



# Railways Act 1993

## 1993 CHAPTER 43

### PART I

#### THE PROVISION OF RAILWAY SERVICES

##### *Licensing of operators of railway assets*

#### **6 Prohibition on unauthorised operators of railway assets.**

- (1) Any person who acts as the operator of a railway asset is guilty of an offence unless—
- he is authorised to be the operator of that railway asset by a licence; or
  - he is exempt, by virtue of section 7 below, from the requirement to be so authorised.

[<sup>F1</sup>(1A) This section does not apply to a person who acts as the operator of a railway asset to the extent that the asset is operated for the purpose of providing—

- a service for which a railway undertaking licence is required; or
- a Channel Tunnel service for which a railway undertaking licence or a European licence is required.]

[<sup>F2</sup>(1B) In this section—

“Channel Tunnel service” means—

- a railway passenger service between Calais-Fréthun station in France and Ashford International station in the United Kingdom;
- a service for the carriage of goods by railway between Fréthun freight yard in France and Dollands Moor freight yard in the United Kingdom; or
- a railway passenger service or service for the carriage of goods by railway which originates or terminates somewhere other than one of those stations or freight yards, but only while it passes between them;

“European licence” means a licence granted pursuant to any action taken by an EEA state for the purpose of implementing—

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- (a) Council [Directive 95/18/EC](#) of 19 June 1995 on the licensing of railway undertakings, as amended by [Directive 2001/13/EC](#) of 26 February 2001 and [Directive 2004/49/EC](#) of 29 April 2004, both of the European Parliament and of the Council; or
- (b) Chapter III of [Directive 2012/34/EU](#) of the European Parliament and of the Council of 21 November 2012 establishing a single European railway area (recast).]

(2) In this Part—

<sup>F3</sup>.....  
<sup>F4</sup>.....

“operator”, in relation to any railway asset, means the person having the management of that railway asset for the time being;

“railway asset” means—

- (a) any train being used on a network, whether for the purpose of carrying passengers or goods by railway or for any other purpose whatsoever;
- (b) any network;
- (c) any station; or
- (d) any light maintenance depot.

<sup>F5</sup>“railway undertaking licence” means a licence granted pursuant to the Railway (Licensing of Railway Undertakings) Regulations 2005;]

<sup>F6</sup>“relevant European licence” means a European licence which an operator relies on to provide a Channel Tunnel service.]

<sup>F7</sup>(2A).....

- (3) Any person who is guilty of an offence under this section shall be liable—
  - (a) on summary conviction, to a fine not exceeding the statutory maximum;
  - (b) on conviction on indictment, to a fine.
- (4) No proceedings shall be instituted in England and Wales in respect of an offence under this section except by or on behalf of the Secretary of State or <sup>F8</sup>[the Office of Rail and Road].

#### Textual Amendments

- F1** S. 6(1A) substituted (31.1.2022 at 11.00 p.m.) by [The Railway \(Licensing of Railway Undertakings\) \(Amendment\) Regulations 2021](#) (S.I. 2021/1105), regs. 1(3), **10(2)(a)**
- F2** S. 6(1B) inserted (31.1.2022 at 11.00 p.m.) by [The Railway \(Licensing of Railway Undertakings\) \(Amendment\) Regulations 2021](#) (S.I. 2021/1105), regs. 1(3), **10(2)(b)**
- F3** Words in s. 6(2) omitted (31.12.2020) by virtue of [The Railway \(Licensing of Railway Undertakings\) \(Amendment etc.\) \(EU Exit\) Regulations 2019](#) (S.I. 2019/700), regs. 1(2), **22(2)(b)(i)**; 2020 c. 1, Sch. 5 para. 1(1)
- F4** S. 6(2): definition of "international services" omitted (28.11.2005) by virtue of [The Railway \(Licensing of Railway Undertakings\) Regulations 2005](#) (S.I. 2005/3050), reg. 3, **Sch. 1 para. 3(3)(b)**
- F5** Words in s. 6(2) inserted (31.12.2020) by [The Railway \(Licensing of Railway Undertakings\) \(Amendment etc.\) \(EU Exit\) Regulations 2019](#) (S.I. 2019/700), regs. 1(2), **22(2)(b)(ii)**; 2020 c. 1, Sch. 5 para. 1(1)
- F6** Words in s. 6(2) inserted (31.1.2022 at 11.00 p.m.) by [The Railway \(Licensing of Railway Undertakings\) \(Amendment\) Regulations 2021](#) (S.I. 2021/1105), regs. 1(3), **10(3)**

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- F7** S. 6(2A) omitted (31.12.2020) by virtue of [The Railway \(Licensing of Railway Undertakings\) \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/700\)](#), regs. 1(2), **22(2)(c)**; 2020 c. 1, Sch. 5 para. 1(1)
- F8** Words in s. 6(4) 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(b)**

**Modifications etc. (not altering text)**

- C1** S. 6(1) excluded (18.12.1996) by [1996 c. 61, s. 16\(1\)](#)
- C2** S. 6(1) excluded (22.7.2008) by [Crossrail Act 2008 \(c. 18\), s. 24](#)
- C3** S. 6(1) excluded (23.2.2017) by [High Speed Rail \(London - West Midlands\) Act 2017 \(c. 7\), ss. 40, 70\(1\)](#)
- C4** S. 6(1) excluded (11.2.2021) by [High Speed Rail \(West Midlands - Crewe\) Act 2021 \(c. 2\), ss. 35, 64\(1\)](#)

**Commencement Information**

- II** S. 6 wholly in force at 1.4.1994; s. 6 not in force at Royal Assent see s. 154(2); s. 6(2) in force at 6.1.1994 by [S.I. 1993/3237, art. 2\(2\)](#), s. 6 in force at 1.4.1994 insofar as not already in force by [S.I. 1994/571, art. 5](#)

**7 Exemptions from section 6.**

- (1) The Secretary of State may, after consultation with [<sup>F9</sup>the Office of Rail and Road]<sup>F10</sup> ..., by order grant exemption from the requirement to be authorised by licence to be the operator of such railway assets, or of railway assets of such a class or description, as may be specified in the order, but subject to compliance with such conditions (if any) as may be so specified.
- (2) A licence exemption under subsection (1) above may be granted either—
- (a) to persons of a particular class or description; or
  - (b) to a particular person;
- and a licence exemption granted to persons of a particular class or description shall be published in such manner as the Secretary of State considers appropriate for bringing it to the attention of persons of that class or description.
- (3) If any person makes an application under this subsection to [<sup>F9</sup>the Office of Rail and Road] for the grant of an exemption from the requirement to be authorised by licence to be the operator of such railway assets, or of railway assets of such a class or description, as he may specify in the application, [<sup>F9</sup>the Office of Rail and Road], after consultation with the Secretary of State <sup>F10</sup> ... —
- (a) may either grant or refuse the exemption, whether wholly or to such extent as [<sup>F11</sup>it] may specify in the exemption; and
  - (b) if and to the extent that [<sup>F11</sup>it] grants [<sup>F12</sup>the exemption] , may do so subject to compliance with such conditions (if any) as [<sup>F11</sup>it] may so specify.
- (4) Before granting a licence exemption under subsection (3) above, [<sup>F9</sup>the Office of Rail and Road] shall give notice—
- (a) stating that [<sup>F11</sup>it] proposes to grant the licence exemption,
  - (b) stating the reasons why [<sup>F11</sup>it] proposes to grant the licence 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 licence exemption may be made,

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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 [<sup>F9</sup>the Office of Rail and Road] considers appropriate for bringing it to the attention of persons likely to be affected by the grant of the licence exemption.

<sup>F13</sup>(5A) .....

- (6) If any condition (the “broken condition”) of a licence exemption is not complied with—
  - (a) the Secretary of State, in the case of a licence exemption under subsection (1) above, or
  - (b) [<sup>F9</sup>the Office of Rail and Road], in the case of a licence exemption under subsection (3) above,

may give to any relevant person a direction declaring that the licence 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.

<sup>F13</sup>(6A) .....

- (7) For the purposes of [<sup>F14</sup>this section]—
  - “condition”, in relation to a licence exemption, means any condition subject to compliance with which the licence exemption was granted;
  - “relevant person”, in the case of any licence exemption, means a person who has the benefit of the licence 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) is the operator of any of the railway assets in relation to which the broken condition is not complied with.

- (8) Where the Secretary of State or [<sup>F9</sup>the Office of Rail and Road] gives a direction under subsection (6) above to any person, he [<sup>F15</sup>or it] may also direct that person to refrain from being the operator of any railway assets or of such railway assets, or railway assets of such a class or description, as may be specified in the direction by virtue of this subsection.

<sup>F13</sup>(8A) .....

- (9) Subject to [<sup>F16</sup>subsection (6)] above, a licence exemption, unless previously revoked in accordance with any term contained in the licence exemption, shall continue in force for such period as may be specified in, or determined by or under, the licence exemption.

<sup>F17</sup>(10) .....

- (11) Any application for a licence exemption under subsection (3) above must be made in writing; and where any such application is made, [<sup>F9</sup>the Office of Rail and Road] may require the applicant to furnish him with such information as [<sup>F9</sup>the Office of Rail and Road] may consider necessary to enable [<sup>F11</sup>it] to decide whether to grant or refuse the licence exemption.
- (12) Licence exemptions may make different provision, or be granted subject to compliance with different conditions, for different cases.

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- (13) In this Part “licence exemption” means an exemption, granted under any provision of this section in respect of a railway asset or in respect of railway assets of any class or description, from the requirement to be authorised by licence to be the operator of that railway asset or, as the case may be, railway assets of that class or description.

#### Textual Amendments

- F9** Words in s. 7 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(c)**
- F10** Words in s. 7(1)(3) repealed (24.7.2005) by [Railways Act 2005 \(c. 14\)](#), ss. 1, 59, 60, [Sch. 1 para. 1\(1\)\(a\)](#), **Sch. 13 Pt. 1** (with s. 14(4)(5), [Sch. 11 para. 11\(2\)](#)); S.I. 2005/1909, **art. 2**, [Sch.](#)
- F11** Words in s. 7 substituted (5.7.2004) by [Railways and Transport Safety Act 2003 \(c. 20\)](#), 22, 16, 120, {[Sch. 2 para. 3\(b\) Table](#)}; S.I. 2004/827, **art. 4(g)**
- F12** Words in s. 7(3)(b) substituted (5.7.2004) by [Railways and Transport Safety Act 2003 \(c. 20\)](#), ss. 16, 120, **Sch. 2 para. 4(a)**; S.I. 2004/827, **art. 4(g)**
- F13** S. 7(5A)(6A)(8A) repealed (24.7.2005) by [Railways Act 2005 \(c. 14\)](#), ss. 1, 59, 60, [Sch. 1 para. 1\(1\)\(b\)](#), **Sch. 13 Pt. 1** (with s. 14(4)(5), [Sch. 11 para. 11\(2\)](#)); S.I. 2005/1909, **art. 2**, [Sch.](#)
- F14** Words in s. 7(7) substituted (1.2.2001) by 2000 c. 38, s. 216, **Sch. 17 para. 2(6)** (with [Sch. 28 paras. 2\(5\), 17](#)); S.I. 2001/57, **art. 3(1)**, **Sch. 2 Pt. 1** (subject to savings and transitional provisions in [Sch. 2 Pt. II](#))
- F15** Words in s. 7(8) inserted (5.7.2004) by [Railways and Transport Safety Act 2003 \(c. 20\)](#), ss. 16, 120, **Sch. 2 para. 4(b)**; S.I. 2004/827, **art. 4(g)**
- F16** S. 7(9) substituted (24.7.2005) by [Railways Act 2005 \(c. 14\)](#), ss. 1, 60, **Sch. 1 para. 1(2)**; S.I. 2005/1909, **art. 2**, [Sch.](#)
- F17** S. 7(10) repealed (15.1.2001) by 2000 c. 38, s. 274, **Sch. 31 Pt. IV** and omitted (1.2.2001) by virtue of 2000 c. 38, s. 252, **Sch. 27 para. 18**; S.I. 2000/3376, **art. 2**; S.I. 2001/57, **art. 3**, **Sch. 2** (subject to savings and transitional provisions in [Sch. 2 Pt. II](#))

#### Modifications etc. (not altering text)

- C5** S. 7(1) restricted (*prosp.*) by 1999 c. 29, ss. 199(1)(a)(2)(3), 425(2) (with **Sch. 12 para. 9(1)**)

## 7A Consumer protection conditions.

<sup>F18</sup> .....

#### Textual Amendments

- F18** S. 7A repealed (24.7.2005) by [Railways Act 2005 \(c. 14\)](#), ss. 1, 59, 60, [Sch. 1 para. 2](#), **Sch. 13 Pt. 1** (with s. 14(4)(5), [Sch. 11 para. 11\(2\)](#)); S.I. 2005/1909, **art. 2**, [Sch.](#)

## 8 Licences.

- (1) Subject to the following provisions of this section—
- (a) the Secretary of State after consultation with [<sup>F19</sup>the Office of Rail and Road]<sup>F20</sup> . . . , or
- (b) [<sup>F19</sup>the Office of Rail and Road] with the consent<sup>F21</sup>, or in accordance with a general authority, of the Secretary of State<sup>F20</sup> . . . ,]

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may grant to any person a licence authorising the person to be the operator of such railway assets, or of railway assets of such a class or description, as may be specified in the licence.

- (2) Any general authority given to [F19the Office of Rail and Road] under subsection (1) (b) above

[F22(a) F23 . . . . .

- (b) may include a requirement for [F19the Office of Rail and Road] either to consult the Secretary of State, or a requirement to obtain his approval before granting a licence;

but a failure to comply with such a requirement shall not affect the validity of the licence.]

- (3) Any application for a licence—

- (a) shall be made in the prescribed manner;
- (b) shall be accompanied by such fee (if any) as may be prescribed in the case of a licence of the description in question; and
- (c) shall, if the Secretary of State so requires, be published by the applicant in the prescribed manner and within such period as may be notified to the applicant by the Secretary of State;

and, on any such application, the Secretary of State or, as the case may be, [F19the Office of Rail and Road] may either grant or refuse the licence.

- (4) Before granting a licence, the Secretary of State or [F19the Office of Rail and Road] shall give notice—

- (a) stating that he [F24or it] proposes to grant the licence,
- (b) stating the reasons why he [F24or it] proposes to grant the licence, 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 licence 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 Secretary of State or [F19the Office of Rail and Road] considers appropriate for bringing it to the attention of persons likely to be affected by the grant of the licence.

- (6) A licence shall be in writing and, unless previously revoked or surrendered in accordance with any terms contained in the licence, shall continue in force for such period as may be specified in or determined by or under the licence; and a licence shall not be capable of being surrendered [F25unless [F19the Office of Rail and Road][F26consents] to the surrender] if it is—

- (a) a passenger licence;
- (b) a network licence;
- (c) a station licence; or
- (d) a light maintenance depot licence.

- (7) As soon as practicable after the granting of a licence, the grantor shall send a copy—

- (a) in the case of a licence granted by the Secretary of State, to [F19the Office of Rail and Road]<sup>F27</sup>. . . ; or

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- (b) in the case of a licence granted by the [<sup>F19</sup>the Office of Rail and Road], [<sup>F28</sup>to the [<sup>F29</sup>Secretary of State]]<sup>F27</sup> . . . .
- (8) Any power to make regulations by virtue of subsection (3) above shall only be exercisable by the Secretary of State after consultation with [<sup>F19</sup>the Office of Rail and Road]<sup>F30</sup> . . . .
- (9) Different fees may be prescribed under subsection (3) above in respect of licences authorising a person to be the operator of railway assets of different classes or descriptions.
- <sup>F31</sup>(10) . . . . .
- (11) Any sums received by the Secretary of State or [<sup>F19</sup>the Office of Rail and Road] under this section shall be paid into the Consolidated Fund.

#### Textual Amendments

- F19** Words in s. 8 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(d)**
- F20** Words in s. 8(1) repealed (24.7.2005) by [Railways Act 2005 \(c. 14\)](#), ss. 1, 59, 60, Sch. 1 para. 3(1)(a), **Sch. 13 Pt. 1** (with s. 14(4)(5), Sch. 11 para. 11(2)); S.I. 2005/1909, **art. 2**, Sch.
- F21** Words in s. 8(1)(b) substituted (1.2.2001) by 2000 c. 38, s. 216, **Sch. 17 para. 4(2)(b)** (with Sch. 28 paras. 2(5), 17); S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I** (subject to savings and transitional provisions in Sch. 2 Pt. II)
- F22** S. 8(2)(a)(b) and words substituted for words (1.2.2001) by 2000 c. 38, s. 216, **Sch. 17 para. 4(3)** (with Sch. 28 paras. 2(5), 17); S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I** (subject to savings and transitional provisions in Sch. 2 Pt. II)
- F23** S. 8(2)(a) repealed (24.7.2005) by [Railways Act 2005 \(c. 14\)](#), ss. 1, 59, 60, Sch. 1 para. 3(2), **Sch. 13 Pt. 1** (with s. 14(4)(5), Sch. 11 para. 11); S.I. 2005/1909, **art. 2**, Sch.
- F24** Words in s. 8(4)(a)(b) inserted (5.7.2004) by [Railways and Transport Safety Act 2003 \(c. 20\)](#), ss. 16, 120, **Sch. 2 para. 5**; S.I. 2004/827, **art. 4(g)**
- F25** Words in s. 8(6) substituted (1.2.2001) by 2000 c. 38, s. 216, **Sch. 17 para. 4(4)** (with Sch. 28 paras. 2(5), 17); S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I** (subject to savings and transitional provisions in Sch. 2 Pt. II)
- F26** Word in s. 8(6) substituted (24.7.2005) by [Railways Act 2005 \(c. 14\)](#), ss. 1, 60, **Sch. 1 para. 3(3)**; S.I. 2005/1909, **art. 2**, Sch.
- F27** Words in s. 8(7)(a) repealed (24.7.2005 for certain purposes and 1.4.2006 otherwise) by [Railways Act 2005 \(c. 14\)](#), ss. 1, 59, 60, Sch. 1 para. 4(a), **Sch. 13 Pt. 1** (with s. 14(4)(5), Sch. 11 para. 11(2)); S.I. 2005/1909, **art. 2**, Sch.; S.I. 2006/266, **art. 2(2)**, Sch.
- F28** Words in s. 8(7) inserted (1.2.2001) by 2000 c. 38, s. 216, **Sch. 17 para. 4(5)** (with Sch. 28 paras. 2(5), 17); S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I** (subject to savings and transitional provisions in Sch. 2 Pt. II)
- F29** Words in s. 8(7)(b) substituted (24.7.2005) by [Railways Act 2005 \(c. 14\)](#), ss. 1, 60, **Sch. 1 para. 3(4)(b)**; S.I. 2005/1909, **art. 2**, Sch.
- F30** Words in s. 8(8) repealed (24.7.2005) by [Railways Act 2005 \(c. 14\)](#), ss. 1, 59, 60, Sch. 1 para. 3(5), **Sch. 13** (with s. 14(4)(5), Sch. 11 para. 11(2)); S.I. 2005/1909, **art. 2**, Sch.
- F31** S. 8(10) 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)

#### Modifications etc. (not altering text)

- C6** S. 8 restricted (18.12.1996) by [1996 c. 61](#), s. 16(3)

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## 9 Conditions of licences: general.

(1) A licence may include—

- (a) such conditions (whether or not relating to the licence holder's being the operator of railway assets under the authorisation of the licence) as appear to the grantor to be requisite or expedient having regard to the duties imposed by section 4 above; and
- (b) conditions requiring the rendering to—
  - (i) the Secretary of State,
  - (ii) [<sup>F32</sup>the Office of Rail and Road], or
  - (iii) any other person, or any other person of a class or description, specified in the licence, except a Minister of the Crown or Government department,

of a payment on the grant of the licence, or payments during the currency of the licence, or both, of such amount or amounts as may be determined by or under the licence.

(2) Conditions included in a licence by virtue of subsection (1)(a) above—

- (a) may require the licence holder to enter into any agreement with any person for such purposes as may be specified in the conditions; and
- (b) may include provision for determining the terms on which such agreements are to be entered into.

(3) Conditions included in a licence by virtue of subsection (1)(a) above may require the licence holder—

- (a) to comply with any requirements from time to time imposed by a qualified person with respect to such matters as are specified in the licence or are of a description so specified;
- (b) except in so far as a qualified person consents to his doing or not doing them, not to do or to do such things as are specified in the licence or are of a description so specified;
- (c) to refer for determination by a qualified person such questions arising under the licence as are specified in the licence or are of a description so specified;
- (d) to refer for approval by a qualified person such things falling to be done under the licence as are specified in the licence or are of a description so specified;
- (e) to furnish to a qualified person such documents or other information as he may require for the purpose of exercising any functions conferred or imposed on him under or by virtue of the licence;
- (f) to furnish to the Secretary of State or [<sup>F32</sup>the Office of Rail and Road] such documents or other information as he [<sup>F33</sup>or it] may require for the purpose of exercising the functions assigned or transferred to him [<sup>F33</sup>or it] under or by virtue of this Part [<sup>F34</sup>or Part 4 of the Railways Act 2005].

[<sup>F35</sup>(3A) Conditions included in a licence by virtue of subsection (1)(a) above may include provision about any matter which is dealt with (whether in the same or a different manner) by an access agreement.]

(4) Conditions included in a licence may contain provision for the conditions to cease to have effect or be modified at such times, in such manner and in such circumstances as may be specified in or determined by or under the conditions; and any provision included by virtue of this subsection in a licence shall have effect in addition to the



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provision made by this Part with respect to the modification of the conditions of a licence.

- (5) Subsections (2) to (4) above are without prejudice to the generality of subsection (1) (a) above.
- (6) Any reference in subsection (3) above to a “qualified person” is a reference to—
- (a) a person specified in the licence in question for the purpose in question, or
  - (b) a person of a description so specified,
- and includes a reference to a person nominated for that purpose by such a person pursuant to the licence.
- (7) Any sums received by the Secretary of State or [<sup>F32</sup>the Office of Rail and Road] in consequence of the provisions of any condition of a licence shall be paid into the Consolidated Fund.

#### Textual Amendments

- F32** Words in s. 9 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(e)**
- F33** Words in s. 9 inserted (5.7.2004) by [Railways and Transport Safety Act 2003 \(c. 20\)](#), ss. 16, 120, **Sch. 2 para. 6**; [S.I. 2004/827](#), **art. 4(g)**
- F34** Words in s. 9(3)(f) inserted (1.12.2006) by [Railways Act 2005 \(c. 14\)](#), ss. 54, 60, **Sch. 11 para. 2**; [S.I. 2006/2911](#), **art. 2**, **Sch.** (subject to the transitional and saving provisions in arts. 3-7)
- F35** S. 9(3A) inserted (1.2.2001) by [2000 c. 38](#), s. 252, **Sch. 27 para. 19**; [S.I. 2001/57](#), art. 3(1), **Sch. 2 Pt. I** (subject to savings and transitional provisions in [Sch. 2 Pt. II](#))

## 10 Conditions of licences: activities carried on by virtue of a licence exemption.

- (1) If and so long as a person is a licence exempt operator—
- (a) there shall not be included in any licence granted to him any condition which relates to his licence exempt activities, except to the extent permitted by virtue of subsection (2) below; and
  - (b) any such condition which is included in a licence which has been granted to him shall, except to that extent, be of no effect so far as so relating.
- (2) A condition which relates to both—
- (a) a licensed activity carried on by a person (“the licensee”), and
  - (b) a licence exempt activity carried on by him,
- may be included in a licence, but only if and to the extent that, in the opinion of the person granting the licence, the condition must, in consequence of the licensee’s carrying on of a mixed activity, necessarily have effect in relation to the whole, or some part, of so much of the mixed activity as consists of the licence exempt activity if the condition is to have full effect in relation to so much of the mixed activity as consists of the licensed activity.
- (3) There shall not be included in a licence any condition relating to the fares that may be charged in respect of train journeys involving licence exempt travel, other than train journeys which also involve—
- (a) licensed travel; and
  - (b) at least two consecutive scheduled calls at stations during any one continuous spell of licensed operation.

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- (4) For the purposes of subsection (3) above and this subsection—

<sup>F36</sup> .....

“licence exempt travel” means travel by means of a train whose operator is, by virtue of a licence exemption, exempt from the requirement to be authorised by licence to be the operator of that train for the whole, or for some part, of the train journey in question;

“licensed travel” means travel by means of a train whose operator is authorised by licence to be the operator of that train for some part of the train journey in question;

“spell of licensed operation”, in the case of any train journey, means any part of the journey throughout which the operator of the train in question lawfully acts as such by virtue only of holding one or more licences;

“train journey” means a journey between any two stations which is scheduled to be made by means of one train (irrespective of where the train in question begins or ends its journey).

- (5) Subsection (3) above has effect notwithstanding anything in subsection (1) or (2) above; and section 9 above is subject to the provisions of this section.

- (6) In this section—

“licence exempt activity” means any activity which a person carries on in his capacity as a licence exempt operator;

“licence exempt operator” means an operator of railway assets, or railway assets of a class or description, who is, by virtue of a licence exemption, exempt from the requirement to be authorised by licence to be the operator of those railway assets or of railway assets of that class or description;

“licensed activity” means any activity which a person carries on in his capacity as a licence holder;

“mixed activity” means any activity which is carried on by a person who is both a licence holder and a licence exempt operator and which is carried on by him in part as a licensed activity and in part as a licence exempt activity.

#### **Textual Amendments**

**F36** S. 10(4): definition of “call” repealed (24.7.2005) by [Railways Act 2005 \(c. 14\)](#), ss. 59, 60, [Sch. 13 Pt. 1](#) (with s. 14(4)(5), [Sch. 11 para. 11\(2\)](#)); S.I. 2005/1909, [art. 2](#), [Sch.](#)

## **11 Assignment of licences.**

- (1) A licence shall be capable of being assigned, but only if it includes a condition authorising assignment.

- (2) A licence shall not be capable of being assigned except with the consent of—  
 [ <sup>F37</sup>(a) the Secretary of State, if he is specified for the purpose in the licence; or  
 (b) [ <sup>F38</sup>the Office of Rail and Road] <sup>F39</sup>. . . , in any other case.]

<sup>F40</sup>(3) .....

- (4) Any consent under subsection (2) above may be given subject to compliance with such conditions as [ <sup>F41</sup>are imposed by the person <sup>F42</sup>. . . giving the consent], which may

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- include conditions modifying, or requiring or otherwise providing for the making of modifications to, the conditions of the licence.
- (5) A licence may include conditions which must be complied with before the licence can be assigned.
- (6) An assignment, or purported assignment, of a licence shall be void—
- (a) if the licence is not capable of assignment;
  - (b) if the assignment, or purported assignment, is in breach of a condition of the licence; or
  - (c) if there has, before the assignment or purported assignment, been a contravention of a condition subject to compliance with which the consent required by subsection (2) above is given.
- (7) A licence shall not be capable of being assigned under or by virtue of any other provision of this Act, other than paragraph 4 of Schedule 7 to this Act.
- (8) In this section “assignment” includes any form of transfer and cognate expressions shall be construed accordingly.
- (9) Any reference in this section to “assignment” shall be construed in Scotland as a reference to assignation.

#### Textual Amendments

- F37** S. 11(2)(a)(b) substituted for words (1.2.2001) by 2000 c. 38, s. 216, **Sch. 17 para. 5(2)** (with Sch. 28 paras. 2(5), 17); S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I** (subject to savings and transitional provisions in Sch. 2 Pt. II)
- F38** Words in s. 11(2)(b) substituted (16.10.2015) by The Office of Rail Regulation (Change of Name) Regulations 2015 (S.I. 2015/1682), **Sch. para. 1(f)**
- F39** Words in s. 11(2)(b) repealed (24.7.2005) by Railways Act 2005 (c. 14), ss. 1, 59, 60, Sch. 1 para. 4(a), **Sch. 13 Pt. I** (with s. 14(4)(5), Sch. 11 para. 11(2)); S.I. 2005/1909 {art. 2}, Sch.
- F40** S. 11(3) repealed (1.2.2001) by 2000 c. 38, ss. 216, 274, Sch. 17 para. 5(3), **Sch. 31 Pt. IV** (with Sch. 28 paras. 2(5), 17); S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I** (subject to savings and transitional provisions in Sch. 2 Pt. II)
- F41** Words in s. 11(4) substituted (1.2.2001) by 2000 c. 38, s. 216, **Sch. 17 para. 5(4)** (with Sch. 28 paras. 2(5), 17); S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I** (subject to savings and transitional provisions in Sch. 2 Pt. II)
- F42** Words in s. 11(4) repealed (24.7.2005) by Railways Act 2005 (c. 14), ss. 1, 59, 60, Sch. 1 para. 4(b), **Sch. 13 Pt. I** (with s. 14(4)(5), Sch. 11 para. 11(2)); S.I. 2005/1909 {art. 2}, Sch.

**Changes to legislation:**

There are currently no known outstanding effects for the Railways Act 1993, Cross Heading:  
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