to the network installation;
 - (b) references to the facility owner shall have effect as references to the installation owner; and
 - (c) in the definition of “interested person” in paragraph 1, for “17” there shall be substituted “19”.
- (4) The Regulator may determine that, in their application by virtue of this section in relation to any particular application, paragraphs 3 and 4 of Schedule 4 to this Act shall have effect as if for any of the numbers of days specified in them there were substituted the lower number specified by the Regulator.

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22C Amendment: supplementary.

- (1) The Regulator may give directions requiring the parties to an access agreement to make to the access agreement amendments which are, in his opinion, necessary to give effect to the conditions of a licence or otherwise required in consequence of the conditions of a licence.
- (2) The Regulator shall not have power to direct or otherwise require amendments to be made to an access agreement except in accordance with section 22A above, subsection (1) above or Schedule 4A to this Act.
- (3) If an access agreement includes provision for any of its terms to be varied—
 - (a) by agreement of the parties, or
 - (b) by direction or other requirement of the Regulator,
 a variation made pursuant to that provision shall not be regarded for the purposes of section 22 above or subsection (2) above as an amendment of the agreement.”

Commencement Information

I18 S. 232 wholly in force at 1.2.2001, see s. 275(1)(2) and S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I** (subject to the transitional provision and saving in **Sch. 2 Pt. II**)

Marginal Citations

M23 1993 c. 43.

233 Prospective facility owners, proposed facilities etc.

- (1) In section 17(6) of the ^{M24}Railways Act 1993 (directions requiring facility owners to enter into contracts for use of their railway facilities), in the definition of “facility owner”, after paragraph (b) insert “ but also includes a person before he becomes a facility owner; ”.
- (2) In section 19 of that Act (contracts for use of installations comprised in a network)—
 - (a) in subsection (9), in the definition of “installation owner”, after paragraph (b) insert “ but also includes a person before he becomes an installation owner; ”, and
 - (b) in subsection (11), insert at the end “ and to one which is proposed to be constructed or is in the course of construction. ”
- (3) In section 83 of that Act (interpretation of Part I), after subsection (1) insert—

“(1A) In sections 17 to 22C above (and Schedule 4 to this Act) references to a railway facility (including references to any track, station or light maintenance depot) or a network include references to a railway facility (or any track, station or light maintenance depot) or a network which is proposed to be constructed or is in the course of construction.”

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Commencement Information

I19 S. 233 wholly in force at 1.2.2001, see s. 275(1)(2) and S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I** (subject to the transitional provision and saving in **Sch. 2 Pt. II**)

Marginal Citations

M24 1993 c. 43.

Closures

234 Transfer of Regulator’s functions to Secretary of State.

- (1) In sections 37(6), 38(5), 39(7), 40(5), 41(6) and 42(4) of the ^{M25}Railways Act 1993 (lodging of objections to proposed closures with Regulator), for “Regulator” substitute “ Secretary of State ”.
- (2) In sections 37(9), 38(7), 39(10), 40(7), 41(9) and 42(6) of that Act, in the definition of “the final decision on the closure question”, for paragraphs (a) and (b) substitute “ the Secretary of State’s decision under section 43(9) below with respect to the proposed closure; ”.
- (3) In section 43 of that Act (notification to, and functions of, Regulator)—
 - (a) for “Regulator” (in each place except subsection (11)) substitute “ Secretary of State ”,
 - (b) omit subsection (11) (time limit for making of decisions by Regulator), and
 - (c) in subsection (12), for “Secretary of State” substitute “ Regulator ”.
- (4) Omit section 44 of that Act (reference of Regulator’s decisions to Secretary of State).
- (5) In section 46 of that Act (variation of closure conditions)—
 - (a) in subsection (1), for “Regulator” substitute “ Secretary of State ” and omit the words from “, other than” to the end,
 - (b) in subsection (2), for “Regulator” substitute “ Secretary of State ” and for “Secretary of State” substitute “ Regulator ”, and
 - (c) omit subsection (3).
- (6) In section 48 of that Act (experimental services)—
 - (a) in subsection (1), for “, 43 and 44” substitute “ and 43 ”, and
 - (b) in subsection (7), for “Regulator” substitute “ Secretary of State ”.
- (7) In section 68 of that Act (investigatory functions of Regulator), omit subsection (1)
 - (b) (duty to investigate contravention of condition of closure consent).

Commencement Information

I20 S. 234 wholly in force at 1.2.2001, see s. 275(1)(2) and S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I** (subject to the transitional provision and saving in **Sch. 2 Pt. II**)

Marginal Citations

M25 1993 c. 43.

Status: Point in time view as at 01/12/2003. This version of this part contains provisions that are not valid for this point in time.

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235 Publication of proposed closures at stations.

- (1) In section 43 of the ^{M26}Railways Act 1993 (notification of proposed closures), after subsection (1) insert—

“(1A) The Authority shall also—

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

- (2) After subsection (12) of that section insert—

“(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.”

- (3) In Schedule 5 to that Act (alternative closure procedure), renumber paragraph 2 as sub-paragraph (1) of that paragraph and after that sub-paragraph insert—

“(2) The operator shall also—

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

- (4) After paragraph 3 of that Schedule insert—

Publication of consent at stations

“3A Where the Secretary of State has given his consent under paragraph 3(2) (b) above, he shall—

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

- (5) In paragraph 5A of that Schedule (services in and around Greater London), insert at the end—

“(10) The Secretary of State shall also—

- (a) send a copy of his 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.”

- (6) In sub-paragraph (1) of paragraph 6 of that Schedule (interpretation), for “in which the station or the line, or any part of the line, affected by the proposed closure is situated” substitute “affected”.

- (7) After that sub-paragraph insert—

“(1A) In this Schedule “the area affected” means the area in which the station or line, or any part of the line, affected by the proposed closure is situated.”

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Commencement Information

I21 S. 235 wholly in force at 1.2.2001, see s. 275(1)(2) and S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I** (subject to the transitional provision and saving in **Sch. 2 Pt. II**)

Marginal Citations

M26 1993 c. 43.

236 Conditions.

- (1) In section 37(1) of the ^{M27}Railways Act 1993 (notice of proposed closure of non-franchised passenger services except where closure is minor closure), after “minor closure” insert “ and the service operator has agreed to comply with any conditions imposed by the Authority ”.
- (2) In sections 39(1) and 41(1) of that Act (notice of proposed closure of whole or part of network or facility except where closure is minor closure), after “minor closure” insert “ and the operator has agreed to comply with any conditions imposed by the Authority ”.
- (3) In section 55(10) of that Act (enforcement), in the definition of “relevant condition or requirement”, after paragraph (c) insert—
 - “(d) in the case of a person (other than the Authority) who is required to comply with closure conditions or has agreed to comply with conditions under section 37(1), 39(1) or 41(1) above, any of those conditions;”and, in the definition of “relevant operator”, for “or person under closure restrictions” substitute “ , person under closure restrictions or person who is required to comply with closure conditions or has agreed to comply with conditions under section 37(1), 39(1) or 41(1) above ”.
- (4) In sections 37(8)(b), 38(6)(b), 39(9)(b), 40(6)(b), 41(8)(b) and 42(5)(b) of that Act (securing compliance with closure conditions), after “secure” insert “ (in accordance with sections 55 to 58 below) ”.

Commencement Information

I22 S. 236 wholly in force at 1.2.2001, see s. 275(1)(2) and S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I** (subject to the transitional provision and saving in **Sch. 2 Pt. II**)

Marginal Citations

M27 1993 c. 43.

237 Closure of unnecessary track to be minor closure.

In section 39(10) of the ^{M28}Railways Act 1993 (proposals to close part of network used or previously used for or in connection with provision of services for carriage of passengers), in the definition of “minor closure”, after paragraph (a) insert—

- “(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

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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”.

Commencement Information

I23 S. 237 wholly in force at 1.2.2001, see s. 275(1)(2) and S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I** (subject to the transitional provision and saving in **Sch. 2 Pt. II**)

Marginal Citations

M28 1993 c. 43.

238 General determinations of minor closures.

In the ^{M29}Railways Act 1993, after section 46 insert—

“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 the Regulator; 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.”

Commencement Information

I24 S. 238 wholly in force at 1.2.2001, see s. 275(1)(2) and S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I** (subject to the transitional provision and saving in **Sch. 2 Pt. II**)

Marginal Citations

M29 1993 c. 43.

Status: Point in time view as at 01/12/2003. This version of this part contains provisions that are not valid for this point in time.
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239 Operator’s duty to continue.

- (1) In section 37 of the ^{M30}Railways Act 1993 (closures of non-franchised passenger services)—
 - (a) in subsections (1) and (3)(b), for “will” substitute “proposes to”, and
 - (b) in subsection (6), for the words following the paragraphs substitute “ and the service operator shall not discontinue the services to which the proposed closure relates before the end of the interim period. ”
- (2) In section 39(7) of that Act (closures of operational passenger networks), for the words following the paragraphs substitute “ and the operator shall not discontinue the operation of the network, or the part of the network, to which the proposed closure relates before the end of the interim period. ”
- (3) In section 41(6) of that Act (closures of railway facilities used in connection with passenger services), for the words following the paragraphs substitute “ and the operator shall not terminate the use of the relevant facility, or the part of the relevant facility, to which the proposed closure relates before the end of the interim period. ”
- (4) In section 55(10) of that Act (enforcement), in the definition of “relevant condition or requirement”, in paragraph (c)(i), for the words after “under” substitute “ section 37(1) or (6), 39(1) or (7) or 41(1) or (6) above not to discontinue a railway passenger service or the operation of the whole or part of a network or not to terminate the use of the whole or part of a station or light maintenance depot; and ”.

Commencement Information

I25 S. 239 wholly in force at 1.2.2001, see s. 275(1)(2) and S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I** (subject to the transitional provision and saving in **Sch. 2 Pt. II**)

Marginal Citations

M30 1993 c. 43.

The Board

240 Transfer of Board’s property etc. to Secretary of State.

Schedule 25 makes provision for the transfer to the Secretary of State of property, rights and liabilities of the Board.

Commencement Information

I26 S. 240 wholly in force at 1.2.2001, see s. 275(1)(2) and S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I** (subject to the transitional provision and saving in **Sch. 2 Pt. II**)

241 Winding down and abolition of Board.

- (1) Section 84 of the ^{M31}Railways Act 1993 (power of Board to form companies) shall apply as if facilitating the carrying into effect of, or of any provision made under, sections 217, 218 and 240 and Schedules 18, 19 and 25 were a purpose specified by the Secretary of State under subsection (1)(d) of that section; and section 85 of that

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Act (power of Board to make transfer schemes) shall apply as if that were a purpose specified in subsection (3)(b) of that section.

- (2) The Board shall give to the Authority any information, prepare any document and do any other thing which appears to the Authority appropriate for facilitating the carrying into effect of, or of any provision made under, sections 217, 218 and 240 and Schedules 18, 19 and 25.
- (3) The Secretary of State may—
 - (a) by order made by statutory instrument reduce the membership of the Board to a chairman and one or more other persons appointed by the Secretary of State, and
 - (b) by notice in writing remove from office any member of the Board or vary the terms of his appointment.
- (4) When, after consulting the Board, the Secretary of State considers that it is no longer necessary for the Board to continue to exist, he shall by order made by statutory instrument provide for its dissolution.
- (5) If a person ceases to hold office as chairman or a member of the Board by virtue of subsection (3)(b) or (4) before his term of office would otherwise have expired and the Secretary of State determines that there are special circumstances which make it right that the person should receive compensation—
 - (a) if the person ceases to hold office by virtue of subsection (3)(b), the Board, and
 - (b) if the person ceases to hold office by virtue of subsection (4), the Secretary of State,
 shall pay to the person such compensation as may be determined by the Secretary of State.
- (6) Where an order under subsection (4) provides for the Board to be dissolved with effect from a time which would not, apart from this subsection, be the end of its financial year, the financial year of the Board which is current at that time shall be deemed to end with its dissolution.
- (7) An order under subsection (4) which so provides may contain such provision as the Secretary of State considers appropriate (including provision modifying the effect of any enactment) for the Board or the Authority—
 - (a) to prepare accounts for the final financial year of the Board, and
 - (b) to make and lay before Parliament a report relating to the carrying out of the Board's functions during that financial year.

Marginal Citations

M31 1993 c. 43.

Competition

242 Licence modifications following Competition Commission report.

- (1) In section 15 of the Railways Act 1993 (modification of licence conditions following report of Competition Commission), after subsection (4) insert—

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“(4A) Where (after considering any representations or objections which are duly made and not withdrawn) the Regulator or Authority proposes to make or require the making of modifications under this section, he or it shall give notice to the Competition Commission—

- (a) setting out the modifications he proposes to make or it proposes to require to be made; and
- (b) stating the reasons why he proposes to make the modifications or it proposes to require the making of them.

(4B) The Regulator or Authority shall include with the notice under subsection (4A) above a copy of any representations and objections which have been considered.

(4C) If the period within which a direction may be given by the Competition Commission under section 15A below expires without such a direction being given, the Regulator or Authority shall make, or require the making of, the modifications set out in the notice given under subsection (4A) above.

(4D) If a direction is given by the Competition Commission under section 15A(1)(b) below, the Regulator or Authority shall make, or require the making of, such of those modifications as are not specified in the direction.”

(2) After that section insert—

“15A Competition Commission’s power to veto modifications following report.

(1) The Competition Commission may, within the period of four weeks beginning with the day on which they are given notice under section 15(4A) above, give a direction to the Regulator or Authority—

- (a) not to make, or require the making of, the modifications set out in the notice; or
- (b) not to make such of those modifications as are specified in the direction.

(2) The Secretary of State may, if an application is made to him by the Competition Commission within that period of four weeks, extend the period within which a direction may be given under this section to one of six weeks beginning with the day on which the Competition Commission are given notice under section 15(4A) above.

(3) The Competition Commission may give a direction under this section only if the modifications to which it relates do not appear to them requisite for the purpose of remedying or preventing the adverse effects specified in their report on the reference under section 13 above.

(4) If the Competition Commission give a direction under this section, they shall give notice—

- (a) setting out the modifications contained in the notice given under section 15(4A) above;
- (b) setting out the direction; and
- (c) stating the reasons why they are giving the direction.

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- (5) A notice under subsection (4) above shall be given—
- (a) by publishing the notice in such manner as the Competition Commission consider appropriate for the purpose of bringing the matters to which the notice relates to the attention of persons likely to be affected by the direction; and
 - (b) by serving a copy of the notice on the holder of the licence.

15B Making of modifications by Competition Commission.

- (1) If the Competition Commission give a direction under section 15A above, they shall themselves make such modifications of the conditions of the licence as appear to them requisite for the purpose of remedying or preventing—
 - (a) the adverse effects specified in their report on the reference under section 13 above; or
 - (b) such of those adverse effects as would not be remedied or prevented by the modifications made by the Regulator, or required to be made by the Authority, under section 15(4D) above.
- (2) In exercising the function conferred by subsection (1) above, the Competition Commission shall have regard to the matters as respects which duties are imposed on the Regulator by section 4 above.
- (3) Before making modifications under this section, the Competition Commission shall give notice—
 - (a) stating that they propose to make the modifications and setting out their effect,
 - (b) stating the reasons why they propose to make the modifications, and
 - (c) specifying the period (not being less than 28 days from the date of publication of the notice) within which representations or objections may be made,
 and shall consider any representations or objections which are duly made and not withdrawn.
- (4) A notice under subsection (3) above shall be given—
 - (a) by publishing the notice in such manner as the Competition Commission consider appropriate for the purpose of bringing the matters to which the notice relates to the attention of persons likely to be affected by the making of the modifications; and
 - (b) by serving a copy of the notice on the holder of the licence.
- (5) As soon as practicable after making any modifications under this section, the Competition Commission shall send a copy of those modifications to the Regulator, the Authority and the Health and Safety Executive.

15C Sections 15A and 15B: supplementary.

- (1) The provisions mentioned in subsection (2) below are to apply in relation to the exercise by the Competition Commission of their functions under sections 15A and 15B above as if—

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- (a) in section 82(1) and (2) of the 1973 Act references to a report of the Competition Commission under that Act were references to a notice under section 15A(4) or 15B(3) above;
 - (b) in section 85 of that Act references to an investigation on a reference made to the Competition Commission were references to an investigation by the Competition Commission for the purposes of the exercise of their functions under those sections; and
 - (c) in section 93B of that Act references to the functions of the Competition Commission under that Act were references to their functions under those sections.
- (2) The provisions are—
- (a) sections 82(1) and (2) (general provisions as to reports), 85 (attendance of witnesses and production of documents) and 93B (false or misleading information) of the 1973 Act;
 - (b) Part II of Schedule 7 to the ^{M32}Competition Act 1998 (performance of the Competition Commission’s general functions); and
 - (c) section 24 of the 1980 Act (modification of provisions about performance of such functions).
- (3) For the purpose of assisting the Competition Commission in exercising their functions under sections 15A and 15B above, the Regulator and the Authority shall give to the Competition Commission any information in his or its possession which relates to matters relevant to the exercise of those functions and—
- (a) is requested by the Competition Commission for that purpose; or
 - (b) is information which, in his or its opinion, it would be appropriate for that purpose to give to the Competition Commission without any such request;
- and any other assistance which the Competition Commission may require, and which it is within his or its power to give, in relation to any such matters.
- (4) For the purpose of exercising those functions, the Competition Commission shall take account of any information given to them for that purpose under subsection (3) above.”

Commencement Information

I27 S. 242 wholly in force at 1.2.2001, see s. 275(1)(2) and S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I** (subject to the transitional provision and saving in **Sch. 2 Pt. II**)

Marginal Citations

M32 1998 c. 41.

243 Competition functions of Regulator.

- (1) Section 67 of the ^{M33}Railways Act 1993 (functions of Regulator and Director General of Fair Trading) is amended as follows.
- (2) In subsection (3) (concurrent exercise by Regulator and Director of functions under Part I of Competition Act 1998 so far as relating to agreements etc. which relate to

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supply of railway services), for “railway services” substitute “ services relating to railways ”.

(3) After that subsection insert—

“(3ZA) In subsection (3) above “services relating to railways” means—

- (a) railway services;
- (b) the provision or maintenance of rolling stock;
- (c) the development, maintenance or renewal of a network, station or light maintenance depot; and
- (d) the development, provision or maintenance of information systems designed wholly or mainly for facilitating the provision of railway services.

(3ZB) The Secretary of State may by order amend subsection (3ZA) above; and an order under this subsection shall not be made unless a draft of the statutory instrument containing it has been laid before and approved by a resolution of each House of Parliament.”

Commencement Information

I28 S. 243 wholly in force at 1.2.2001, see s. 275(1)(2) and S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I** (subject to the transitional provision and saving in **Sch. 2 Pt. II**)

Marginal Citations

M33 1993 c. 43.

Pensions

244 Authority’s duty to continue Board’s practice of indexation.

- (1) The Authority shall make provision for increases in pensions and capital sums to which this section applies broadly corresponding to each increase in official pensions under the ^{M34}Pensions (Increase) Act 1971 and section 59 of the ^{M35}Social Security Pensions Act 1975 (“an official pensions increase”).
- (2) This section applies to a pension or capital sum at any time if—
 - (a) at that time it is a pension in payment, a deferred pension or capital sum or a pension or capital sum to which a person’s future entitlement is contingent on the death of another person, and
 - (b) the Board either made provision for an increase in it broadly corresponding to an official pensions increase or would have done so if it had been within paragraph (a) at a time when the Board made provision for increases broadly corresponding to an official pensions increase.
- (3) But where it was the practice of the Board, when making increases broadly corresponding to an official pensions increase, in any circumstances—
 - (a) not to make provision for an increase, or
 - (b) to make provision for an increase of a reduced amount,

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subsection (1) does not require the Authority to make in similar circumstances provision for an increase in excess of any for which the Board would have made provision.

Commencement Information

I29 S. 244 wholly in force at 1.2.2001, see s. 275(1)(2) and S.I. 2001/57, art. 3(1), Sch. 2 Pt. I (subject to the transitional provision and saving in Sch. 2 Pt. II)

Marginal Citations

M34 1971 c. 56.

M35 1975 c. 60.

245 Amendments of pension protection provisions.

- (1) In paragraph 6(2)(a)(ii) of Schedule 11 to the ^{M36}Railways Act 1993 (power to make order providing for pension rights of protected persons to be no less favourable as a result of a transfer of pension rights), after “rights” insert “ (whether made between occupational pension schemes or sections of an occupational pension scheme or otherwise) ”.
- (2) The ^{M37}Railway Pensions (Protection and Designation of Schemes) Order 1994 is amended as follows.
- (3) In article 6 (transfers etc.), insert at the end—

“(9) In paragraphs (2), (3), (5), (7)(a) and (b)(i) and (8) references to an occupational pension scheme include a section of such a scheme.”
- (4) In article 7(4) (payments on transfers), insert at the end (but not as part of sub-paragraph (b))—

“and in this paragraph references to an occupational pension scheme include a section of such a scheme.”
- (5) In article 9 (circumstances in which breaks in continuity of employment are disregarded)—
 - (a) in paragraph (2), omit “, except to the extent specified in paragraph (3),” and “relevant” (in both places), and
 - (b) in paragraph (3), for “this article” substitute “ paragraph (1) ”.
- (6) In article 11(4) (activities to be regarded as the railway industry)—
 - (a) after “of Schedule 11 are” insert “ the activities of the Authority or any subsidiary of the Authority and activities consisting of ”, and
 - (b) for “in each case” substitute “ in each of the cases in sub-paragraphs (a) to (d) ”.
- (7) Omit paragraphs 13 and 14 (arbitration).
- (8) The amendments made by subsections (3) to (7) shall be treated as if made by an order made under Schedule 11 to the ^{M38}Railways Act 1993 (and, accordingly, may be varied or revoked by an order so made).

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Commencement Information

I30 S.245 wholly in force at 1.2.2001: S.245(1)(3)-(5) in force retrospectively at 10.05.2000; S.245(2)(8) so far as relating to (3)-(5) in force retrospectively at 10.05.2000, otherwise S. 245 not in force, see S.275(5). S. 245 in force at 1.2.2001 in so far as not already in force by S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I** (subject to transitional provision and saving in **Sch. 2 Pt. II**)

Marginal Citations

M36 1993 c. 43.
M37 S.I. 1994/1432.
M38 1993 c. 43.

Miscellaneous

246 Passenger Transport Executives.

- (1) Section 34 of the ^{M39}Railways Act 1993 (Passenger Transport Authorities and Executives: franchising) is amended as follows.
- (2) After subsection (8) insert—
 - “(8A) The Authority shall not do anything under subsection (8) above if or to the extent that to do it would prevent or seriously hinder the Authority—
 - (a) from complying with any directions given to it by the Secretary of State under section 207(5) of the Transport Act 2000 or from having regard to any guidance so given;
 - (b) from complying with any directions given to it by the Scottish Ministers under section 208 of that Act with which it must comply or from having regard to any guidance so given to which it must have regard; or
 - (c) from exercising any of its functions in a manner which is consistent with its financial framework.
 - (8B) The Authority need not do anything under subsection (8) above if or to the extent that to do it would have an adverse effect on the provision of services for the carriage of passengers or goods by railway (whether inside or outside the Passenger Transport Executive’s passenger transport area).
 - (8C) The Authority need not do anything under subsection (8) above if or to the extent that to do it would increase the amount of any expenditure of the Authority under agreements or other arrangements entered into (in accordance with a franchise agreement) with—
 - (a) the franchise operator;
 - (b) the franchisee; or
 - (c) any servant, agent or independent contractor of the franchise operator or franchisee.”
- (3) In subsection (17) (disputes between Authority and Passenger Transport Executives: directions by Secretary of State), for “with respect to the dispute” substitute “ with respect to the proposal or franchise agreement ”.

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Commencement Information

I31 S. 246 wholly in force at 1.2.2001, see s. 275(1)(2) and S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I** (subject to the transitional provision and saving in **Sch. 2 Pt. II**)

Marginal Citations

M39 1993 c. 43.

247 Standards.

- (1) The Secretary of State may by regulations make provision for the setting of standards to be complied with in relation to railway assets, railway vehicles or railway services.
- (2) The regulations may provide—
 - (a) for standards to be set (and from time to time varied), or
 - (b) for compliance with standards to be monitored,by persons specified in, or designated in accordance with, the regulations.
- (3) The regulations may authorise the setting of standards which involve obtaining the approval of any person.
- (4) The regulations may authorise the charging of fees in respect of—
 - (a) the monitoring of compliance with standards, or
 - (b) the seeking of approvals in connection with standards.
- (5) The regulations may impose requirements to provide information on persons who—
 - (a) are required to comply with standards, or
 - (b) set, or monitor compliance with, standards,and prohibit the giving of false information.
- (6) The regulations may create criminal offences in respect of failures to comply with requirements imposed by the regulations.
- (7) The regulations may provide for such offences to be triable—
 - (a) only summarily, or
 - (b) either summarily or on indictment.
- (8) The regulations may provide for an offence triable only summarily to be punishable on conviction with a fine not exceeding—
 - (a) level 5 on the standard scale, or
 - (b) such lower amount as may be prescribed.
- (9) The regulations may provide for an offence triable either summarily or on indictment to be punishable—
 - (a) on summary conviction, with a fine not exceeding the statutory maximum or such lower amount as may be prescribed, or
 - (b) on conviction on indictment, with a fine.
- (10) The regulations may make different provision for different cases and may (in particular) include provision—
 - (a) authorising conditional or unconditional dispensation from requirements imposed by the regulations which would otherwise apply, or

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- (b) requiring compliance with requirements so imposed which would not otherwise apply,
 - in particular cases or descriptions of case.
- (11) The regulations may include such incidental, consequential, supplementary or transitional provisions or savings as the Secretary of State may consider appropriate, including (in particular) provision modifying any provision made by or under any other enactment.
- (12) The regulations shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

Commencement Information

- I32** S. 247 wholly in force at 1.2.2001, see s. 275(1)(2) and S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I** (subject to the transitional provision and saving in **Sch. 2 Pt. II**)

VALID FROM 01/10/2006

248 Substitute services to be suitable for disabled passengers.

- (1) This section applies where—
 - (a) a person who provides services for the carriage of passengers by railway provides or secures the provision of substitute road services, or
 - (b) the Authority secures the provision of such services (under an agreement entered into in pursuance of section 214).
- (2) In doing so the person or Authority shall ensure, so far as is reasonably practicable, that the substitute road services allow disabled passengers to undertake their journeys safely and in reasonable comfort.
- (3) In the event of any failure by the person or Authority to comply with subsection (2), he or it shall be liable to pay damages in respect of any expenditure reasonably incurred, or other loss sustained, by a disabled passenger in consequence of the failure.
- (4) The Secretary of State may by order grant exemption from subsection (2) to—
 - (a) any class or description of persons who provide services for the carriage of passengers by railway, or
 - (b) any particular person who provides such services,
 in respect of all substitute road services or any class or description of such services.
- (5) Before making an order under subsection (4) the Secretary of State shall consult—
 - (a) the Disabled Persons Transport Advisory Committee, and
 - (b) such other representative organisations as he thinks fit.
- (6) An order under subsection (4) shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (7) In this section “substitute road services” means services for the carriage of passengers by road which are provided where railway services have been temporarily interrupted or discontinued.

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- (8) For the purposes of this section a passenger is disabled if he has a disability, or has suffered an injury, which seriously impairs his ability to walk.

249 Freight assistance by Scottish Ministers and Welsh Assembly.

- (1) The Authority shall notify the Scottish Ministers and the National Assembly for Wales about any scheme in accordance with which it exercises its functions under section 211 for the purpose of securing the provision, improvement or development of—
- (a) services for the carriage of goods by railway, or
 - (b) facilities for or in connection with the carriage of goods by railway or the loading or unloading of goods carried or intended to be carried by railway,
- and the criteria applied by it in exercising those functions for that purpose in accordance with the scheme.
- (2) The Scottish Ministers and the National Assembly for Wales may enter into agreements or other arrangements for the purpose of securing the provision, improvement or development in Scotland and Wales (respectively) of—
- (a) services for the carriage of goods by railway, and
 - (b) facilities for or in connection with the carriage of goods by railway or the loading or unloading of goods carried or intended to be carried by railway,
- in accordance with any scheme notified to them under subsection (1) and applying the criteria so notified.
- (3) In this section—
- “facilities” includes track, rolling stock, depots, access roads and equipment for use in connection with the carriage, loading or unloading of goods, and
- “railway” has its wider meaning.

Commencement Information

- I33** S. 249 wholly in force at 1.2.2001, see s. 275(1)(2) and S.I. 2001/57, art. 3(1), Sch. 2 Pt. I (subject to the transitional provision and saving in Sch. 2 Pt. II)

250 Taxation of transfers.

Schedule 26 contains provisions about tax.

251 Abolition of requirements for Treasury approval.

- (1) The ^{M40}Railways Act 1993 has effect subject to the following amendments.
- (2) In Schedule 1 (Regulator), in paragraph 1 (remuneration, pensions etc.), omit subparagraph (4) (Treasury approval of Secretary of State’s determinations).
- (3) In Schedule 2 (rail users’ consultative committees), in paragraph 2 (remuneration etc. of chairman), omit “, with the approval of the Treasury.”.
- (4) In Schedule 3 (Central Rail Users’ Consultative Committee), in paragraph 2 (remuneration etc. of chairman), omit “, with the approval of the Treasury.”.

Status: Point in time view as at 01/12/2003. This version of this part contains provisions that are not valid for this point in time.

Changes to legislation: Transport Act 2000, Part IV is up to date with all changes known to be in force on or before 22 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)

Commencement Information

I34 S. 251 wholly in force at 1.2.2001, see s. 275(1)(2) and S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I** (subject to the transitional provision and saving in **Sch. 2 Pt. II**)

Marginal Citations

M40 1993 c. 43.

CHAPTER III

SUPPLEMENTARY

252 Part IV: minor and consequential amendments.

Schedule 27 makes minor and consequential amendments relating to railways.

Commencement Information

I35 S. 252 partly in force; S.252 not in force at Royal Assent see. S. 275(1)(2); s. 252 in force (15.1.2001 for specified purposes) by S.I. 2000/3376, **art. 2**; s. 252 in force at 1.2.2001 for further specified purposes by S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I** (subject to the transitional provision and saving in **Sch. 2 Pt. II**)

253 Part IV: transitionals and savings.

Schedule 28 makes transitional provisions and savings relating to this Part.

254 Interpretation of Part IV.

Expressions which are used both in this Part and in the Railways Act 1993 and are given a meaning for the purposes of that Act, or Part I of that Act, have the same meaning in this Part.

Status:

Point in time view as at 01/12/2003. This version of this part contains provisions that are not valid for this point in time.

Changes to legislation:

Transport Act 2000, Part IV is up to date with all changes known to be in force on or before 22 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.