
EXPLANATORY NOTE

(This note is not part of the Order)

This Order brings into force provisions of the Railways Act 2005 (“the Act”).

Provisions coming into force on 24th July 2005

Article 2 of the Order brings into force the provisions in Schedule 1 to the Act which transfer railway licensing functions from the Strategic Rail Authority (“SRA”) to the Office of Rail Regulation. Those functions concern conditions of licences and licence exemptions granted under sections 7 and 8 of the Railways Act 1993 (“the 1993 Act”) that relate to consumer protection. The article also commences the repeal of all the provisions in the 1993 Act that define and refer to consumer protection conditions, as there is no longer any need for a distinction to be drawn between consumer protection conditions and other conditions.

The Order also brings into force the provisions in Schedule 1 to the Act under which the SRA’s role as franchising authority in relation to railway passenger services is transferred to the Secretary of State. This includes the function of “Operator of Last Resort” under section 30 of the 1993 Act, functions in relation to enforcement under section 55 of that Act, and functions relating to the maintenance of the public register under section 73 of that Act. The transfer of such functions to the Scottish Ministers will be brought into force at a later date.

Article 2 brings into force section 12 of the Act, which provides power for the Secretary of State to make transfer schemes at the end of franchise agreements. This power enables the Secretary of State to transfer relevant property, rights and liabilities from an outgoing franchise operator to the next operator of those services. Schedules 2 (which sets out detailed provisions in relation to transfer schemes) and 10 (taxation) are also brought into force, in so far as they relate to transfer schemes made under section 12.

It also brings into force sections 13 and 14 of the Act in relation to England and Wales. These provisions contain new functions for Passenger Transport Executives in relation to railway services, and make connected repeals of earlier statutes. Section 52 of the Act, which provides a duty on Passenger Transport Executives in England and Wales to advise the Secretary of State, is also brought into force.

The Order brings into force sections 15 and 16 of the Act, which relate to Transport for London (“TfL”). Section 15 amends section 201 of the Greater London Authority Act 1999 so as to replace the existing duty to co-operate between TfL and the SRA with a duty between TfL and the Secretary of State, in view of the transfer of the SRA’s franchising functions to the Secretary of State. Section 16 replaces the existing restrictions on TfL’s powers to enter into agreements relating to railways, set out in section 201 of the Greater London Authority Act 1999, with revised restrictions.

It brings into force sections 19 to 21 of the Act, which relate to the Rail Passengers’ Council and Rail Passengers’ Committees. Section 19 establishes a new Council as a body corporate to replace the body of the same name established by section 3(2) of the Railways Act 1993. Section 20 enables the new Council to delegate certain of its functions to other public bodies. Section 21 provides for the abolition of the Rail Passengers’ Committees. Schedules 5 and 6 to the Act are also brought into force. Schedule 5 contains detailed provisions as to the constitution and procedure of the new Council. Schedule 6 contains new functions for the London Transport Users’ Committee to replace functions which it previously had under the 1993 Act by virtue of being treated as a Rail Passengers’ Committee, and which are repealed under this Act.

Status: *This is the original version (as it was originally made). This item of legislation is currently only available in its original format.*

Article 2 also brings into force section 40 of the Act, which enables the Secretary of State and the National Assembly for Wales to secure the provision of substitute bus services where railway services are temporarily disrupted or discontinued.

It brings into force section 46 of the Act, which also introduces Schedule 9, both of which relate to bye-laws. These provisions contain new powers which enable railway operators to make bye-laws in respect of their railway assets, subject to confirmation from the Secretary of State. Aspects of these provisions which relate to the Scottish Ministers' role in respect of bye-laws will be brought into force at a later date.

Certain minor and consequential amendments in Schedules 11 and 12 to the Act and repeals in Schedule 13 to the Act are also brought into force.