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## 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 16th October 2005

Article 2(1) of the Order brings into force sections 8 and 9 of the Act. Section 8 provides power for the Scottish Ministers to provide financial assistance for railway purposes. Section 9 provides that the Scottish Ministers must notify the Secretary of State when they make or modify schemes for the provision of financial assistance in respect of rail freight.

The Order also commences the provisions in Schedule 1 to the Act under which the role of the Strategic Rail Authority (“SRA”) as franchising authority in relation to railway passenger services is transferred to the Scottish Ministers. This includes the function of “Operator of Last Resort” under section 30 of the Railways Act 1993 (“the 1993 Act”), functions in relation to enforcement under section 55 of that Act and functions relating to the maintenance of a new public register under section 73A of that Act.

The Order further brings into force section 47 of the Act, which amends section 130 of the 1993 Act so as to provide power for the Scottish Ministers to make penalty fare regulations. It also commences section 48 of the Act, which provides power for the Scottish Ministers to prepare and from time to time revise a code of practice for disabled rail users in Scotland. Sections 49 and 50 of the Act, which amend the 1993 Act so as to give the Scottish Ministers a role in respect of railway administration orders for companies providing services under a Scottish franchise agreement, are also brought into force.

It also brings into force section 46 of the Act and Schedule 9, both of which relate to bye-laws, to the extent that such provisions were not already in force.

Provisions coming into force on 21st November 2005

Article 2(2) of the Order brings into force paragraph 13 of Schedule 12 to the Act. This provision amends the Railway Heritage Act 1996 (“the 1996 Act”) so as to transfer the SRA’s sponsorship role in relation to the Railway Heritage Committee to the Secretary of State. This paragraph also amends section 1 of the 1996 Act so as to replace references to the SRA with references to the Secretary of State and to provide the Secretary of State with power to extend the list of persons to whom the 1996 Act applies by order.