

EXPLANATORY MEMORANDUM TO
THE RAILWAY HERITAGE SCHEME ORDER 2005

2005 No. 2905

1. This explanatory memorandum has been prepared by the Department for Transport and is laid before Parliament by Command of Her Majesty.

2. Description

2.1 This Order repeals and replaces the Railway Heritage Scheme Order 1997, which is the current legislation governing the constitution of the Railway Heritage Committee. It is necessary to replace the existing Order to reflect changes made to the Railway Heritage Act 1996 by the recent Railways Act 2005.

3. Matters of special interest to the JCSI/SCSI

3.1 None.

4. Legislative background

4.1 The relevant legislation is the Railway Heritage Act 1996 (c.42), and the Railway Heritage Scheme Order 1997 (SI 1997/39) made under section 2 of that Act. That Order currently governs the constitution of the Railway Heritage Committee.

4.2 Paragraph 13 of Schedule 12 to the Railways Act 2005 amends the Railway Heritage Act 1996. The amendments to section 2 are those which are relevant to this Order. Section 2 provides a power for the Secretary of State to make a scheme establishing the Railway Heritage Committee, and sets out certain provisions which such a scheme may include. The amendments to section 2 remove references to the Strategic Rail Authority (SRA) and replace them with references to the Secretary of State. Under section 2 as so amended, a scheme may provide for the Secretary of State to appoint the members of the Committee, and for the Secretary of State to provide administrative and secretarial assistance to the Committee and reimburse expenses of members of the Committee. These roles are currently discharged by the SRA, but the SRA is to be abolished under section 1 of the Railways Act 2005.

4.3 In addition to updating references to the Committee's sponsor body with references to the Secretary of State, this Order removes the requirement that the Committee obtain approval in respect of making appointments to and terminating memberships of sub-committees. In other respects, this Order re-enacts the Railway Heritage Scheme Order 1997.

5. Extent

5.1 The instrument applies to England, Wales and Scotland.

6. European Convention on Human Rights

6.1 As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

7. Policy background

7.1 The Railway Heritage Committee's role is to ensure that significant railway records or artefacts are preserved for posterity. It does so by "designating" such assets, which has the effect of ensuring that the owner of the asset may dispose of it only having notified the Committee and sought its consent. If the Committee is not content with the proposed disposal it may give directions to the owner relating to the terms of the disposal and/or who the disposal may be made to. It should be noted that the Committee can only give such directions to the limited group of persons to whom the Act applies, as set out in section 1 of the Act.

7.2. Statutory guidance which the Secretary of State has given the Committee under section 6 of the Railway Heritage Act 1996 requires the Committee to ensure that private bodies subject to the Committee's powers are given fair market value for any assets disposed of and that, if parties are unable to agree, the terms of the transfer should be subject to arbitration.

7.3. The SRA currently has a sponsorship responsibility for the Committee, relating to the appointment of members and the provision of administrative facilities and expenditure. The SRA is to be abolished and it has been decided that these SRA functions will in future be discharged by the Secretary of State. The Committee will become a Non Departmental Public Body of the Department for Transport and the Secretary of State will assume responsibility for making appointments to the Committee.

7.4 The Department has consulted the Railway Heritage Committee and the SRA in relation to this order, and both are content for it to be made. The Department has responded positively to a suggestion by the Chair of the Committee that it should not be necessary for the Committee to obtain the approval of the Secretary of State for making appointments to (and terminating membership of) its sub-committees, and has removed this requirement which existed under the 1997 Scheme Order..

8. Impact

8.1 A Regulatory Impact Assessment has not been prepared for this instrument as it has no impact on business, charities or voluntary bodies.

9. Contact

9.1 Kulvinder Bassi at the Department for Transport, Tel: 020 7944 8693 or e-mail: Kulvinder.bassi@dft.gsi.gov.uk can answer any queries regarding the instrument.