



Railways Act 2005

2005 CHAPTER 14

PART 4

NETWORK MODIFICATIONS ETC.

References to the ORR

32 References to the ORR

- (1) This section applies to a reference of a proposal to the Office of Rail Regulation under any provision of this Part.
- (2) The reference may be made only if the person making it considers that the proposal, or (as the case may be) the proposal as modified, satisfies the criteria set out in the relevant part of the closures guidance.
- (3) The reference must set out particulars of the proposal including, in particular—
 - (a) the services or the network or station, or part of a network or station, to which the proposal relates; and
 - (b) the proposal date.
- (4) The reference must be accompanied by—
 - (a) a report by the person making the reference on the outcome of the consultation carried out by that person;
 - (b) a statement by that person as to whether the proposal that is referred is a modified proposal;
 - (c) a statement, if it is a modified proposal, setting out what modifications have been made; and
 - (d) a full assessment of whether the proposal, or (as the case may be) the proposal as modified, satisfies the criteria set out in the relevant part of the closures guidance.
- (5) The duty of the Office of Rail Regulation on the reference is—

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- (a) to consider whether the person making the reference properly carried out the consultation he was required to carry out in accordance with this Part; and
- (b) unless it is satisfied that—
 - (i) there has been a failure or other defect in the carrying out of the consultation, and
 - (ii) the failure or defect makes it inappropriate for the Office to make the determination required by this paragraph,
 to determine whether the proposal, or (as the case may be) the proposal as modified, satisfies the criteria set out in the relevant part of the closures guidance.
- (6) The person making the reference must provide the Office of Rail Regulation with all such information as it may require for the purpose of carrying out its functions under this section.
- (7) If the Office of Rail Regulation is satisfied—
 - (a) that the proposal, or (as the case may be) the proposal as modified, fails to satisfy the criteria set out in the relevant part of the closures guidance, or
 - (b) that there has been a failure or other defect in the carrying out of the consultation that makes it inappropriate for that Office to make a determination of whether the proposal, or (as the case may be) the proposal as modified, satisfies those criteria,
 it must issue a notice to that effect (a “closure non-ratification notice”).
- (8) If, on completing its functions under subsection (5), the Office of Rail Regulation is not so satisfied, it must issue a notice to that effect (a “closure ratification notice”).
- (9) Where, on a reference, the Office of Rail Regulation issues a closure non-ratification notice or a closure ratification notice it must—
 - (a) give a copy of that notice to every person mentioned in subsection (10); and
 - (b) require every operator of a station in the area affected by the proposal, or (as the case may be) the proposal as modified, to whom it gives a copy of the notice to secure that a copy of the notice is published by being displayed at that station until the end of the interim period.
- (10) The persons to whom a copy of the closure ratification notice or closure non-ratification notice must be given under subsection (9) are—
 - (a) the person who made the reference;
 - (b) every person to whom a notice was required to be sent under paragraph 3 of Schedule 7 in the consultation relating to the proposal;
 - (c) every person otherwise consulted under that paragraph in that consultation; and
 - (d) such other persons as the Office of Rail Regulation consider appropriate.
- (11) In subsection (9) “the area affected”, in relation to a proposal, means—
 - (a) in the case of a proposal for the discontinuance of services on a particular line or from a particular station, the area in which the line or station is situated;
 - (b) in the case of a proposal relating to a network, or part of a network, the area in which the network, or part of a network, is situated;
 - (c) in the case of a proposal relating to a station, or part of a station, the area served by the station, or that part.

- (12) The issue of a closure ratification notice does not authorise anything which (but for that notice) would constitute a contravention of any franchise agreement or other arrangements under or in accordance with which—
- (a) any franchised service or secured service or other railway passenger service is being provided or is being funded (whether in whole or in part); or
 - (b) any network or station or part of a network or station is being operated or is being funded (whether in whole or in part);
- and in the carrying out of any functions conferred on that Office under or in relation to any such agreement or arrangements that Office may have regard to the issue of the closure ratification notice but is not required to secure that the closure takes place.

33 Closure requirements

- (1) This section applies where, following a reference under this Part, the Office of Rail Regulation issues a closure ratification notice.
- (2) The Office of Rail Regulation may, when it issues the closure ratification notice, impose such requirements relevant to the proposal as it considers appropriate on such one or more of the following as it thinks fit, namely—
- (a) the Secretary of State;
 - (b) the Scottish Ministers;
 - (c) the National Assembly for Wales;
 - (d) a Passenger Transport Authority;
 - (e) a Passenger Transport Executive;
 - (f) the Mayor of London;
 - (g) Transport for London;
 - (h) a person designated as a railway funding authority by an order under section 45(4);
 - (i) a relevant operator.
- (3) For the purposes of subsection (2), a requirement is relevant to a proposal if it relates to any matter which fell to be taken into account in making an assessment whether the proposal or (as the case may be) the proposal as modified satisfied the criteria set out in the relevant part of the closures guidance.
- (4) In subsection (2)(i) “relevant operator” means—
- (a) in the case of a proposal to which section 22 or 25 applies, the service operator within the meaning of the section in question;
 - (b) in the case of a proposal to which section 26 or 29 applies, the operator of the network or station, or part of a network or station, in question; and
 - (c) in the case of a proposal to which section 37(2) applies, the person providing the experimental passenger service in question.
- (5) A person on whom a requirement is imposed under this section must comply with it.
- (6) The Office of Rail Regulation may from time to time vary or revoke a requirement imposed under this section.
- (7) Before exercising its power under this section to vary or revoke a requirement, the Office of Rail Regulation must consult such persons as it thinks appropriate.

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- (8) Where the Office of Rail Regulation exercises its power under this section to impose, vary or revoke a requirement, it must—
- (a) give notice of that requirement, variation or revocation to every person to whom a copy of the closure ratification notice relating to the reference was given under section 32(9); and
 - (b) require every operator of a station in the area affected by the requirement, variation or revocation to whom it gives notice of the requirement, variation or revocation to secure that a copy of the notice is published by being displayed at that station—
 - (i) in the case of the imposition of a requirement, until the end of the interim period;
 - (ii) in the case of the variation or revocation of a requirement, for such period as the Office of Rail Regulation may specify at the time of giving notice under paragraph (a).
- (9) In subsection (8) “the area affected”, in relation to a requirement imposed under this section in relation to a closure, means—
- (a) in the case of a closure consisting in the discontinuance of services on a particular line, or from a particular station, the area in which the line or station is situated;
 - (b) in the case of a closure relating to a network, or part of a network, the area in which the network, or part of a network, is situated;
 - (c) in the case of a closure relating to a station, or part of a station, the area served by the station, or that part;
- and “the area affected”, in relation to the variation or revocation of such a requirement, is to be construed accordingly.