Railways Act 1993

1993 CHAPTER 43

PART I U.K.

THE PROVISION OF RAILWAY SERVICES

Franchising of passenger services

23 Passenger services to be subject to franchise agreements. E+W+S

(1) It shall be the duty of the **[**[F1]appropriate designating authority**]** from time to time to designate **[**[F2]such services for the carriage of passengers by railway (other than services which are, by virtue of section 24 below, exempt from designation under this subsection) as it considers ought to be provided under franchise agreements.**]**.

(2) The **[**[F1]appropriate designating authority**]** may perform **[**[F3]its**]** duty under subsection (1) above by designating particular services or services of a class or description.

[[F4](2ZA) Where the Scottish Ministers designate Scotland-only services, they may also designate cross-border services which—

(a) they consider should be provided under the same franchise agreement as particular Scotland-only services or a particular class of them; and

(b) are not exempt from designation under subsection (1) by virtue of section 24.

(2ZB) Nothing in this section requires the Secretary of State to designate a cross-border service already designated by the Scottish Ministers.

(2ZC) Before the Secretary of State or the Scottish Ministers designate a cross-border service he or they must consult the other.**]**

[[F5](2ZD) Where the Welsh Ministers designate Wales-only services, they may also designate Welsh components of Welsh services which—

(a) they consider should be provided under the same franchise agreement as particular Wales-only services or a particular class of Wales-only services; and

(b) are not exempt from designation under subsection (1) by virtue of section 24.

Changes to legislation: *Railways Act 1993, Cross Heading: Franchising of passenger services is up to date with all changes known to be in force on or before 02 August 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

(2ZE) Nothing in this section requires the Secretary of State to designate a Welsh service so far as already designated by the Welsh Ministers.**]**

[[F6](2A) A designation may be varied or revoked; but a variation or revocation of the designation of particular services, or services of a class or description, shall not affect any franchise agreement previously entered into with respect to those services or services of that class or description.

[F7](2B) . . . . . .**]**

(3) In this Part—

[[F8]"the appropriate designating authority"—

(a) in relation to Scotland-only services, means the Scottish Ministers; [F9]...

(aa) **[**[F10]in relation to Wales-only services, means the Welsh Ministers; and**]**

(b) in relation to all other services, means the Secretary of State;

"the appropriate franchising authority"—

(a) in relation to a Scottish franchise agreement, means the Scottish Ministers; [F11]...

(aa) **[**[F12]in relation to a Welsh franchise agreement to the extent that the franchised services under it are Wales-only services or Welsh components of Welsh services, means the Welsh Ministers;

(ab) in relation to a Welsh franchise agreement to the extent that the franchised services under it are services other than Wales-only services or Welsh components of Welsh services, means the Secretary of State;**]**

(b) in relation to any other franchise agreement, means the Secretary of State;**]**

"franchise agreement" means an agreement **[**[F13]to which the Secretary of State, the Scottish Ministers or the Welsh Ministers is or are party**]**, under which another party undertakes either—

(a) to provide, or

(b) to secure that a wholly owned subsidiary of his provides,

throughout the franchise term those services for the carriage of passengers by railway to which the agreement relates;

"franchise operator", in relation to any franchise agreement, means the person (whether the franchisee or, as the case may be, the wholly owned subsidiary of the franchisee) who is to provide the franchised services;

"franchise period", in relation to any franchise agreement, means the franchise term, except where the franchise agreement is terminated before the end of that term, in which case it means so much of that term as ends with that termination;

"franchise term", in relation to any franchise agreement, means the period specified in the franchise agreement as the period throughout which the franchisee is to provide, or secure that a wholly owned subsidiary of his provides, the franchised services, and includes any such extension of that period as is mentioned in section 29(3) below;

"franchised services", in relation to any franchise agreement, means the services for the carriage of passengers by railway which are to be provided under that franchise agreement;

"franchisee" means—

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(a) in relation to a franchise agreement under which a party undertakes to secure that a wholly owned subsidiary of his provides the franchised services, the party so undertaking; or

(b) in relation to any other franchise agreement, the person who is to provide the franchised services.

(4) Any reference in this Part to the provision of services under a franchise agreement is a reference to the provision of those services by the franchise operator; and where the franchise operator is, or is to be, a wholly owned subsidiary of the franchisee, any reference to the provision of services by the franchisee under a franchise agreement shall accordingly be construed as a reference to his securing their provision by the franchise operator.

Textual Amendments

F1 Words in s. 23(1)(2) substituted (24.7.2005) by Railways Act 2005 (c. 14), ss. 1, 60, **Sch. 1 para. 13(1)(5)**; S.I. 2005/1909, **art 2**, Sch.

F2 Words in s. 23(1) substituted (1.2.2001) by 2000 c. 38, **s. 212(1)** (with Sch. 28 para. 3); S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I** (subject to savings and transitional provisions in Sch. 2 Pt. II)

F3 Words in s. 23(2) substituted (1.2.2001) by 2000 c. 38, s. 215, **Sch. 16 para. 14(3)**; S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I** (subject to savings and transitional provisions in Sch. 2 Pt. II) (which S.I. was amended by S.I. 2001/115, **art. 2(2)**)

F4 S. 23(2ZA)-(2ZC) inserted (16.10.2005) by Railways Act 2005 (c. 14), ss. 1, 60, **Sch. 1 para. 13(2)(5)**: S.I. 2005/2812, **art 2(1)**, Sch. 1

F5 S. 23(2ZD)(2ZE) inserted (13.6.2018) by The Welsh Ministers (Transfer of Functions) (Railways) Order 2018 (S.I. 2018/631), art. 1(2)(b)(ii), **Sch. para. 5(2)**

F6 S. 23(2A)(2B) inserted (1.2.2001) by 2000 c. 38, **s. 212(2)** (with Sch. 28 para. 3); S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I** (subject to savings and transitional provisions in Sch. 2 Pt. II)

F7 S. 23(2B) repealed (24.7.2005) by Railways Act 2005 (c. 14), ss. 1, 59, 60, Sch. 1 para. 13(3)(5), **Sch. 13** (with s. 14(4)(5), Sch. 11 para. 11(2)); S.I. 2005/1909, **art 2**, Sch.

F8 Definitions of "appropriate designating authority" and "appropriate franchising authority" in s. 23(3) inserted (24.7.2005 for certain purposes and 16.10.2005 in so far as not already in force) by Railways Act 2005 (c. 14), ss. 1, 60, **Sch. 1 para. 13(4)(a)(5)**: S.I. 2005/1909, **art 2**, Sch.; S.I. 2005/2812, **art. 2(1)**, Sch. 1

F9 Word in s. 23(3) omitted (14.10.2018 at 2.00 a.m.) by virtue of The Welsh Ministers (Transfer of Functions) (Railways) Order 2018 (S.I. 2018/631), art. 1(3), **Sch. para. 5(3)(a)**

F10 Words in s. 23(3) inserted (14.10.2018 at 2.00 a.m.) by The Welsh Ministers (Transfer of Functions) (Railways) Order 2018 (S.I. 2018/631), art. 1(3), **Sch. para. 5(3)(a)**

F11 Word in s. 23(3) omitted (13.6.2018) by virtue of The Welsh Ministers (Transfer of Functions) (Railways) Order 2018 (S.I. 2018/631), art. 1(2)(b)(ii), **Sch. para. 5(3)(b)**

F12 Words in s. 23(3) inserted (13.6.2018) by The Welsh Ministers (Transfer of Functions) (Railways) Order 2018 (S.I. 2018/631), art. 1(2)(b)(ii), **Sch. para. 5(3)(b)**

F13 Words in s. 23(3) substituted (13.6.2018) by The Welsh Ministers (Transfer of Functions) (Railways) Order 2018 (S.I. 2018/631), art. 1(2)(b)(ii), **Sch. para. 5(3)(c)**

Modifications etc. (not altering text)

C1 S. 23(1) excluded (1.4.1994) by S.I. 1994/606, **art. 6**
S. 23(1) excluded (13.12.1999) by S.I. 1999/3112, **art. 3**

Commencement Information

I1 S. 23 wholly in force at 1.4.1994; s. 23 not in force at Royal Assent see s. 154(2); s. 23(3)(4) in force at 6.1.1994 by S.I. 1993/3237, **art. 2(2)**; s. 23 in force at 1.4.1994 insofar as not already in force by S.I. 1994/571, **art. 5**

24 Exemption of passenger services from section 23(1). E+W+S

(1) The **[**[F14]appropriate designating authority**]** may by order grant exemption from designation under section 23(1) above in respect of such services for the carriage of passengers by railway as may be specified in the order, but subject to compliance with such conditions (if any) as may be so specified.

(2) A franchise exemption under subsection (1) above may be granted—

(a) to persons of a particular class or description or to a particular person; and

(b) in respect of services generally, services of a particular class or description or a particular service, or in respect of part only of any such services or service;

and a franchise exemption granted to persons of a particular class or description shall be published in such manner as the **[**[F14]appropriate designating authority**]** considers appropriate for bringing it to the attention of persons of that class or description.

(3) If a person who provides, or who proposes to introduce, services for the carriage of passengers by railway makes an application to the **[**[F14]appropriate designating authority**]** under this subsection for the grant of an exemption from designation under section 23(1) above in respect of any such service which he provides or proposes to introduce, the **[**[F14]appropriate designating authority**]** , after consultation with **[**[F15]the Office of Rail and Road**]**[F16]. . . —

(a) may either grant or refuse the exemption, whether wholly or to such extent as **[**[F17]the appropriate designating authority**]** may specify in the exemption; and

(b) if and to the extent that **[**[F17]the appropriate designating authority**]** grants it, may do so subject to compliance with such conditions (if any) as **[**[F17]the appropriate designating authority**]** may so specify.

[[F18](3A) Before granting a franchise exemption in respect of a cross-border service, the Secretary of State must consult the Scottish Ministers.**]**

[[F19](3B) Before granting a franchise exemption in respect of a Welsh service, the Secretary of State must consult the Welsh Ministers.**]**

(4) Before granting a franchise exemption under subsection (3) above, the **[**[F14]appropriate designating authority**]** shall give notice—

(a) stating that **[**[F20]it**]** proposes to grant the franchise exemption,

(b) stating the reasons why **[**[F20]it**]** proposes to grant the franchise exemption, and

(c) specifying the time (not being less than 28 days from the date of publication of the notice) within which representations or objections with respect to the proposed franchise exemption may be made,

and shall consider any representations or objections which are duly made and not withdrawn.

(5) A notice under subsection (4) above shall be given by publishing the notice in such manner as the **[**[F14]appropriate designating authority**]** considers appropriate for bringing it to the attention of persons likely to be affected by the grant of the franchise exemption.

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(6) If any condition (the "broken condition") of a franchise exemption **[**[F21]granted by the appropriate designating authority is not complied with, it**]** may give to any relevant person a direction declaring that the franchise exemption is revoked, so far as relating to that person, to such extent and as from such date as may be specified in the direction.

(7) For the purposes of subsection (6) above—

"condition", in relation to a franchise exemption, means any condition subject to compliance with which the franchise exemption was granted;

"relevant person", in the case of any franchise exemption, means a person who has the benefit of the franchise exemption and who—

(a) is a person who failed to comply with the broken condition or with respect to whom the broken condition is not complied with; or

(b) provides any of the services in relation to which the broken condition is not complied with.

(8) Subject to subsection (6) above, a franchise exemption, unless previously revoked in accordance with any term contained in the franchise exemption, shall continue in force for such period as may be specified in, or determined by or under, the franchise exemption.

(9) Any application for a franchise exemption under subsection (3) above must be made in writing; and where any such application is made, the **[**[F14]appropriate designating authority**]** may require the applicant to furnish **[**[F22]it**]** with such information as the **[**[F14]appropriate designating authority**]** may consider necessary to enable **[**[F22]it**]** to decide whether to grant or refuse the franchise exemption.

(10) Any franchise exemption granted under subsection (3) above shall be in writing.

(11) Subsections (1) and (3) above apply in relation to the grant of a franchise exemption whether it is to become effective on, or after, the day on which section 23(1) above comes into force.

(12) Franchise exemptions may make different provision for different cases.

[[F23](12A) A statutory instrument containing an order under this section by the Scottish Ministers is subject to annulment in pursuance of a resolution of the Scottish Parliament.**]**

[[F24](12B) A statutory instrument containing an order under this section made by the Welsh Ministers is subject to annulment in pursuance of a resolution of the National Assembly for Wales.**]**

(13) In this Part, "franchise exemption" means an exemption from designation under section 23(1) above granted under any provision of this section in respect of any service for the carriage of passengers by railway.

Textual Amendments

F14 Words in s. 24(1)-(5)(9) substituted (16.10.2005) by Railways Act 2005 (c. 14), ss. 1, 60, **Sch. 1 para. 14(1)(2)**; S.I. 2005/2812, **art 2(1)**, Sch. 1

F15 Words in s. 24(3) substituted (16.10.2015) by The Office of Rail Regulation (Change of Name) Regulations 2015 (S.I. 2015/1682), reg. 1(2), **Sch. para. 1(hh)**

F16 Words in s. 24(3) repealed (16.10.2005) by Railways Act 2005 (c. 14), ss. 59, 60, **Sch. 13**; S.I. 2005/2812, **art 2(1)**, Sch. 1

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F17 Words in s. 24(3)(a)(b) substituted (16.10.2005) by Railways Act 2005 (c. 14), ss. 1, 60, **Sch. 1 para. 14(1)(3)**; S.I. 2005/2812, **art 2(1)**, Sch. 1

F18 S. 24(3A) inserted (16.10.2005) by Railways Act 2005 (c. 14), ss. 1, 60, **Sch. 1 para. 14(1)(4)**: S.I. 2005/2812, **art 2(1)**, Sch. 1

F19 S. 24(3B) inserted (14.10.2018 at 2.00 a.m.) by The Welsh Ministers (Transfer of Functions) (Railways) Order 2018 (S.I. 2018/631), art. 1(3), **Sch. para. 6(2)**

F20 Word in s. 24(4) substituted (16.10.2005) by Railways Act 2005 (c. 14), ss. 1, 60, **Sch. 1 para. 14(1)(5)**: S.I. 2005/2812, **art 2(1)**, Sch. 1

F21 Words in s. 24(6) substituted (16.10.2005) by Railways Act 2005 (c. 14), ss. 1, 60, **Sch. 1 para. 14(1)(6)**: S.I. 2005/2812, **art 2(1)**, Sch. 1

F22 Word in s. 24(9) substituted (16.10.2005) by Railways Act 2005 (c. 14), ss. 1, 60, **Sch. 1 para. 14(1)(7)**: S.I. 2005/2812, **art 2(1)**, Sch. 1

F23 S. 24(12A) inserted (16.10.2005) by Railways Act 2005 (c. 14), ss. 1, 60, **Sch. 1 para. 14(1)(8)**: S.I. 2005/2812, **art 2(1)**, Sch. 1

F24 S. 24(12B) inserted (14.10.2018 at 2.00 a.m.) by The Welsh Ministers (Transfer of Functions) (Railways) Order 2018 (S.I. 2018/631), art. 1(3), **Sch. para. 6(3)**

[F25 24A [F26 Franchise exemptions granted by Secretary of State or Welsh Ministers]: operator agreements E+W+S

(1) Conditions specified in an order under section 24 made by the Secretary of State **[**F27 or the Welsh Ministers**]** may, in particular, include conditions which are to apply to any person providing services under an operator agreement.

(2) An order under section 24 made by the Secretary of State **[**F28 or the Welsh Ministers**]** may include provision which, subject to any modifications that the Secretary of State considers appropriate **[**F29 or (as the case may be) that the Welsh Ministers consider appropriate**]**, has an effect in connection with operator agreements which corresponds or is similar to the effect of the following provisions in connection with franchise agreements—

(a) section 27(3) of this Act (restrictions on transfer or creation of security over assets);

(b) section 27(5) of this Act (transactions entered into in breach of restrictions to be void);

(c) section 27(6) and (7) of this Act (no execution or other legal process etc in respect of assets);

(d) section 31 of this Act (disapplication of legislation: security of tenure of business premises);

(e) sections 55 to 58 of this Act (enforcement);

(f) section 12 of, and Schedule 2 to, the Railways Act 2005 (transfer schemes), subject to subsection (4) below.

(3) Provision included in an order by virtue of subsection (2) may be made by applying the provision in question, subject to any modifications that the Secretary of State considers appropriate **[**F30 or (as the case may be) that the Welsh Ministers consider appropriate**]**.

(4) The provision which may be included in an order by virtue of subsection (2)(f) is subject to the following restrictions—

(a) it is to be provision which applies only where an operator agreement is or has been in force to which one of the following is or was party—

(i) a Passenger Transport Executive,

[an STB,**]**

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[F31](ia)

(ii) a local transport authority, or

(iii) a relevant company;

(b) the person entitled under the provision to make a transfer scheme is to be a Passenger Transport Executive**[**[F32], an STB**]** or local transport authority which—

(i) is or was party to the operator agreement, or

(ii) is the owner, or one of the owners, of a relevant company which is or was party to the operator agreement;

(c) the persons to whom assets may be transferred under a scheme made under the provision are to be—

(i) the Passenger Transport Executive**[**[F33], STB**]** or local transport authority which makes the scheme;

(ii) any other Passenger Transport Executive**[**[F34], STB**]** or local transport authority which—

(a) is or was party to the operator agreement, or

(b) is the owner, or one of the owners, of a relevant company which is or was party to the operator agreement;

(iii) a relevant company;

(iv) a person who is, or is to be, the operator under an operator agreement.

(5) In this section—

"local transport authority" has the same meaning as in Part 2 of the Transport Act 2000 (see section 108(4) of that Act);

"operator agreement" means any agreement which a person who has the benefit of a franchise exemption may enter into for another person ("the operator") to provide the services (or any part of the services) in respect of which the exemption is granted;

"Passenger Transport Executive" means a body which is such an Executive for the purposes of Part 2 of the Transport Act 1968;

"relevant company" means—

(a) a company that is wholly owned by a Passenger Transport Executive**[**[F35], an STB**]** or a local transport authority, or

(b) a company of which each owner is a Passenger Transport Executive**[**[F36], an STB**]** or a local transport authority.**]**

[[F37]"STB" means a sub-national transport body established under section 102E of the Local Transport Act 2008.**]**

Textual Amendments

F25 S. 24A inserted (26.3.2015 for specified purposes, 1.10.2015 in so far as not already in force) by Deregulation Act 2015 (c. 20), s. 115(2)(e), **Sch. 8 para. 8**; S.I. 2015/994, art. 11(o)

F26 Words in s. 24A heading substituted (14.10.2018 at 2.00 a.m.) by The Welsh Ministers (Transfer of Functions) (Railways) Order 2018 (S.I. 2018/631), art. 1(3), **Sch. para. 7(2)**

F27 Words in s. 24A(1) inserted (14.10.2018 at 2.00 a.m.) by The Welsh Ministers (Transfer of Functions) (Railways) Order 2018 (S.I. 2018/631), art. 1(3), **Sch. para. 7(3)**

F28 Words in s. 24A(2) inserted (14.10.2018 at 2.00 a.m.) by The Welsh Ministers (Transfer of Functions) (Railways) Order 2018 (S.I. 2018/631), art. 1(3), **Sch. para. 7(4)(a)**

F29 Words in s. 24A(2) inserted (14.10.2018 at 2.00 a.m.) by The Welsh Ministers (Transfer of Functions) (Railways) Order 2018 (S.I. 2018/631), art. 1(3), **Sch. para. 7(4)(b)**

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F30 Words in s. 24A(3) inserted (14.10.2018 at 2.00 a.m.) by The Welsh Ministers (Transfer of Functions) (Railways) Order 2018 (S.I. 2018/631), art. 1(3), **Sch. para. 7(5)**

F31 S. 24A(4)(a)(ia) inserted (E.W.) (28.1.2016 for specified purposes, 28.3.2016 in so far as not already in force) by Cities and Local Government Devolution Act 2016 (c. 1), s. 25(2), **Sch. 5 para. 13(2)(a)**

F32 Words in s. 24A(4)(b) inserted (E.W.) (28.1.2016 for specified purposes, 28.3.2016 in so far as not already in force) by Cities and Local Government Devolution Act 2016 (c. 1), s. 25(2), **Sch. 5 para. 13(2)(b)**

F33 Word in s. 24A(4)(c)(i) inserted (E.W.) (28.1.2016 for specified purposes, 28.3.2016 in so far as not already in force) by Cities and Local Government Devolution Act 2016 (c. 1), s. 25(2), **Sch. 5 para. 13(2)(c)**

F34 Word in s. 24A(4)(c)(ii) inserted (E.W.) (28.1.2016 for specified purposes, 28.3.2016 in so far as not already in force) by Cities and Local Government Devolution Act 2016 (c. 1), s. 25(2), **Sch. 5 para. 13(2)(d)**

F35 Words in s. 24A(5) inserted (E.W.) (28.1.2016 for specified purposes, 28.3.2016 in so far as not already in force) by Cities and Local Government Devolution Act 2016 (c. 1), s. 25(2), **Sch. 5 para. 13(3)(a)**

F36 Words in s. 24A(5) inserted (E.W.) (28.1.2016 for specified purposes, 28.3.2016 in so far as not already in force) by Cities and Local Government Devolution Act 2016 (c. 1), s. 25(2), **Sch. 5 para. 13(3)(b)**

F37 Words in s. 24A(5) inserted (E.W.) (28.1.2016 for specified purposes, 28.3.2016 in so far as not already in force) by Cities and Local Government Devolution Act 2016 (c. 1), s. 25(2), **Sch. 5 para. 13(3)(c)**

25 [F38England and Wales:] Public sector operators not to be franchisees. E+W+S

(1) The following bodies and persons (in this Part referred to as "public sector operators") shall not be franchisees—

(a) any Minister of the Crown, Government department or other emanation of the Crown;

(b) any local authority;

[F39(bb) the Greater London Authority;

F40(bc) Transport for London;]

(c) any [F41metropolitan county passenger transport authority][F41Integrated Transport Authority for an integrated transport area in England];

[F42(ca) any combined authority established under section 103 of the Local Democracy, Economic Development and Construction Act 2009;]

[F43(cb) any combined county authority established under section 9(1) of the Levelling-up and Regeneration Act 2023;]

(d) any body corporate whose members are appointed by a Minister of the Crown, a Government department, a local authority[F44, the Greater London Authority, Transport for London] or [F45a metropolitan county passenger transport authority][F46, an Integrated Transport Authority for an integrated transport area in England [F47, a combined authority or a combined county authority]] or by a body corporate whose members are so appointed;

(e) a company—

(i) a majority of whose issued shares are held by or on behalf of any of the bodies or persons falling within paragraphs (a) to (d) above;

(ii) in which the majority of the voting rights are held by or on behalf of any of those bodies or persons;

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(iii) a majority of whose board of directors can be appointed or removed by any of those bodies or persons; or

(iv) in which the majority of the voting rights are controlled by any of those bodies or persons, pursuant to an agreement with other persons;

(f) a subsidiary of a company falling within paragraph (e) above.

[[F48](2) Expressions used in sub-paragraphs (i) to (iv) of subsection (1)(e) that are defined for the purposes of the Companies Acts (see section 1174 of, and Schedule 8 to, the Companies Act 2006) have the same meaning in those sub-paragraphs.**]**

[[F49](2A) Subsection (1) does not prevent a public sector operator from being a franchisee in relation to a Scottish franchise agreement.**]**

[F50](3) . . . . . .

[F50](4) . . . . . .

[F50](5) . . . . . .

[F50](6) . . . . . .

[F50](7) . . . . . .

[F50](8) . . . . . .

[F50](9) . . . . . .

Textual Amendments

F38 Words in s. 25 heading inserted (23.5.2016) by Scotland Act 2016 (c. 11), **ss. 57(2)**, 72(7) (with s. 57(4))

F39 S. 25(1)(bb) inserted (3.7.2000) by 1999 c. 29, **s. 202(2)** (with Sch. 12 para. 9(1)); S.I. 2000/801, art. 3, **Sch Pt. 3**

F40 S. 25(1)(bc) inserted (3.7.2000) by 1999 c. 29, **s. 202(2)** (with Sch. 12 para. 9(1)); S.I. 2000/801, art. 3, **Sch Pt. 3**

F41 Words in s. 25(1)(c) substituted (E.W.) (9.2.2009) by Local Transport Act 2008 (c. 26), s. 134(4), **Sch. 4 para. 58(2)(a)**; S.I. 2009/107, art. 2(1), Sch. 1 Pt. 1

F42 S. 25(1)(ca) inserted (17.12.2009) by Local Democracy, Economic Development and Construction Act 2009 (c. 20), s. 148(6), **Sch. 6 para. 85(a)**; S.I. 2009/3318, art. 2(c)

F43 S. 25(1)(cb) inserted (E.W.) (26.12.2023) by Levelling-up and Regeneration Act 2023 (c. 55), s. 255(2)(c), **Sch. 4 para. 115(a)** (with s. 247)

F44 Words in s. 25(1)(d) inserted (3.7.2000) by 1999 c. 29, **s. 202(3)** (with Sch. 12 para. 9(1)); S.I. 2000/801, art. 3, **Sch Pt. 3**

F45 Words in s. 25(1)(d) repealed (E.W.) (9.2.2009) by Local Transport Act 2008 (c. 26), s. 134(4), Sch. 4 para. 58(2)(b); S.I. 2009/107, art. 2(1), **Sch. 1 Pt. 1**

F46 Words in s. 25(1)(d) substituted (17.12.2009) by Local Democracy, Economic Development and Construction Act 2009 (c. 20), s. 148(6), **Sch. 6 para. 85(b)**; S.I. 2009/3318, art. 2(c)

F47 Words in s. 25(1)(d) substituted (E.W.) (26.12.2023) by Levelling-up and Regeneration Act 2023 (c. 55), s. 255(2)(c), **Sch. 4 para. 115(b)** (with s. 247)

F48 S. 25(2) substituted (1.10.2009) by The Companies Act 2006 (Consequential Amendments, Transitional Provisions and Savings) Order 2009 (S.I. 2009/1941), art. 1(2), **Sch. 1 para. 143(2)** (with art. 10)

F49 S. 25(2A) inserted (23.5.2016) by Scotland Act 2016 (c. 11), **ss. 57(3)**, 72(7) (with s. 57(4))

F50 S. 25(3)-(9) repealed (1.2.2001) by 2000 c. 38, s. 274, **Sch. 31 Pt. IV**; S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I** (subject to savings and transitional provisions in Sch. 2 Pt. II)

Changes to legislation: *Railways Act 1993, Cross Heading: Franchising of passenger services is up to date with all changes known to be in force on or before 02 August 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

Modifications etc. (not altering text)

C2 S. 25 excluded (22.7.2008) by Crossrail Act 2008 (c. 18), **s. 25**

Commencement Information

I2 S. 25 wholly in force at 1.4.1994; s. 25 not in force at Royal Assent see s. 154(2); s. 25(1)(2) in force at 6.1.1994 for specified purposes by S.I. 1993/3237, **art. 2(2)**; s. 25 in force at 1.4.1994 insofar as not alreday in force by S.I. 1994/571, **art. 5**

26 Invitations to tender for franchises. E+W+S

(1) **[**[F51]The appropriate franchising authority may select the person who is to be the franchisee in relation to a franchise agreement**]** from among those who submit tenders in response to an invitation to tender under this section for the right to provide, or to secure that a wholly owned subsidiary provides, services for the carriage of passengers by railway under that franchise agreement.

(2) The **[**[F52]appropriate franchising authority**]** shall prepare any such invitation to tender and shall issue that invitation to such persons as **[**[F53]it**]** may, after consultation with **[**[F54]the Office of Rail and Road**]**, think fit.

(3) The **[**[F52]appropriate franchising authority**]** shall not issue an invitation to tender under this section to (or entertain such a tender from) any person unless **[**[F53]it**]** is of the opinion that the person has, or is likely by the commencement of the franchise term to have, an appropriate financial position and managerial competence, and is otherwise a suitable person, to be the franchisee.

[[F55](4) [F56]. . . . . .

[[F57](4A) The Secretary of State **[**[F58], the Welsh Ministers**]** and the Scottish Ministers shall each publish a statement of policy about how he proposes, or (as the case may be) they propose, to exercise the power under subsection (1) above.

(4B) The statement must in particular include the policy of the Secretary of State **[**[F59], the Welsh Ministers**]** or the Scottish Ministers about—

(a) when his or their selection of the person to be a franchisee under a franchise agreement is likely to be from those submitting tenders in response to an invitation to do so;

(b) when it is likely such an invitation will not be issued; and

(c) the means by which he is, or they are, proposing that the selection will be made in cases where there is no such invitation.

(4C) In deciding whether to select the person who is to be the franchisee under a franchise agreement by means of an invitation to tender and whom so to select, the appropriate franchising authority must have regard to its statement of policy.

(4D) The Secretary of State **[**[F60], the Welsh Ministers**]** or Scottish Ministers—

(a) may at any time alter or replace the statement of policy which he has made or (as the case may be) which they have made; and

(b) where that statement is altered or replaced, must publish the altered or replacement statement.

Changes to legislation: *Railways Act 1993, Cross Heading: Franchising of passenger services is up to date with all changes known to be in force on or before 02 August 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

[[F61](4E) Before preparing, altering or replacing a statement of policy the Secretary of State, the Welsh Ministers and the Scottish Ministers must undertake such consultation as they consider appropriate.**]**

(4F) Where a statement of policy is prepared, altered or replaced, a copy of it must be laid—

(a) in the case of a statement prepared, altered or replaced by the Secretary of State, before Parliament; [F62]...

[[F63](aa) in the case of a statement prepared, altered or replaced by the Welsh Ministers, before the National Assembly for Wales; and**]**

(b) in the case of a statement prepared, altered or replaced by the Scottish Ministers, before the Scottish Parliament.**]]**

Textual Amendments

F51 Words in s. 26(1) substituted (24.7.2005 for certain purposes and 16.10.2005 in so far as not already in force) by Railways Act 2005 (c. 14), ss. 1, 60, **Sch. 1 para. 15(2)(6)**; S.I. 2005/1909, **art. 2**, Sch.; S.I. 2005/2812, **art. 2(1)**, Sch. 1

F52 Words in s. 26(2)(3) substituted (24.7.2005 for certain purposes and 16.10.2005 in so far as not already in force) by Railways Act 2005 (c. 14), ss. 1, 60, **Sch. 1 para. 15(3)(6)**; S.I. 2005/1909, **art 2**, Sch.; S.I. 2005/2812, **art. 2(1)**, Sch. 1

F53 Words in s. 26(2)(3) substituted (1.2.2001) by 2000 c. 38, s. 215, **Sch. 16 para. 16(3)**; S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I** (subject to savings and transitional provisions in Sch. 2 Pt. II)(which S.I. was amended by S.I. 2001/115, **art. 2(2)**)

F54 Words in s. 26(2) substituted (16.10.2015) by The Office of Rail Regulation (Change of Name) Regulations 2015 (S.I. 2015/1682), reg. 1(2), **Sch. para. 1(ii)**

F55 S. 26(4)-(10) inserted (1.2.2001) by 2000 c. 38, **s. 212(3)** (with Sch. 28 para. 3); S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I** (subject to savings and transitional provisions in Sch. 2 Pt. II)

F56 S 26(4) repealed (24.7.2005 for certain purposes and otherwise prosp.) by Railways Act 2005 (c. 14), ss. 1, 60, Sch. 1 para. 15(4)(6), **Sch. 13 Pt. 1** (with s. 14(4)(5), Sch. 11 para. 11(2)); S.I. 2005/1909, **art 2**, Sch.

F57 S. 26(4A)-(4F) substituted (24.7.2005 for certain purposes and 16.10.2005 in so far as not already in force) for s. 26(5)-(10) by Railways Act 2005 (c. 14), ss. 1, 60, **Sch. 1 para. 15(5)(6)**; S.I. 2005/1909, **art. 2**, Sch.; S.I. 2005/2812, **art. 2(1)**, Sch. 1

F58 Words in s. 26(4A) inserted (13.6.2018) by The Welsh Ministers (Transfer of Functions) (Railways) Order 2018 (S.I. 2018/631), art. 1(2)(b)(iii), **Sch. para. 8(2)**

F59 Words in s. 26(4B) inserted (13.6.2018) by The Welsh Ministers (Transfer of Functions) (Railways) Order 2018 (S.I. 2018/631), art. 1(2)(b)(iii), **Sch. para. 8(2)**

F60 Words in s. 26(4D) inserted (13.6.2018) by The Welsh Ministers (Transfer of Functions) (Railways) Order 2018 (S.I. 2018/631), art. 1(2)(b)(iii), **Sch. para. 8(2)**

F61 S. 26(4E) substituted (13.6.2018) by The Welsh Ministers (Transfer of Functions) (Railways) Order 2018 (S.I. 2018/631), art. 1(2)(b)(iii), **Sch. para. 8(3)**

F62 Word in s. 26(4F) omitted (13.6.2018) by virtue of The Welsh Ministers (Transfer of Functions) (Railways) Order 2018 (S.I. 2018/631), art. 1(2)(b)(iii), **Sch. para. 8(4)**

F63 S. 26(4F)(aa) inserted (13.6.2018) by The Welsh Ministers (Transfer of Functions) (Railways) Order 2018 (S.I. 2018/631), art. 1(2)(b)(iii), **Sch. para. 8(4)**

[[F64]26ZA No adequate tender for franchise received. E+W+S

(1) This section applies in the case of an invitation to tender under section 26 for the provision of services if—

(a) the appropriate franchising authority receives no tender in response to the invitation; or

(b) it receives a tender but considers that the services would be provided more economically and efficiently if they were provided otherwise than under a franchise agreement entered into in response to the tender.

(2) The appropriate franchising authority may —

(a) issue a new invitation to tender under section 26 for the provision of the services;

(b) decide to secure the provision of the services under a franchise agreement with a person who did not submit a tender; or

(c) decide not to seek to secure the provision of the services under a franchise agreement.

(3) Nothing in this section prevents the appropriate franchising authority, where it has decided not to seek to secure the provision of services under a franchise agreement, from subsequently making a decision to issue a new invitation to tender for the provision of those services.**]**

Textual Amendments

F64 S. 26ZA substituted (24.7.2005 for certain purposes and 16.10.2005 in so far as not already in force) for ss. 26A, 26B, 26C by Railways Act 2005 (c. 14), ss. 1, 60, **Sch. 1 para. 16**; S.I. 2005/1909, **art. 2**, Sch.; S.I. 2005/2812, **art. 2(1)**, Sch. 1

27 Transfer of franchise assets and shares. E+W+S

(1) It shall be the duty of the **[**[F67]responsible authority**]** before entering into a franchise agreement to satisfy **[**[F68]itself**]** that if the franchise agreement is entered into—

(a) the initial franchise assets (if any) for that franchise agreement will be vested in the person who is to be the franchise operator; and

(b) if the franchise agreement is to be one under which the franchisee undertakes to secure that a wholly owned subsidiary of his provides the franchised services, that the franchise operator will be a wholly owned subsidiary of the franchisee.

(2) After a franchise agreement has been entered into, it shall be the duty of the **[**[F67]responsible authority**]**, before any property, rights or liabilities are subsequently designated as franchise assets in accordance with the terms of, or by amendment to, the franchise agreement, to satisfy **[**[F68]itself**]** that, if the property, rights or liabilities in question are so designated, they will be vested in the franchise operator.

(3) Without the consent of the **[**[F67]responsible authority**]**, the franchise operator shall not—

(a) if and to the extent that the franchise assets are property or rights—

(i) transfer or agree to transfer, or create or agree to create any security over, any franchise assets or any interest in, or right over, any franchise assets; or

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(ii) create or extinguish, or agree to create or extinguish, any interest in, or right over, any franchise assets; and

(b) if and to the extent that the franchise assets are liabilities, shall not enter into any agreement under which any such liability is released or discharged, or transferred to some other person.

(4) Where the franchise agreement is one under which the franchisee undertakes to secure that a wholly owned subsidiary of his provides the franchised services, the franchisee shall not, without the consent of the **[**[F67]responsible authority**]**, take any action which would result in the franchise operator ceasing to be a wholly owned subsidiary of his.

(5) Any transaction which is entered into in contravention of subsection (3) or (4) above shall be void.

(6) In England and Wales, no execution or other legal process may be commenced or continued, and no distress may be levied **[**[F69]and no power to use the procedure in Schedule 12 to the Tribunals, Courts and Enforcement Act 2007 may be exercised**]**, against any property which is, or rights which are, franchise assets in the case of any franchise agreement.

(7) In Scotland, no diligence or other legal process may be carried out or continued against any property which is, or rights which are, franchise assets in the case of any franchise agreement.

(8) In any case where—

(a) there are to be initial franchise assets in relation to a franchise agreement,

(b) a franchise agreement is to be one which provides for subsequent designation of property, rights or liabilities as franchise assets, or

(c) property, rights or liabilities are to be designated as franchise assets by an amendment made to a franchise agreement,

the **[**[F70]responsible authority**]** shall ensure that the franchise agreement includes provision specifying, or providing for the determination of, amounts to be paid in respect of the property, rights and liabilities which, immediately before the end of the franchise period, constitute the franchise assets in relation to that franchise agreement if and to the extent that they are transferred by **[**[F71]a scheme under **[**[F72]section 12 of the Railways Act 2005**]]** at or after the end of that period.

(9) Without prejudice to the generality of the provisions that may be included in a franchise agreement with respect to the acquisition, provision, disposal or other transfer of property, rights or liabilities (whether franchise assets or not), the **[**[F70]responsible authority**]** may undertake in a franchise agreement to exercise **[**[F73]its**]** powers under **[**[F72]section 12 of the Railways Act 2005**]** to transfer franchise assets to **[**[F73]itself**]** or another in such circumstances as may be specified in the franchise agreement.

(10) The **[**[F70]responsible authority**]** shall ensure that every franchise agreement includes such provision (if any) as **[**[F74]it**]** may consider appropriate in the particular case for the purpose of securing—

(a) that the franchise assets are adequately maintained, protected and preserved; and

(b) that, at the end of the franchise period, possession of such of the franchise assets as may be specified for the purpose in the agreement, or by the Franchising Director in accordance with the agreement, is delivered up to the Franchising Director or such other person as may be so specified.

[[F75](10A) In this section the "responsible authority"—

(a) in relation to a Scottish franchise agreement, means the Scottish Ministers;

(b) in relation to a Welsh franchise agreement the franchised services under which consist of Wales-only services, means the Welsh Ministers; and

(c) in relation to any other franchise agreement, means the Secretary of State.**]**

(11) In this Part, "franchise assets", in relation to any franchise agreement, means—

(a) any property, rights or liabilities which are designated as franchise assets in the franchise agreement as originally made (in this section referred to as the "initial franchise assets"), and

(b) any property, rights or liabilities which, after the making of the franchise agreement, are designated as franchise assets in accordance with the terms of, or by an amendment made to, the franchise agreement,

but does not include any property, rights or liabilities which, in accordance with the terms of, or by an amendment made to, the franchise agreement, have for the time being ceased to be designated as franchise assets.

(12) No rights or liabilities under contracts of employment shall be designated as franchise assets.

(13) In this section "security" has the meaning given by section 248(b) of the [M1]Insolvency Act 1986.

[F76](14) . . . . . .

[F76](15) . . . . . .

Textual Amendments

F67 Words in s. 27(1)-(4) substituted (13.6.2018) by The Welsh Ministers (Transfer of Functions) (Railways) Order 2018 (S.I. 2018/631), art. 1(2)(b)(iii), **Sch. para. 9(2)**

F68 Words in s. 27(1)(2) substituted (1.2.2001) by 2000 c. 38, s. 215, **Sch. 16 para. 17(2)**; S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I** (subject to savings and transitional provisions in Sch. 2 Pt. II)(which S.I. was amended by S.I. 2001/115, **art. 2(2)**)

F69 Words in s. 27(6) inserted (6.4.2014) by Tribunals, Courts and Enforcement Act 2007 (c. 15), s. 148, **Sch. 13 para. 112** (with s. 89); S.I. 2014/768, art. 2(1)(b)

F70 Words in s. 27(8)-(10) substituted (13.6.2018) by The Welsh Ministers (Transfer of Functions) (Railways) Order 2018 (S.I. 2018/631), art. 1(2)(b)(iii), **Sch. para. 9(2)**

F71 Words in s. 27(8) substituted (1.2.2001) by 2000 c. 38, s. 252, **Sch. 27 para. 24(2)**; S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I** (subject to savings and transitional provisions in Sch. 2 Pt. II)

F72 Words in s. 27(8)(9) substituted (24.7.2005 for certain purposes and 16.10.2005 in so far as not already in force) by Railways Act 2005 (c. 14), ss. 1, 60, **Sch. 1 para. 17(2)**; S.I. 2005/1909, **art. 2**, Sch.; S.I. 2005/2812, **art. 2(1)**, Sch. 1

F73 Words in s. 27(8) substituted (1.2.2001) by 2000 c. 38, s. 215, **Sch. 16 para. 17(4)**; S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I** (subject to savings and transitional provisions in Sch. 2 Pt. II)(which S.I. was amended by S.I. 2001/115, **art. 2(2)**)

F74 Words in s. 27(10) substituted (1.2.2001) by 2000 c. 38, s. 215, **Sch. 16 para. 17(5)**; S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I** (subject to savings and transitional provisions in Sch. 2 Pt. II)(which S.I. was amended by S.I. 2001/115, **art. 2(2)**)

F75 S. 27(10A) inserted (13.6.2018) by The Welsh Ministers (Transfer of Functions) (Railways) Order 2018 (S.I. 2018/631), art. 1(2)(b)(iii), **Sch. para. 9(3)**

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F76 S. 27(14)(15) repealed (1.2.2001) by 2000 c. 38, s. 274, **Sch. 31 Pt. IV**; S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I** (subject to savings and transitional provisions in Sch. 2 Pt. II)

Marginal Citations

M1 1986 c. 45.

28 Fares and approved discount fare schemes. E+W+S

(1) A franchise agreement may include provision with respect to the fares to be charged for travel by means of the franchised services.

(2) Subject to the other provisions of this Act, if it appears to the **[**[F77]appropriate franchising authority**]** that the interests of persons who use, or who are likely to use, franchised services so require, **[**[F78]it**]** shall ensure that the franchise agreement in question contains any such provision as **[**[F78]it**]** may consider necessary for the purpose of securing that any fares, or any fares of a class or description, which are to be charged are, in **[**[F78]its**]** opinion, reasonable in all the circumstances of the case.

(3) Every franchise agreement shall include provision requiring the franchise operator—

(a) to participate in every approved discount fare scheme,

(b) to charge fares, in cases to which such a scheme applies, at rates which are not in excess of the levels or, as the case may be, the maximum levels set by the scheme, and

(c) otherwise to comply with the requirements of every such scheme,

if and to the extent that the franchised services are services, or services of a class or description, in relation to which the approved discount fare scheme in question applies.

(4) The discount fare schemes which are to be regarded **[**[F79], in relation to a franchise agreement,**]** for the purposes of this section as "approved" are those which are from time to time approved for the purposes of this section by the **[**[F80]appropriate franchising authority**]** .

(5) In this section—

"discount fare scheme" means any scheme for enabling persons who are young, elderly or disabled to travel by railway at discounted fares, subject to compliance with such conditions (if any) as may be imposed by or under the scheme;

"discounted fare" means a lower fare than the standard fare for the journey in question;

"scheme" includes any agreement or arrangements.

Textual Amendments

F77 Words in s. 28(2) substituted (24.7.2005 for certain purposes and 16.10.2005 in so far as not already in force) by Railways Act 2005 (c. 14), ss. 1, 60, **Sch. 1 para. 18(1)(3)**; S.I. 2005/1909, **art. 2**, Sch.; S.I. 2005/2812, **art. 2(1)**, Sch. 1

F78 Words in s. 28(2) substituted (1.2.2001) by 2000 c. 38, s. 215, **Sch. 16 para. 18(2)**; S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I** (subject to savings and transitional provisions in Sch. 2 Pt. II)(which S.I. was amended by S.I. 2001/115, **art. 2(2)**)

F79 Words in s. 28(4) inserted (24.7.2005 for certain purposes and 16.10.2005 in so far as not already in force) by Railways Act 2005 (c. 14), ss. 1, 60, **Sch. 1 para. 18(2)(a)(3)**; S.I. 2005/1909, **art 2**, Sch.; S.I. 2005/2812, **art. 2(1)**, Sch. 1

F80 Words in s. 28(4) substituted (24.7.2005 for certain purposes and otherwise prosp.) by Railways Act 2005 (c. 14), ss. 1, 60, **Sch. 1 para. 18(2)(b)(3)**; S.I. 2005/1909, **art. 2**, Sch.

29 Other terms and conditions of franchise agreements. E+W+S

(1) The **[**[F81]appropriate franchising authority**]** may enter into a franchise agreement on conditions requiring—

(a) the rendering to the Franchising Director by the franchisee or the franchise operator of payments of such amounts and at such intervals as may be specified in, or determined by or under, the franchise agreement; [F82]. . .

[F82](b) . . . . . .

(2) A franchise agreement may include provision requiring the franchisee—

(a) to operate any additional railway asset; or

(b) to secure the operation of any additional railway asset by the franchise operator or any other wholly owned subsidiary of the franchisee.

(3) A franchise agreement shall include provision specifying the franchise term and may include provision enabling that term to be extended by such further term as may be specified in the franchise agreement.

(4) Without prejudice to the generality of the provisions relating to property, rights and liabilities that may be included in a franchise agreement, a franchise agreement may include provision requiring the franchise operator—

(a) to acquire from such person as may be specified in the franchise agreement, and to use, such property or rights as may be so specified; or

(b) to undertake such liabilities as may be so specified.

(5) Subject to any requirements imposed by or under this Act, a franchise agreement may contain any such provisions as the **[**[F81]appropriate franchising authority**]** may think fit.

[F83](6) . . . . . .

[F83](7) . . . . . .

(8) In this Part, "additional railway asset" means any network, station or light maintenance depot, and any reference to an additional railway asset includes a reference to any part of an additional railway asset.

Textual Amendments

F81 Words in s. 29 substituted (24.7.2005 for certain purposes and 16.10.2005 in so far as not already in force) by Railways Act 2005 (c. 14), ss. 1, 60, **Sch. 1 para. 19**; S.I. 2005/1909, **art. 2**, Sch.; S.I. 2005/2812, **art. 2(1)**, Sch. 1

F82 S. 29(1)(b) and word "or" immediately preceding it repealed (1.2.2001) by 2000 c. 38, s. 274, **Sch. 31 Pt. IV**; S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I** (subject to savings and transitional provisions in Sch. 2 Pt. II)

F83 S. 29(6)(7) repealed (1.2.2001) by 2000 c. 38, **s. 274 Sch. 31 Pt. IV**; S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I** (subject to savings and transitional provisions in Sch. 2 Pt. II)

Changes to legislation: *Railways Act 1993, Cross Heading: Franchising of passenger services is up to date with all changes known to be in force on or before 02 August 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

Commencement Information

I3 S. 29 wholly in force at 1.4.1994; s. 29 not in force at Royal Assent see s. 154(2); s. 29(8) in force at 6.1.1994 by S.I. 1993/3237, **art. 2(2)**; s. 29 in force at 1.4.1994 insofar as not already in force by S.I. 1994/571, **art. 5**

[F84 30 Duty of Authority in absence of franchise. E+W+S

(1) The [F85 relevant franchising authority] shall provide, or secure the provision of, services for the carriage of passengers by railway where—

F86 (a) . . . . . .

(b) a franchise agreement in respect of the services is terminated or otherwise comes to an end but no further franchise agreement has been entered into in respect of the services F87 ....

(2) The duty in subsection (1) above in relation to any services ceases if the services [F88 begin to be provided again] under a franchise agreement.

(3) Subsection (1) above does not—

(a) require the [F85 relevant franchising authority] to provide or secure the provision of services if and to the extent that, in its opinion, adequate alternative railway passenger services are available;

[F89 (aa) require [F90 the Secretary of State or the Scottish Ministers] to provide or secure the provision of a Welsh service where it appears to [F91 the Secretary of State or the Scottish Ministers (as the case may be) that the Secretary of State or the Scottish Ministers] will not be receiving funds from [F92 the Welsh Ministers] that are reasonably equivalent to those provided by [F93 the Welsh Ministers] (whether directly to the previous franchisee or otherwise) in respect of the service provided by the previous franchisee;

(ab) require the Secretary of State to provide or secure the provision of a service within the area of a Passenger Transport Executive where it appears to him that he will not be receiving funds from the Executive that are reasonably equivalent to those provided by that Executive (whether directly to the previous franchisee or otherwise) in respect of the service provided by the previous franchisee;

(ac) require the Secretary of State to provide or secure the provision of a service that makes scheduled calls in Greater London where it appears to him that he will not be receiving funds from Transport for London that are reasonably equivalent to those that were provided by Transport for London (whether directly to the previous franchisee or otherwise) in respect of the service provided by the previous franchisee;]

(b) preclude it from [F94 making a proposal to which section 24 of the Railways Act 2005 (proposals to discontinue franchised or secured services) applies] in relation to any of the services, in which case its duty under this section to secure the provision of the services to which the [F95 proposal] relates will (subject to [F96 subsections (7) and (8) of that section) terminate on [F97 the date for the discontinuance of services specified in the proposal]; or]

(c) preclude it from ceasing to provide or secure the provision of any of the services in any case falling within any of paragraphs (a) to (d) of [F98 subsection (3)] of that section.

Changes to legislation: *Railways Act 1993, Cross Heading: Franchising of passenger services is up to date with all changes known to be in force on or before 02 August 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

[For the purposes of this section the Secretary of State**[**[F100], the Scottish Ministers and
[F99](3A) the Welsh Ministers**]** shall each have power—

(a) to provide or operate network services, station services or light maintenance services; or

(b) to store goods or consign them from a place to which they have been carried by rail;

and the Scottish Ministers shall have power to provide Scotland-only services and cross-border services**[**[F101], and the Welsh Ministers shall have power to provide Wales-only services and Welsh components of Welsh services.**]**.

(3B) In this section "relevant franchising authority" means the person who was the appropriate franchising authority in relation to the franchise agreement that has been terminated or otherwise come to an end.**]**

[In this section—

[F102](3C) "previous franchisee", in relation to a railway passenger service, means the franchisee in relation to the franchise agreement under which the service was previously provided; [F103]...

[F103]...

and references in this section to a Passenger Transport Executive and to a service within the area of a Passenger Transport Executive are to be construed as they are to be construed for the purposes of section 13 of that Act.**]]**

Textual Amendments

F84 S. 30 substituted (1.2.2001) by 2000 c. 38, **s. 212(5)** (with Sch. 28 para. 3); S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I** (subject to savings and transitional provisions in Sch. 2 Pt. II)

F85 Words in s. 30 substituted (24.7.2005 for certain purposes, 16.10.2005 in so far as not already in force) by Railways Act 2005 (c. 14), ss. 1, 60, Sch. 1 para. 20(1) (with Sch. 1 para. 20(5)); S.I. 2005/1909, art. 2, **Sch.**; S.I. 2005/2812, art. 2(1), **Sch. 1**

F86 S. 30(1)(a) repealed (24.7.2005) by Railways Act 2005 (c. 14), ss. 1, 60, **Sch. 1 para. 20(2)**, Sch. 13 Pt. 1 (with Sch. 1 para. 20(5)); S.I. 2005/1909, art. 2, **Sch.**

F87 Words in s. 30(1)(b) repealed (24.7.2005) by Railways Act 2005 (c. 14), **Sch. 13 Pt. 1**; S.I. 2005/1909, art. 2, **Sch.**

F88 Words in s. 30(2) substituted (24.7.2005) by Railways Act 2005 (c. 14), ss. 1, 60, **Sch. 1 para. 20(3)** (with Sch. 1 para. 20(5)); S.I. 2005/1909, art. 2, **Sch.**

F89 S. 30(3)(aa)-(ac) inserted (24.7.2005) by Railways Act 2005 (c. 14), **s. 18(1)**; S.I. 2005/1909 art. 2 Sch.

F90 Words in s. 30(3)(aa) substituted (14.10.2018 at 2.00 a.m.) by The Welsh Ministers (Transfer of Functions) (Railways) Order 2018 (S.I. 2018/631), art. 1(3), **Sch. para. 10(2)(a)**

F91 Words in s. 30(3)(aa) substituted (14.10.2018 at 2.00 a.m.) by The Welsh Ministers (Transfer of Functions) (Railways) Order 2018 (S.I. 2018/631), art. 1(3), **Sch. para. 10(2)(b)**

F92 Words in s. 30(3)(aa) substituted (13.6.2018) by The Welsh Ministers (Transfer of Functions) (Railways) Order 2018 (S.I. 2018/631), art. 1(2)(b)(iv), **Sch. para. 10(2)(c)**

F93 Words in s. 30(3)(aa) substituted (13.6.2018) by The Welsh Ministers (Transfer of Functions) (Railways) Order 2018 (S.I. 2018/631), art. 1(2)(b)(iv), **Sch. para. 10(2)(d)**

F94 Words in s. 30(3)(b) substituted (1.12.2006) by Railways Act 2005 (c. 14), **Sch. 11 para. 4(a)**; S.I. 2006/2911, art. 2, **Sch.**

F95 Word in s. 30(3)(b) substituted (26.3.2015 for specified purposes, 1.10.2015 in so far as not already in force) by Deregulation Act 2015 (c. 20), s. 115(2)(e), **Sch. 8 para. 10(2)(a)**; S.I. 2015/994, art. 11(o)

F96 Words in s. 30(3)(b) substituted (1.12.2006) by Railways Act 2005 (c. 14), **Sch. 11 para. 4(b)**; S.I. 2006/2911, art. 2, **Sch.**

Changes to legislation: *Railways Act 1993, Cross Heading: Franchising of passenger services is up to date with all changes known to be in force on or before 02 August 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

F97 Words in s. 30(3)(b) substituted (26.3.2015 for specified purposes, 1.10.2015 in so far as not already in force) by Deregulation Act 2015 (c. 20), s. 115(2)(e), **Sch. 8 para. 10(2)(b)**; S.I. 2015/994, art. 11(o)

F98 Words in s. 30(3)(c) substituted (26.3.2015 for specified purposes, 1.10.2015 in so far as not already in force) by Deregulation Act 2015 (c. 20), s. 115(2)(e), **Sch. 8 para. 10(3)**; S.I. 2015/994, art. 11(o)

F99 S. 30(3A)(3B) inserted (24.7.2005 for certain purposes, 16.10.2005 in so far as not already in force) by Railways Act 2005 (c. 14), ss. 1, 60, **Sch. 1 para. 20(4)** (with Sch. 1 para. 20(5)); S.I. 2005/1909, art. 2, **Sch.**; S.I. 2005/2812, art. 2(1), **Sch. 1**

F100 Words in s. 30(3A) substituted (14.10.2018 at 2.00 a.m.) by The Welsh Ministers (Transfer of Functions) (Railways) Order 2018 (S.I. 2018/631), art. 1(3), **Sch. para. 10(3)(a)**

F101 Words in s. 30(3A) inserted (14.10.2018 at 2.00 a.m.) by The Welsh Ministers (Transfer of Functions) (Railways) Order 2018 (S.I. 2018/631), art. 1(3), **Sch. para. 10(3)(b)**

F102 S. 30(3C) inserted (24.7.2005) by Railways Act 2005 (c. 14), **s. 18(2)**; S.I. 2005/1909 art. 2 Sch.

F103 Words in s. 30(3C) omitted (13.6.2018) by virtue of The Welsh Ministers (Transfer of Functions) (Railways) Order 2018 (S.I. 2018/631), art. 1(2)(b)(iv), **Sch. para. 10(4)**

31 Leases granted in pursuance of franchise agreements: no security of tenure. E+W+S

(1) In any case where—

(a) a franchise agreement makes provision for the franchisee, the franchise operator or a wholly owned subsidiary of the franchisee to enter into an agreement (“the contemplated agreement") with a person who has an interest in a network or a railway facility,

(b) the network or railway facility is to be used for or in connection with the provision of any of the franchised services, and

(c) the contemplated agreement creates a tenancy of any property which (whether in whole or in part) constitutes, or is comprised in, the network or railway facility,

neither Part II of the [M2]Landlord and Tenant Act 1954 (security of tenure of business premises) nor the [M3]Tenancy of Shops (Scotland) Act 1949 (security of tenure of shop premises in Scotland) shall apply to that tenancy.

(2) For the purposes of this section, a person shall be regarded as having an interest in a network or railway facility if he has an estate or interest in, or right over, any of the property which constitutes, or is comprised in, the network or railway facility.

(3) Any reference in this section to a network or a railway facility includes a reference to any part of a network or railway facility.

(4) In this section—

“agreement” includes a lease, underlease or sublease (as well as a tenancy agreement or an agreement for a lease, underlease or sublease);

“tenancy” has the same meaning as it has in Part II of the [M4]Landlord and Tenant Act 1954 or, in Scotland, as it has in the [M5]Tenancy of Shops (Scotland) Act 1949.

Marginal Citations

M2 1954 c. 56.

M3 1949 c. 25.

M4 1954 c. 56.

Changes to legislation: *Railways Act 1993, Cross Heading: Franchising of passenger services is up to date with all changes known to be in force on or before 02 August 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

M5 1949 c. 25.

Changes to legislation:
Railways Act 1993, Cross Heading: Franchising of passenger services is up to date with all changes known to be in force on or before 02 August 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations.
View outstanding changes

Changes and effects yet to be applied to the whole Act associated Parts and Chapters:
Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 13B(7) inserted by 2024 c. 13 Sch. 30 para. 18(5)
- s. 15C(5) inserted by 2024 c. 13 Sch. 30 para. 19(5)
- s. 16(2)(aa) inserted by S.I. 2019/93, Sch. 1 para. 6(4)(b) (as substituted) by S.I. 2019/1245 reg. 23 (This amendment not applied to legislation.gov.uk. The affecting statutory instrument has no legal effect. It was made under a procedure which meant that it ceased to have effect 28 days after signing unless it was debated and approved in Parliament within that time. It was not debated and approved within 28 days, so it has expired with no effect.)
- s. 67(11) inserted by 2024 c. 13 Sch. 29 para. 10
- s. 145(3)(w) inserted by 2024 c. 13 Sch. 30 para. 20(b)
- s. 145(3)(qu) omitted by 2024 c. 13 Sch. 30 para. 20(a)
- Sch. 4A para. 10A(7) inserted by 2024 c. 13 Sch. 30 para. 22(5)
- Sch. 4A para. 15(5) inserted by 2024 c. 13 Sch. 30 para. 23(5)