

*Status: Point in time view as at 16/10/2015.*

*Changes to legislation: There are currently no known outstanding effects for the Railways Act 2005, SCHEDULE 5. (See end of Document for details)*

## SCHEDULES

### SCHEDULE 5 **E+W+S**

Section 19

#### [<sup>F1</sup>PASSENGERS’ COUNCIL] ESTABLISHED BY S. 19(1)

##### Textual Amendments

- F1** Words in Sch. 5 heading substituted (25.2.2010) by [The Passengers’ Council \(Non-Railway Functions\) Order 2010 \(S.I. 2010/439\)](#), art. 1, [Sch. para. 9\(7\)\(c\)](#)

### PART 1 **E+W+S**

#### INTRODUCTORY

- 1 In this Schedule—
- “accounting records” includes all books, papers and other records of the [<sup>F2</sup>PC] relating to—
- (a) the accounts which it is required to keep; or
  - (b) matters dealt with in those accounts;
- “financial year” means—
- (a) the period beginning with the establishment of the [<sup>F2</sup>PC] and ending with the following 31st March; or
  - (b) a subsequent period of twelve months ending with 31st March;
- “member” means the chairman or another member of the [<sup>F2</sup>PC];
- [<sup>F3</sup>“the PC” means the Passengers’ Council established by section 19(1).]

##### Textual Amendments

- F2** Words in Sch. 5 substituted (25.2.2010) by [The Passengers’ Council \(Non-Railway Functions\) Order 2010 \(S.I. 2010/439\)](#), art. 1, [Sch. para. 9\(7\)\(b\)](#)
- F3** Words in Sch. 5 para. 1 substituted (25.2.2010) by [The Passengers’ Council \(Non-Railway Functions\) Order 2010 \(S.I. 2010/439\)](#), art. 1, [Sch. para. 9\(7\)\(a\)](#)

##### Commencement Information

- I1** Sch. 5 para. 1 in force at 24.7.2005 by [S.I. 2005/1909](#), art. 2, [Sch.](#)

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## PART 2 E+W+S

### MEMBERS AND STAFF

#### *Remuneration etc. of members*

- 2 (1) The [F<sup>2</sup>PC] must pay to every member, other than the one appointed by the London Assembly, the remuneration and allowances that are provided for by the terms and conditions of his appointment.
- (2) The London Transport Users' Committee must pay to the member appointed by the London Assembly the remuneration and allowances that are provided for by the terms and conditions of his appointment.
- (3) The [F<sup>2</sup>PC] must pay, or make provision for paying, to or in respect of every member, other than the member appointed by the London Assembly, such sums by way of pensions or allowances as are payable in accordance with his terms and conditions of appointment.
- (4) The London Transport Users' Committee must pay, or make provision for paying, to or in respect of the member appointed by the London Assembly such sums by way of pensions or allowances as are payable in accordance with his terms and conditions of appointment.
- (5) If—
- (a) a person ceases to be a member of the [F<sup>2</sup>PC], and
  - (b) it appears to the Secretary of State that there are special circumstances that make it right for the person to receive compensation,
- the [F<sup>2</sup>PC] must make a payment to that person of such amount as the Secretary of State determines.

#### **Textual Amendments**

**F2** Words in Sch. 5 substituted (25.2.2010) by [The Passengers’ Council \(Non-Railway Functions\) Order 2010 \(S.I. 2010/439\)](#), art. 1, [Sch. para. 9\(7\)\(b\)](#)

#### **Commencement Information**

**I2** Sch. 5 para. 2 in force at 24.7.2005 by [S.I. 2005/1909](#), art. 2, [Sch.](#)

#### *Staff*

- 3 The [F<sup>2</sup>PC] may employ such persons, on such terms and conditions (including terms and conditions as to remuneration), as it may determine.

#### **Textual Amendments**

**F2** Words in Sch. 5 substituted (25.2.2010) by [The Passengers’ Council \(Non-Railway Functions\) Order 2010 \(S.I. 2010/439\)](#), art. 1, [Sch. para. 9\(7\)\(b\)](#)

#### **Commencement Information**

**I3** Sch. 5 para. 3 in force at 24.7.2005 by [S.I. 2005/1909](#), art. 2, [Sch.](#)

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- 4 (1) The [F<sup>2</sup>PC] may—
- (a) pay such pensions, allowances or gratuities as it may determine to or in respect of persons who are or have been employees of the [F<sup>2</sup>PC];
  - (b) make such payments as it may determine towards provision for the payment of pensions, allowances or gratuities to or in respect of such persons; or
  - (c) provide and maintain such schemes (whether contributory or not) as it may determine for the payment of pensions, allowance or gratuities to or in respect of such persons.
- (2) The pensions, allowances or gratuities referred to in sub-paragraph (1) include pensions, allowances or gratuities by way of compensation in respect of loss of employment or loss or diminution of emoluments.

**Textual Amendments**

**F2** Words in Sch. 5 substituted (25.2.2010) by [The Passengers’ Council \(Non-Railway Functions\) Order 2010 \(S.I. 2010/439\)](#), art. 1, [Sch. para. 9\(7\)\(b\)](#)

**Commencement Information**

**I4** Sch. 5 para. 4 in force at 24.7.2005 by [S.I. 2005/1909](#), art. 2, [Sch.](#)

- 5 (1) The persons to whom section 1 of the Superannuation Act 1972 (c. 11) applies shall include employees of the [F<sup>2</sup>PC].
- (2) If an employee of the [F<sup>2</sup>PC] —
- (a) is a participant in a scheme under section 1 of the Superannuation Act 1972 by reference to his employment by the [F<sup>2</sup>PC], and
  - (b) becomes a member of the [F<sup>2</sup>PC],
- the Minister for the Civil Service may determine that his service as a member of the [F<sup>2</sup>PC] is to be treated for the purposes of the scheme as service as an employee of the [F<sup>2</sup>PC].
- (3) The [F<sup>2</sup>PC] must pay to the Minister for the Civil Service, at such times as he may direct, such sums as he may determine in respect of any increase attributable to sub-paragraph (1) or (2) in the sums payable out of money provided by Parliament under the Superannuation Act 1972.
- (4) The Minister for the Civil Service may, to such extent and subject to such conditions as he thinks fit, delegate to the [F<sup>2</sup>PC] the function of administering a scheme under section 1 of the Superannuation Act 1972, so far as relating to employees of the [F<sup>2</sup>PC].
- (5) If he does so, the [F<sup>2</sup>PC] may authorise the carrying out of that function, to such extent and subject to such conditions as it may determine, by—
- (a) a person nominated by it; or
  - (b) the employees of a person so nominated.
- (6) Acts or omissions by or in relation to—
- (a) a person nominated for the purposes of sub-paragraph (5), or
  - (b) an employee of a person so nominated,

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must be treated for all purposes, so far as they are acts or omissions in or in connection with what he is authorised to carry out, as acts or omissions by or in relation to the [F<sup>2</sup>PC].

- (7) Sub-paragraph (6) does not apply for the purposes of—
- (a) criminal proceedings against the nominated person (or an employee of his); or
  - (b) a contract between him and the [F<sup>2</sup>PC] so far as relating to the function.

**Textual Amendments**

**F2** Words in Sch. 5 substituted (25.2.2010) by [The Passengers’ Council \(Non-Railway Functions\) Order 2010 \(S.I. 2010/439\)](#), art. 1, [Sch. para. 9\(7\)\(b\)](#)

**Commencement Information**

**I5** Sch. 5 para. 5 in force at 24.7.2005 by [S.I. 2005/1909](#), art. 2, [Sch.](#)

**PART 3** **E+W+S**

FINANCE

*Government grants*

- 6 (1) The Secretary of State may make grants to the [F<sup>2</sup>PC] of such amounts as he may determine.
- (2) The terms of the grants shall be such as the Secretary of State may determine.

**Textual Amendments**

**F2** Words in Sch. 5 substituted (25.2.2010) by [The Passengers’ Council \(Non-Railway Functions\) Order 2010 \(S.I. 2010/439\)](#), art. 1, [Sch. para. 9\(7\)\(b\)](#)

**Commencement Information**

**I6** Sch. 5 para. 6 in force at 24.7.2005 by [S.I. 2005/1909](#), art. 2, [Sch.](#)

*Direction requiring payment to the Secretary of State*

- 7 (1) The Secretary of State may give a direction to the [F<sup>2</sup>PC] requiring it to pay him a sum specified in the direction.
- (2) Before giving a direction under sub-paragraph (1), the Secretary of State must consult—
- (a) the Treasury; and
  - (b) the [F<sup>2</sup>PC].

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#### Textual Amendments

- F2** Words in Sch. 5 substituted (25.2.2010) by [The Passengers’ Council \(Non-Railway Functions\) Order 2010 \(S.I. 2010/439\)](#), art. 1, **Sch. para. 9(7)(b)**

#### Commencement Information

- I7** Sch. 5 para. 7 in force at 24.7.2005 by [S.I. 2005/1909](#), art. 2, **Sch.**

### *Accounts and audit*

- 8 (1) The [F<sup>2</sup>PC] must—
- (a) keep proper accounts and proper accounting records; and
  - (b) in respect of each financial year, prepare a statement of its accounts.
- (2) Every statement of accounts prepared under sub-paragraph (1)(b) must—
- (a) give a true and fair view of the [F<sup>2</sup>PC]'s income and expenditure for the financial year in question and its state of affairs; and
  - (b) comply with every requirement which the Secretary of State has notified to the [F<sup>2</sup>PC].
- (3) The requirements notified under sub-paragraph (2)(b) may include, in particular, requirements relating to—
- (a) the information to be contained in the statement;
  - (b) the manner in which that information is to be presented; and
  - (c) the methods and principles according to which the statement is to be prepared.

#### Textual Amendments

- F2** Words in Sch. 5 substituted (25.2.2010) by [The Passengers’ Council \(Non-Railway Functions\) Order 2010 \(S.I. 2010/439\)](#), art. 1, **Sch. para. 9(7)(b)**

#### Commencement Information

- I8** Sch. 5 para. 8 in force at 24.7.2005 by [S.I. 2005/1909](#), art. 2, **Sch.**

- 9 (1) The statement of accounts and other accounts of the [F<sup>2</sup>PC] relating to each financial year must be audited by the Comptroller and Auditor General.
- (2) The Comptroller and Auditor General must send the [F<sup>2</sup>PC] a copy of his report on the accounts audited under sub-paragraph (1).
- (3) The [F<sup>2</sup>PC] must send the Secretary of State—
- (a) a copy of the accounts audited under sub-paragraph (1); and
  - (b) the report of the Comptroller and Auditor General.
- (4) The Secretary of State must lay a copy of the documents sent to him under sub-paragraph (3) before Parliament.

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**Textual Amendments**

**F2** Words in Sch. 5 substituted (25.2.2010) by [The Passengers’ Council \(Non-Railway Functions\) Order 2010 \(S.I. 2010/439\)](#), art. 1, [Sch. para. 9\(7\)\(b\)](#)

**Commencement Information**

**I9** Sch. 5 para. 9 in force at 24.7.2005 by [S.I. 2005/1909](#), art. 2, [Sch.](#)

**PART 4** **E+W+S**

FINANCIAL FRAMEWORK AND INFORMATION

*Financial framework*

- 10 (1) The Secretary of State—
- (a) must prepare, and
  - (b) may from time to time revise,
- a document to be known as the [F<sup>2</sup>PC]'s “financial framework”.
- (2) The financial framework must specify rules and principles according to which the [F<sup>2</sup>PC] is to exercise and perform its powers and duties in relation to—
- (a) financial matters; and
  - (b) matters relating to its employees.
- (3) The [F<sup>2</sup>PC] must not carry out any of its functions in a manner which is inconsistent with its financial framework.
- (4) The fact that a transaction entered into by the [F<sup>2</sup>PC] constitutes, or involves, a contravention of sub-paragraph (3) does not invalidate the transaction.
- (5) Sub-paragraph (4) applies whether or not a person who entered into the transaction with the [F<sup>2</sup>PC] inquired whether the transaction constituted or involved a contravention of sub-paragraph (3).

**Textual Amendments**

**F2** Words in Sch. 5 substituted (25.2.2010) by [The Passengers’ Council \(Non-Railway Functions\) Order 2010 \(S.I. 2010/439\)](#), art. 1, [Sch. para. 9\(7\)\(b\)](#)

**Commencement Information**

**I10** Sch. 5 para. 10 in force at 24.7.2005 by [S.I. 2005/1909](#), art. 2, [Sch.](#)

*Annual reports*

- 11 (1) As soon as practicable after the end of each financial year, the [F<sup>2</sup>PC] must make a report on its activities during that year.
- (2) In preparing its annual report the [F<sup>2</sup>PC] must have regard to the desirability of excluding from the report, so far as practicable—

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- (a) matters relating to the affairs of an individual which, in the opinion of the [F<sup>2</sup>PC], are matters the publication of which would or might seriously and prejudicially affect the interests of that individual; and
  - (b) matters relating specifically to the affairs of a particular body of persons (whether corporate or unincorporate) which, in the opinion of the [F<sup>2</sup>PC], are matters the publication of which would or might seriously and prejudicially affect the interests of that body.
- (3) The [F<sup>2</sup>PC] must send a copy of every annual report under this paragraph to each of the following—
- (a) the Secretary of State;
  - (b) the Scottish Ministers; and
  - (c) the National Assembly for Wales.
- (4) The [F<sup>2</sup>PC] may also arrange for a copy of its annual report for a financial year to be published in such manner as it considers appropriate.
- (5) The Secretary of State must lay before Parliament a copy of every annual report a copy of which has been sent to him under this paragraph.
- (6) The Scottish Ministers must lay before the Scottish Parliament a copy of every annual report a copy of which has been sent to them under this paragraph.

#### Textual Amendments

**F2** Words in Sch. 5 substituted (25.2.2010) by [The Passengers’ Council \(Non-Railway Functions\) Order 2010 \(S.I. 2010/439\)](#), art. 1, [Sch. para. 9\(7\)\(b\)](#)

#### Commencement Information

**I11** Sch. 5 para. 11 in force at 24.7.2005 by [S.I. 2005/1909](#), art. 2, [Sch.](#)

### *Information*

- 12 The [F<sup>2</sup>PC] must give the Secretary of State information, advice and assistance about any matter in respect of which it has any functions if—
- (a) the [F<sup>2</sup>PC] considers it appropriate to do so; or
  - (b) the Secretary of State asks the [F<sup>2</sup>PC] to do so in connection with the carrying out of any function of his.

#### Textual Amendments

**F2** Words in Sch. 5 substituted (25.2.2010) by [The Passengers’ Council \(Non-Railway Functions\) Order 2010 \(S.I. 2010/439\)](#), art. 1, [Sch. para. 9\(7\)\(b\)](#)

#### Commencement Information

**I12** Sch. 5 para. 12 in force at 24.7.2005 by [S.I. 2005/1909](#), art. 2, [Sch.](#)

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## PART 5 E+W+S

### STATUS AND SUPPLEMENTARY POWERS

#### *Status*

- 13 (1) The [F<sup>2</sup>PC] is not to be treated—
- (a) as the servant or agent of the Crown; or
  - (b) as enjoying any status, immunity or privilege of the Crown.
- (2) The property of the [F<sup>2</sup>PC] is not to be regarded as property of the Crown or as held on behalf of the Crown.

#### **Textual Amendments**

**F2** Words in Sch. 5 substituted (25.2.2010) by [The Passengers’ Council \(Non-Railway Functions\) Order 2010 \(S.I. 2010/439\)](#), art. 1, **Sch. para. 9(7)(b)**

#### **Commencement Information**

**I13** Sch. 5 para. 13 in force at 24.7.2005 by [S.I. 2005/1909](#), art. 2, **Sch.**

#### *Supplementary powers*

- 14 (1) The [F<sup>2</sup>PC] may do anything that appears to it to be likely to facilitate the carrying out of its functions, or to be conducive or incidental to the carrying out of those functions.
- (2) The [F<sup>2</sup>PC] may make charges for services or facilities that it provides or makes available at a person's request and otherwise than in performance of a duty to do so.

#### **Textual Amendments**

**F2** Words in Sch. 5 substituted (25.2.2010) by [The Passengers’ Council \(Non-Railway Functions\) Order 2010 \(S.I. 2010/439\)](#), art. 1, **Sch. para. 9(7)(b)**

#### **Commencement Information**

**I14** Sch. 5 para. 14 in force at 24.7.2005 by [S.I. 2005/1909](#), art. 2, **Sch.**

## PART 6 E+W+S

### PROCEDURE

#### *Regulation of procedure*

- 15 (1) Subject to this paragraph and paragraph 16, the [F<sup>2</sup>PC] may regulate its own procedure.
- (2) Sub-paragraph (1) includes power to make provision about quorums.
- (3) The [F<sup>2</sup>PC] must meet when convened by the chairman.



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- (4) The chairman may convene a meeting of the [F<sup>2</sup>PC] whenever he thinks fit.
- (5) The chairman must—
  - (a) convene meetings of the [F<sup>2</sup>PC] so that it meets at least twice a year; and
  - (b) convene a meeting whenever three members of the [F<sup>2</sup>PC] require him to do so.
- (6) The [F<sup>2</sup>PC] must secure—
  - (a) that minutes are kept of the proceedings at every meeting of the [F<sup>2</sup>PC]; and
  - (b) that copies of those minutes are sent to the Secretary of State.
- (7) The validity of proceedings of the [F<sup>2</sup>PC] is not to be affected by—
  - (a) a vacancy in its membership; or
  - (b) a defect in the appointment of a member.

#### Textual Amendments

**F2** Words in Sch. 5 substituted (25.2.2010) by [The Passengers’ Council \(Non-Railway Functions\) Order 2010 \(S.I. 2010/439\)](#), art. 1, [Sch. para. 9\(7\)\(b\)](#)

#### Commencement Information

**I15** Sch. 5 para. 15 in force at 24.7.2005 by [S.I. 2005/1909](#), art. 2, [Sch.](#)

#### *Admission of the public to meetings*

- 16
- (1) Meetings of the [F<sup>2</sup>PC] must be open to the public; but the public must be excluded during any item of business that is confidential for the purposes of this paragraph.
  - (2) An item of business is confidential for the purposes of this paragraph where, if members of the public were to be present during that item, it is likely that information furnished in confidence to the [F<sup>2</sup>PC] by—
    - (a) the [F<sup>4</sup>Office of Rail and Road], <sup>F5</sup>...
    - (b) the Secretary of State, <sup>F6</sup>or
    - (c) a traffic commissioner,]would be disclosed in breach of the obligation of confidence.
  - (3) An item of business is confidential for the purposes of this paragraph where the [F<sup>2</sup>PC] has resolved that—
    - (a) because of the confidential nature of the item, or
    - (b) for other special reasons stated in the resolution,it is desirable in the public interest that the public be excluded during that item.
  - (4) An item of business is confidential for the purposes of this paragraph where, if members of the public were to be present during that item, it is likely that—
    - (a) there would be disclosed to them a matter relating to the affairs of an individual or relating specifically to the affairs of a particular body (whether corporate or unincorporate); and
    - (b) public disclosure of the matter would or might, in the opinion of the [F<sup>2</sup>PC], seriously and prejudicially affect the interests of that individual or body.

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- (5) An item of business is confidential for the purposes of this paragraph where the circumstances—
- (a) are specified for the purposes of this sub-paragraph in an order made by the Secretary of State; or
  - (b) are determined to be confidential for those purposes in accordance with an order so made.
- (6) An order under sub-paragraph (5) is subject to the negative resolution procedure.

#### Textual Amendments

- F2** Words in Sch. 5 substituted (25.2.2010) by [The Passengers’ Council \(Non-Railway Functions\) Order 2010 \(S.I. 2010/439\)](#), art. 1, **Sch. para. 9(7)(b)**
- F4** Words in Sch. 5 para. 16(2)(a) substituted (16.10.2015) by [The Office of Rail Regulation \(Change of Name\) Regulations 2015 \(S.I. 2015/1682\)](#), reg. 1(2), **Sch. para. 3(u)**
- F5** Word in Sch. 5 para. 16(2)(a) omitted (25.2.2010) by virtue of [The Passengers’ Council \(Non-Railway Functions\) Order 2010 \(S.I. 2010/439\)](#), arts. 1, **5(2)(a)**
- F6** Sch. 5 para. 16(2)(c) and word inserted (25.2.2010) by [The Passengers’ Council \(Non-Railway Functions\) Order 2010 \(S.I. 2010/439\)](#), arts. 1, **5(2)(b)**

#### Commencement Information

- I16** Sch. 5 para. 16 in force at 24.7.2005 by [S.I. 2005/1909](#), art. 2, **Sch.**

- 17 The [F2PC] must give such notice—
- (a) of any meeting of the [F2PC] which is open to the public, and
  - (b) of the business to be taken at that meeting (other than items during which the public is to be excluded),
- as it considers appropriate for the purpose of bringing the meeting to the attention of interested members of the public.

#### Textual Amendments

- F2** Words in Sch. 5 substituted (25.2.2010) by [The Passengers’ Council \(Non-Railway Functions\) Order 2010 \(S.I. 2010/439\)](#), art. 1, **Sch. para. 9(7)(b)**

#### Commencement Information

- I17** Sch. 5 para. 17 in force at 24.7.2005 by [S.I. 2005/1909](#), art. 2, **Sch.**

#### *Local committees*

- 18 (1) If the Secretary of State so directs, the [F2PC] must establish committees to advise it in relation to the carrying out of [F7 any or all of] its functions in relation to particular areas.
- (2) The members of a committee established under this paragraph are to be appointed by the [F2PC].
- (3) The [F2PC] may appoint such persons as it thinks fit and the membership of the committee may consist of or include persons who are not themselves members of the [F2PC].

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- (4) The [F<sup>2</sup>PC] may regulate the procedure of a committee established under this paragraph.
- (5) The [F<sup>2</sup>PC] may reimburse a member of a committee established under this paragraph who is not a member of the [F<sup>2</sup>PC] —
  - (a) for travelling expenses;
  - (b) for other out-of-pocket expenses not relating to loss of remuneration.

#### Textual Amendments

- F2** Words in Sch. 5 substituted (25.2.2010) by [The Passengers’ Council \(Non-Railway Functions\) Order 2010 \(S.I. 2010/439\)](#), art. 1, [Sch. para. 9\(7\)\(b\)](#)
- F7** Words in Sch. 5 para. 18(1) inserted (25.2.2010) by [The Passengers’ Council \(Non-Railway Functions\) Order 2010 \(S.I. 2010/439\)](#), arts. 1, [5\(3\)](#)

#### Commencement Information

- I18** Sch. 5 para. 18 in force at 24.7.2005 by [S.I. 2005/1909](#), art. 2, [Sch.](#)

#### *Execution of documents*

- 19
- (1) The application of the seal of the [F<sup>2</sup>PC] shall be authenticated by the signature of a member or employee of the [F<sup>2</sup>PC] whom it has authorised for the purpose (whether generally or specifically).
  - (2) Any document which the [F<sup>2</sup>PC] is authorised or required by or under any enactment to serve, make or issue may be signed on its behalf by a member or employee whom it has authorised for the purpose (whether generally or specifically).
  - (3) Every document purporting—
    - (a) to be an instrument made or issued by or on behalf of the [F<sup>2</sup>PC], and
    - (b) to be duly executed under the seal of the [F<sup>2</sup>PC], or to be duly signed or executed by a person authorised by the [F<sup>2</sup>PC] for the purpose,shall be received in evidence and, unless the contrary is shown, treated without further proof as so made or issued.
  - (4) In this paragraph the reference to a signature includes a reference to a facsimile of a signature produced by any process and “signed” is to be construed accordingly.
  - (5) In this paragraph “enactment” includes an enactment comprised in an Act of the Scottish Parliament.

#### Textual Amendments

- F2** Words in Sch. 5 substituted (25.2.2010) by [The Passengers’ Council \(Non-Railway Functions\) Order 2010 \(S.I. 2010/439\)](#), art. 1, [Sch. para. 9\(7\)\(b\)](#)

#### Commencement Information

- I19** Sch. 5 para. 19 in force at 24.7.2005 by [S.I. 2005/1909](#), art. 2, [Sch.](#)

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**Changes to legislation:**

There are currently no known outstanding effects for the Railways Act 2005, SCHEDULE 5.