



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—
 - (a) he is authorised to be the operator of that railway asset by a licence; or
 - (b) he is exempt, by virtue of section 7 below, from the requirement to be so authorised.
- (2) In this Part—

“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.
- (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 the Regulator.

7 Exemptions from section 6

- (1) The Secretary of State may, after consultation with the Regulator, 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 the Regulator 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, the Regulator, after consultation with the Secretary of State—
 - (a) may either grant or refuse the exemption, whether wholly or to such extent as he may specify in the exemption; and
 - (b) if and to the extent that he grants it, may do so subject to compliance with such conditions (if any) as he may so specify.
- (4) Before granting a licence exemption under subsection (3) above, the Regulator shall give notice—
 - (a) stating that he proposes to grant the licence exemption,
 - (b) stating the reasons why he 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,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 Regulator considers appropriate for bringing it to the attention of persons likely to be affected by the grant of the licence exemption.
- (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) the Regulator, 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.
- (7) For the purposes of subsection (6) above—

“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—

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- (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 the Regulator gives a direction under subsection (6) above to any person, he 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.
- (9) Subject to 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.
- (10) A licence exemption may be granted under subsection (1) above only if—
 - (a) the licence exemption is to come into force on the day on which section 6(1) above comes into force; or
 - (b) the licence exemption is to be granted on or before that day but is not to come into force until after that day;and a licence exemption may be granted under subsection (3) above only if the licence exemption is not to come into force until after that day.
- (11) Any application for a licence exemption under subsection (3) above must be made in writing; and where any such application is made, the Regulator may require the applicant to furnish him with such information as the Regulator may consider necessary to enable him 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.
- (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.

8 Licences

- (1) Subject to the following provisions of this section—
 - (a) the Secretary of State after consultation with the Regulator, or
 - (b) the Regulator with the consent of, or in accordance with a general authority given by, the Secretary of State,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 the Regulator under subsection (1)(b) above may include a requirement for the Regulator to consult with, or obtain the approval of, the Secretary of State before granting a licence.
- (3) Any application for a licence—
 - (a) shall be made in the prescribed manner;

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- (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, the Regulator may either grant or refuse the licence.

- (4) Before granting a licence, the Secretary of State or the Regulator shall give notice—
- (a) stating that he proposes to grant the licence,
 - (b) stating the reasons why he 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 the Regulator 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 without the consent of the Regulator 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 the Regulator and to the Health and Safety Executive; or
 - (b) in the case of a licence granted by the Regulator, to the Health and Safety Executive.

- (8) Any power to make regulations by virtue of subsection (3) above shall only be exercisable by the Secretary of State after consultation with the Regulator and the Franchising Director.

- (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.

- (10) None of the following, that is to say—
- (a) the requirement to consult imposed by subsection (1) above,
 - (b) the requirements of paragraphs (a) to (c) of subsection (3) above, and
 - (c) subsections (4) and (5) above,

shall apply to applications for, or the grant of, any licences which, having regard to the provisions of section 6 above, need to be granted before the coming into force of that section.

- (11) Any sums received by the Secretary of State or the Regulator under this section shall be paid into the Consolidated Fund.

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) the Regulator, 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 the Regulator such documents or other information as he may require for the purpose of exercising the functions assigned or transferred to him under or by virtue of this Part.
- (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 provision made by this Part with respect to the modification of the conditions of a licence.

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- (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 the Regulator in consequence of the provisions of any condition of a licence shall be paid into the Consolidated Fund.

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.
- (4) For the purposes of subsection (3) above and this subsection—
 - “call” means any stop at a station for the purpose of allowing passengers to board or leave the train (including the stops at the stations at the beginning and end of the train journey in question);
 - “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;

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“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.

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 that one of the relevant authorities who is specified for the purpose in the licence.

(3) The “relevant authorities” for the purposes of this section are—

- (a) the Secretary of State; and
- (b) the Regulator.

(4) Any consent under subsection (2) above may be given subject to compliance with such conditions as the person giving the consent thinks fit to impose, which may 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.

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- (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.