

*Status: Point in time view as at 14/10/2018.*

*Changes to legislation: There are currently no known outstanding effects for the Railways Act 2005, SCHEDULE 9. (See end of Document for details)*

## SCHEDULES

### SCHEDULE 9

Section 46

#### BYE-LAWS BY RAILWAY OPERATORS

##### *Introductory*

- 1 (1) In this Schedule—
- “appropriate national authority”, in relation to any bye-laws, means—
- (a) where the relevant assets by reference to which the bye-laws are or were made are all Scottish assets, the Scottish Ministers;
  - (b) where some but not all of those assets are Scottish assets or include assets that are used partly in Scotland and partly elsewhere, the Secretary of State and the Scottish Ministers; <sup>F1</sup>...
  - (ba) [<sup>F2</sup>where the relevant assets by reference to which the bye-laws are or were made are all Welsh assets, the Welsh Ministers; and]
  - (c) in any other case, the Secretary of State;
- “bye-laws” means bye-laws under section 46; and
- “railway operator” has the same meaning as in that section.
- (2) In sub-paragraph (1) “Scottish asset” means—
- (a) an asset that is permanently situated in Scotland; or
  - (b) an asset that is used only in Scotland.
- [<sup>F3</sup>(2A) In sub-paragraph (1) “Welsh asset” has the meaning given by section 46(9).]
- (3) In the case of bye-laws in relation to which both the Secretary of State and the Scottish Ministers are the appropriate national authority —
- (a) anything that must be done under this Schedule in relation to those bye-laws by the appropriate national authority must be done by them both, acting jointly;
  - (b) anything that may be done under this Schedule in relation to those bye-laws by the appropriate national authority may be done only by them both, acting jointly; and
  - (c) any requirement of this Schedule in relation to those bye-laws to send something to the appropriate national authority is complied with only if that thing is sent both to the Secretary of State and to the Scottish Ministers.

#### Textual Amendments

- F1** Word in Sch. 9 para. 1(1) omitted (14.10.2018) by virtue of [The Welsh Ministers \(Transfer of Functions\) \(Railways\) Order 2018 \(S.I. 2018/631\)](#), art. 1(3), [Sch. para. 67\(a\)](#)
- F2** Words in Sch. 9 para. 1(1) inserted (14.10.2018) by [The Welsh Ministers \(Transfer of Functions\) \(Railways\) Order 2018 \(S.I. 2018/631\)](#), art. 1(3), [Sch. para. 67\(a\)](#)

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**F3** Sch. 9 para. 1(2A) inserted (14.10.2018) by The Welsh Ministers (Transfer of Functions) (Railways) Order 2018 (S.I. 2018/631), art. 1(3), **Sch. para. 67(b)**

**Commencement Information**

**I1** Sch. 9 para. 1 in force at 24.7.2005 for specified purposes by S.I. 2005/1909, art. 2, **Sch.**

**I2** Sch. 9 para. 1 in force at 16.10.2005 in so far as not already in force by S.I. 2005/2812, art. 2(1), **Sch. 1**

*Penalties*

- 2 Bye-laws may provide that a person contravening them is guilty of an offence and liable, on summary conviction, to a fine not exceeding—
- (a) level 3 on the standard scale; or
  - (b) such lower amount as is specified in the bye-laws.

**Commencement Information**

**I3** Sch. 9 para. 2 in force at 24.7.2005 for specified purposes by S.I. 2005/1909, art. 2, **Sch.**

**I4** Sch. 9 para. 2 in force at 16.10.2005 in so far as not already in force by S.I. 2005/2812, art. 2(1), **Sch. 1**

*Confirmation*

- 3 Bye-laws do not come into force until they have been confirmed by the appropriate national authority.

**Commencement Information**

**I5** Sch. 9 para. 3 in force at 24.7.2005 for specified purposes by S.I. 2005/1909, art. 2, **Sch.**

**I6** Sch. 9 para. 3 in force at 16.10.2005 in so far as not already in force by S.I. 2005/2812, art. 2(1), **Sch. 1**

- 4 (1) A railway operator who proposes to make bye-laws must publish a notice stating—
- (a) that he proposes to make bye-laws;
  - (b) the manner in which a copy of the proposed bye-laws will be open to public inspection; and
  - (c) that any person affected by the proposed bye-laws may make representations about them to the appropriate national authority within the period specified in the notice.
- (2) The publication of the notice must be in the manner approved by the appropriate national authority.
- (3) The period specified for the purposes of sub-paragraph (1)(c) must be the period of 28 days beginning with the day after that on which the railway operator's notice is published, or a longer period.
- (4) At the end of the period so specified the appropriate national authority must forward any representations that have been made to it to the railway operator.
- (5) The railway operator must not submit the bye-laws for confirmation unless he has considered the representations forwarded by the appropriate national authority.

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#### Commencement Information

- I7** Sch. 9 para. 4 in force at 24.7.2005 for specified purposes by S.I. 2005/1909, art. 2, Sch.  
**I8** Sch. 9 para. 4 in force at 16.10.2005 in so far as not already in force by S.I. 2005/2812, art. 2(1), Sch. 1

- 5 (1) The appropriate national authority may—
- confirm (with or without modifications) any bye-laws submitted to it for confirmation; or
  - refuse to confirm them.
- (2) The appropriate national authority may fix the date of the coming into force of any bye-laws confirmed by it.
- (3) If the appropriate national authority confirms bye-laws without fixing the date on which they come into force, they come into force at the end of the period of 28 days beginning with the day after that on which they are confirmed.

#### Commencement Information

- I9** Sch. 9 para. 5 in force at 24.7.2005 for specified purposes by S.I. 2005/1909, art. 2, Sch.  
**I10** Sch. 9 para. 5 in force at 16.10.2005 in so far as not already in force by S.I. 2005/2812, art. 2(1), Sch. 1

#### *Publicity for confirmed bye-laws*

- 6 If the appropriate national authority has confirmed bye-laws—
- copies of the bye-laws must be printed;
  - at least one copy must be kept at the principal offices of the railway operator who made them;
  - the railway operator must send one copy to the appropriate national authority; and
  - the railway operator must supply one copy (free of charge) to every person who applies for a copy or for more than one copy.

#### Commencement Information

- I11** Sch. 9 para. 6 in force at 24.7.2005 for specified purposes by S.I. 2005/1909, art. 2, Sch.  
**I12** Sch. 9 para. 6 in force at 16.10.2005 in so far as not already in force by S.I. 2005/2812, art. 2(1), Sch. 1

#### *Evidence*

- 7 (1) The production of a printed copy of bye-laws which is indorsed with a certificate—
- stating one or more matters specified in sub-paragraph (2), and
  - purporting to be signed by an officer of the railway operator by whom the bye-laws purport to have been made,
- is evidence of what is stated.
- (2) Those matters are—
- that the bye-laws were made by the railway operator in question;
  - that the copy is a true copy of the bye-laws;

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- (c) that the bye-laws were confirmed by the appropriate national authority on the date specified in the certificate;
- (d) the date of the coming into force of the bye-laws.

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**Commencement Information**

**I13** Sch. 9 para. 7 in force at 24.7.2005 for specified purposes by S.I. 2005/1909, art. 2, Sch.

**I14** Sch. 9 para. 7 in force at 16.10.2005 in so far as not already in force by S.I. 2005/2812, art. 2(1), Sch. 1

*Power to amend or vary*

- 8 (1) The power to make bye-laws includes the power to make bye-laws amending or revoking bye-laws.
- (2) The appropriate national authority may by order revoke bye-laws.

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**Commencement Information**

**I15** Sch. 9 para. 8 in force at 24.7.2005 for specified purposes by S.I. 2005/1909, art. 2, Sch.

**I16** Sch. 9 para. 8 in force at 16.10.2005 in so far as not already in force by S.I. 2005/2812, art. 2(1), Sch. 1

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