

RAILWAYS ACT 2005

EXPLANATORY NOTES

OVERVIEW OF THE STRUCTURE

7. The Act is in six parts with thirteen Schedules. The main provisions of the Act are as follows.

Part 1: Transfer of Functions and Railway Strategy

8. **Part 1** provides for the Strategic Rail Authority (SRA) to be wound up, for the SRA's strategic and financial functions to pass to the Department for Transport and in some cases, to the devolved administrations, and for its consumer protection functions to pass to the Office of Rail Regulation (ORR). The Act also enables the SRA's assets, rights and liabilities to be transferred to third parties.
9. The Act also transfers safety functions under the Health and Safety at Work etc. Act 1974 in respect of the railways industry from the Health and Safety Commission/Executive (HSC/E) to the ORR.
10. The Act provides for changes to the access charges review process, with a duty on the Secretary of State to specify the outputs to be delivered by the rail industry.
11. The Act also gives the Scottish Ministers the power to prepare and publish a strategy for carrying out their functions in relation to railways in Scotland.

Part 2: Public Sector Funding Authorities for Railways

12. The Act provides a power for the Secretary of State to give financial assistance for any railway purpose.
13. The Act also makes provision for the provision of financial assistance from the Secretary of State, the Scottish Ministers and the National Assembly for Wales (NAW) for freight services.
14. The Act enables the Scottish Ministers to take increased responsibility for passenger services and infrastructure relating to Scotland. The NAW will also take on increased responsibilities for passenger services in Wales, and be made a signatory to the Wales and Borders franchise agreement.
15. This Part also modifies the powers of Passenger Transport Executives (PTEs) so that they may, subject to the Secretary of State's approval, enter into franchise agreements and agreements relating to the quality of franchised rail services. The Secretary of State will have a duty to consult a PTE when preparing to let a franchise which involves services to, from or within the area covered by the PTE. It also provides for Transport for London to be given equivalent powers to PTEs.

Part 3: Rail Passengers' Council and Rail Passengers' Committees

16. The Act establishes the Rail Passengers' Council as a single national body reporting to the Secretary of State and dissolves the formal federal structure of regional Rail Passengers' Committees.

Part 4: Network Modifications etc.

17. **Part 4** sets out procedures for operators and public sector funders to follow when they wish to discontinue all passenger services on a line or from a station or close all or part of a network or station. It replaces the current procedures in sections 37 to 49 of and Schedule 5 to the 1993 Act as amended by the Transport Act 2000.
18. Where a rail service in an English PTE area is to be discontinued or otherwise reduced, this Part provides for bus franchising for substitution of rail services. The Act will amend the procedure for entering into a bus quality contract scheme where the scheme is specifically for a bus service, or network, which meets transport needs equivalent to rail services being reduced or closed, and is consistent with the local transport plan. This part also enables the Secretary of State, the Scottish Ministers and the NAW to secure the provision of substitute bus services where a railway passenger service has been temporarily interrupted or discontinued.

Part 5: Further Miscellaneous Provisions

19. The Act enables railway operators to make bye-laws, subject to confirmation by the Secretary of State and, where appropriate, the Scottish Ministers, to enable them and the police to control the conduct and behaviour of people using the railways.
20. The Act also makes provision for the Scottish Ministers to be empowered to make penalty fare regulations for Scotland.
21. This Part also provides the Scottish Ministers with the power to prepare (and from time to time revise) a code of practice for protecting the interests of disabled rail users in Scotland.
22. This Part also provides for the Scottish Ministers to be able to exercise the functions of the Secretary of State in relation to a railway administration order involving a Scottish railway company.
23. The Act provides for a duty on the ORR to provide the Secretary of State, the Scottish Ministers and the NAW with advice and information.
24. This Part also provides a duty for PTEs to give advice to the Secretary of State when requested, in relation to railway matters.

Part 6: General and Supplemental

25. **Part 6** contains general and supplementary provisions, including making provision for the consequences for taxation of the various transfers under the transfer schemes provided for in the Act. This Part amends the Secretary of State's powers under sections 118 and 119 of the 1993 Act, so that they can apply to trams and other guided transport systems. This Part also makes provisions relating to expenses and powers exercisable by statutory instrument.