



# Railways Act 1993

## 1993 CHAPTER 43

### PART III

#### MISCELLANEOUS, GENERAL AND SUPPLEMENTAL PROVISIONS

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

**C1** Pt. III (ss. 117-154) excluded (retrospective to 5.11.1993) by 1994 c. 9, s. 252, Sch. 24 para. 4(1)

*Safety, emergencies, security etc.*

#### **117 Safety of railways and other guided transport systems.**

- (1) Part I of the <sup>M1</sup>Health and Safety at Work etc. Act 1974 ("the 1974 Act") shall have effect as if the provisions mentioned in subsection (4) below (which relate to the proper construction and safe operation of certain transport systems, and of the vehicles used on those systems, and the protection of railway employees or the general public from personal injury and other risks arising therefrom)—
  - (a) were existing statutory provisions, within the meaning of that Part; and
  - (b) in the case of the enactments mentioned in paragraphs (a) to (m) of that subsection, were specified in the third column of Schedule 1 to that Act.
- (2) If to any extent they would not do so apart from this subsection, the general purposes of Part I of the 1974 Act shall include—
  - (a) securing the proper construction and safe operation of transport systems to which this section applies, and of any locomotives, rolling stock or other vehicles used, or to be used, on those systems; and
  - (b) protecting the public (whether passengers or not) from personal injury and other risks arising from the construction and operation of transport systems to which this section applies.
- (3) Without prejudice to the generality of subsection (1) of section 15 of the 1974 Act (health and safety regulations), regulations under that section may—

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- (a) repeal or modify any of the provisions mentioned in subsection (4) below; and
  - (b) make any provision which, but for any such repeal or modification, could be made by regulations or orders made under any enactment there mentioned.
- (4) The provisions referred to in subsections (1) and (3) above are—
- (a) the <sup>M2</sup>Highway (Railway Crossings) Act 1839;
  - (b) sections 9 and 10 of the <sup>M3</sup>Railway Regulation Act 1842;
  - (c) section 22 of the <sup>M4</sup>Regulation of Railways Act 1868;
  - (d) the <sup>M5</sup>Regulation of Railways Act 1871;
  - (e) sections 1 and 4 of the <sup>M6</sup>Regulation of Railways Act 1889;
  - (f) the <sup>M7</sup>Railway Employment (Prevention of Accidents) Act 1900;
  - (g) section 42 of the <sup>M8</sup>Road and Rail Traffic Act 1933;
  - (h) section 40 of the <sup>M9</sup>British Transport Commission Act 1954;
  - (j) section 66 of the <sup>M10</sup>British Transport Commission Act 1957;
  - (k) sections 124 and 125 of the <sup>M11</sup>Transport Act 1968;
  - (l) the <sup>M12</sup>Level Crossings Act 1983;
  - (m) sections 41 to 45 of the <sup>M13</sup>Transport and Works Act 1992;
  - (n) any regulations made under section 2 of the <sup>M14</sup>European Communities Act 1972 for the purpose of implementing the Council 91/440/EEC. Directive of 29th July 1991 on the development of the Community’s railways, so far as the regulations are made for safety purposes.
- (5) In consequence of subsection (1) above and the resulting application of sections 38 and 50 of the 1974 Act (consent to prosecutions, and procedural requirements for making regulations)—
- (a) in section 57 of the <sup>M15</sup>Transport and Works Act 1992 (duty to consult before making regulations under, among other provisions, section 38(2), 41 or 43 of that Act) for the words “38(2), 41 or 43” there shall be substituted the words “ or 38(2) ”; and
  - (b) in section 58 of that Act (which requires the consent of the Secretary of State or the Director of Public Prosecutions to a prosecution for an offence under Part II of that Act) after the words “offence under this Part” there shall be inserted the words “ , other than an offence under section 41 or 43 above, ”.
- (6) This section applies to the following transport systems, that is to say—
- (a) any railway, tramway or trolley vehicle system; or
  - (b) any transport system using any other mode of guided transport.
- (7) The definitions of “guided transport”, “railway”, “tramway”, “trolley vehicle system” and “vehicle” in section 67(1) of the <sup>M16</sup>Transport and Works Act 1992 shall have effect for the purposes of this section as they have effect for the purposes of that Act, but disregarding for the purposes of this section paragraph (b) of the definition of “railway” (which includes a condition as to the minimum gauge of the track).

#### **Marginal Citations**

- M1** 1974 c. 37.
- M2** 1839 c. 45.
- M3** 1842 c. 55.
- M4** 1868 c. 119.
- M5** 1871 c. 78.

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<b>M6</b>	1889 c. 57.
<b>M7</b>	1900 c. 27.
<b>M8</b>	1933 c. 53.
<b>M9</b>	1954 c. lv.
<b>M10</b>	1957 c. xxxiii.
<b>M11</b>	1968 c. 73.
<b>M12</b>	1983 c. 16.
<b>M13</b>	1992 c. 42.
<b>M14</b>	1972 c. 68.
<b>M15</b>	1992 c. 42.
<b>M16</b>	1992 c. 42.

## **118 Control of railways in time of hostilities, severe international tension or great national emergency.**

- (1) In time of hostilities, whether actual or imminent, severe international tension or great national emergency, the Secretary of State may give directions under this subsection to such of the following persons as he may consider appropriate, that is to say—
  - (a) the Regulator;
  - (b) the Franchising Director;
  - (c) any person who is the owner or operator of a relevant asset;
  - (d) any person who provides railway services.
- (2) The Secretary of State may at any time give directions under this subsection to any person falling within paragraphs (a) to (d) of subsection (1) above whom he may consider appropriate, requiring that person to participate in the planning of steps that might be taken in time of actual or imminent hostilities, severe international tension or great national emergency.
- (3) The power to give directions under subsection (1) above to the Regulator or the Franchising Director includes power to direct him to carry out his functions in such manner or for such purposes as may be specified in the direction.
- (4) The power to give directions under subsection (1) above to a person who is the owner or operator of a relevant asset or who provides railway services includes power—
  - (a) in the case of a person who is the owner of a relevant asset, to direct that person to permit the use of, or to exercise his rights over, the relevant asset in such manner or for such purposes as may be specified in the direction;
  - (b) in the case of a person who is the operator of a relevant asset, to direct that person to exercise his powers of management over the relevant asset in such manner or for such purposes as may be so specified; and
  - (c) in the case of a person who provides railway services, to direct that person to do so in such manner or for such purposes as may be so specified.
- (5) The Regulator and the Franchising Director shall each be under a duty to comply with a direction given to him under this section, notwithstanding the requirements of any other enactment or instrument relating to him.
- (6) A person who is the owner or operator of a relevant asset or who provides railway services shall be under a duty to comply with a direction given to him under this section, notwithstanding the requirements of any other enactment or instrument relating to him or to—

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- (a) the use of, or the exercise of rights over, the relevant asset,
  - (b) the management of the relevant asset, or
  - (c) the railway services,
- as the case may be, and notwithstanding any other duty or obligation to which he may be subject.
- (7) Any person who, without reasonable excuse, contravenes or fails to comply with a direction given to him under this section is guilty of an offence and shall be liable—
- (a) on summary conviction, to a fine not exceeding the statutory maximum; or
  - (b) on conviction on indictment, to a fine or imprisonment for a term not exceeding two years or both.
- (8) No proceedings shall be instituted in England and Wales in respect of an offence under this section except by or with the consent of the Secretary of State or the Director of Public Prosecutions.
- (9) Any person (other than the Regulator and the Franchising Director) who suffers direct injury or loss arising from compliance with a direction under subsection (1) above shall be entitled to receive compensation from the Secretary of State of such amount as may be agreed by that person and the Secretary of State or, in default of agreement, of such amount as may be determined—
- (a) where the proceedings are to be held in England and Wales, by an arbitrator appointed by the President for the time being of the Royal Institution of Chartered Surveyors, or
  - (b) where the proceedings are to be held in Scotland, by an arbiter appointed by the Lord President of the Court of Session.
- (10) Any sums required by the Secretary of State for paying compensation under this section shall be paid out of money provided by Parliament.
- (11) In this section—
- “great national emergency” means any natural disaster or other emergency which, in the opinion of the Secretary of State, is or may be likely to give rise to such disruption of the means of transport that the population, or a substantial part of the population, of Great Britain is or may be likely to be deprived of essential goods or services;
- “operator”, in relation to a relevant asset, means the person having the management of the relevant asset for the time being;
- “owner”, in relation to a relevant asset, means any person—
- (a) who is the owner of, or who has any right over or interest in, the relevant asset; and
  - (b) whose consent is needed to the use of the relevant asset by any other person;
- “relevant asset” means a network, a station, a light maintenance depot or any track or rolling stock;
- and, subject to that, expressions used in this section and in Part I or II above have the same meaning in this section as they have in that Part.
- (12) In consequence of this section, section 27(6) of the <sup>M17</sup>Transport Act 1962 (directions to Boards in the interests of national defence) shall cease to have effect so far as relating to the Board.

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#### Marginal Citations

M17 1962 c. 46.

### 119 Security: power of Secretary of State to give instructions.

- (1) The Secretary of State may from time to time give—
  - (a) to any person who is the owner or operator of a relevant asset, or
  - (b) to any person who provides railway services,such instructions as the Secretary of State considers appropriate for the purpose of ensuring that relevant assets within Great Britain, or persons or property on or in any such relevant asset, are protected against acts of violence.
- (2) An instruction may be given to any person who appears to the Secretary of State to be about to become such a person as is mentioned in paragraph (a) or (b) of subsection (1) above, but an instruction given to a person by virtue of this subsection shall not take effect until he becomes such a person and, in relation to an instruction so given, the provisions of this section shall apply with the necessary modifications.
- (3) Without prejudice to the generality of subsection (1) above, an instruction may, in particular, require the person to whom it is given ("the recipient")—
  - (a) not to cause or permit any persons, or any designated persons, or more than a specified number of persons or designated persons, to enter any relevant asset or any designated relevant asset, or not to cause or permit them to do so unless they submit to a search or unless or until some other specified condition is complied with;
  - (b) not to cause or permit any goods, or any designated goods, or more than a specified quantity of goods or designated goods, to be brought or loaded on to or into any relevant asset or any designated relevant asset, or not to do so unless the goods in question are subjected to a search or unless or until some other specified condition is complied with;
  - (c) to run no trains, or to restrict the running of trains, or to run no train unless it is subjected to a search, or unless or until some other specified condition is complied with;
  - (d) to secure the carrying out of a search of—
    - (i) any designated relevant assets, or
    - (ii) any persons or designated persons who, or any goods or designated goods which, are on or in any such assets;
  - (e) to furnish to the Secretary of State such information as he may require for the purpose mentioned in subsection (1) above;
  - (f) to prepare plans specifying action to be taken by the recipient and his servants or agents—
    - (i) in the event that an act of violence of a specified description occurs, or
    - (ii) in times when there is an increased likelihood of such acts occurring,and to conduct, at specified intervals, exercises in connection with the implementation of such plans;
  - (g) to employ specified numbers of suitably trained staff for the purpose of preventing the occurrence of acts of violence;

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- (h) to meet specified requirements with respect to the construction of, or to make specified modifications to—
  - (i) any relevant assets, or any designated relevant assets, of which the recipient is the owner or operator, or
  - (ii) any apparatus or equipment, or any designated apparatus or equipment, on or in any such assets.
- (4) Where an instruction requires the carrying out of a search, it may also specify—
  - (a) the kind of search which is to be carried out;
  - (b) the manner in which the search is to be carried out; and
  - (c) the persons, or the class or description of persons, who are to carry out the search.
- (5) Where any person refuses to submit himself or any goods in his possession to a search required by an instruction, any person authorised to carry out that search may take any steps that are necessary, including the use of reasonable force—
  - (a) to prevent the person concerned from entering the relevant asset in relation to which the search is being carried out; or
  - (b) to eject him, and any goods in his possession, from that asset;

but this subsection is without prejudice to any other powers of the person carrying out the search.
- (6) An instruction—
  - (a) shall be in writing;
  - (b) shall specify the time at which, or the period within which, it is to be complied with, and the period during which it is to have effect;
  - (c) may be varied or revoked by the Secretary of State.
- (7) No instruction shall have effect in relation to any rolling stock which is for the time being in use in police service or in the service of the armed forces of the Crown.
- (8) A person who is the owner or operator of a relevant asset or who provides railway services shall be under a duty to comply with an instruction given to him under this section, notwithstanding the requirements of any other enactment or instrument relating to him or to—
  - (a) the use of, or the exercise of rights over, the relevant asset,
  - (b) the management of the relevant asset, or
  - (c) the railway services,

as the case may be, and notwithstanding any other duty or obligation to which he may be subject.
- (9) A person who without reasonable excuse fails to do anything required of him by an instruction is guilty of an offence and shall be liable—
  - (a) on summary conviction, to a fine not exceeding the statutory maximum; or
  - (b) on conviction on indictment, to a fine or to a term of imprisonment not exceeding two years, or to both.
- (10) No proceedings shall be instituted in England and Wales in respect of an offence under subsection (9) above except by or with the consent of the Secretary of State or the Director of Public Prosecutions.
- (11) In this section—

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“act of violence” means—

- (a) any act which constitutes, or
- (b) any potential act which, if carried out, would constitute,

the offence of murder, attempted murder, manslaughter, culpable homicide, assault, real injury or malicious mischief, or an offence under section 18, 20, 21, 22, 23, 24, 28 or 29 of the Offences against the <sup>M18</sup>Person Act 1861, under section 2 of the <sup>M19</sup>Explosive Substances Act 1883 or under section 1 of the <sup>M20</sup>Criminal Damage Act 1971;

“designated” means specified in an instruction, or of a class or description so specified;

“instruction” means an instruction given under this section, and any reference to an instruction includes a reference to an instruction as varied under subsection (6)(c) above;

“operator” and “owner” have the same meaning as in section 118 above;

“relevant asset” has the same meaning as in section 118 above, and any reference to such an asset includes a reference to any part of any such asset;

“specified” means specified in an instruction;

and, subject to that, expressions used in this section and in Part I above have the same meaning in this section as they have in that Part.

#### Marginal Citations

**M18** 1861 c. 100.

**M19** 1883 c. 3.

**M20** 1971 c. 48.

## 120 Security: enforcement notices.

- (1) Where it appears to the Secretary of State that a person upon whom an instruction has been served has failed, is failing or is likely to fail to comply with that instruction, he may serve on that person a notice (in this section referred to as an “enforcement notice”) containing such provision as the Secretary of State may consider requisite for the purpose of ensuring that the person complies with the instruction and specifying, in particular—
  - (a) the things, or the description of things, which the person is required to do, or refrain from doing, in order to comply with the instruction;
  - (b) the time within which, or after which, the person must do, or refrain from doing, those things; and
  - (c) the period during which the person is to do, or refrain from doing, those things.
- (2) The Secretary of State may vary or revoke an enforcement notice, and any reference in this section to an enforcement notice includes a reference to such a notice as varied under this subsection.
- (3) Where the Secretary of State varies or revokes an enforcement notice under subsection (2) above he shall serve notice of the variation or revocation on the person on whom the enforcement notice in question was served.
- (4) A person who without reasonable excuse fails to do anything required of him by an enforcement notice is guilty of an offence and shall be liable—

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- (a) on summary conviction, to a fine not exceeding the statutory maximum; or
  - (b) on conviction on indictment, to a fine or to a term of imprisonment not exceeding two years, or to both.
- (5) No proceedings shall be instituted in England and Wales in respect of an offence under subsection (4) above except by or with the consent of the Secretary of State or the Director of Public Prosecutions.
- (6) Section 119(8) above shall have effect in relation to an enforcement notice as it has effect in relation to an instruction.
- (7) Expressions used in this section and in section 119 above have the same meaning in this section as they have in that section.

## **121 Security: inspections.**

- (1) For the purpose of enabling the Secretary of State to determine whether to give an instruction to any person, or of ascertaining whether any instruction or enforcement notice is being or has been complied with, a person authorised for the purpose by the Secretary of State in writing (in this section referred to as “an authorised person”) shall have power, on production (if required) of his credentials, to inspect any relevant asset.
- (2) An authorised person inspecting a relevant asset under subsection (1) above shall have power—
- (a) to subject any property found by him on or in the relevant asset, or any apparatus or equipment installed in the relevant asset, to such tests as he considers necessary for the purpose for which the inspection is carried out;
  - (b) to take such steps as he considers necessary for that purpose—
    - (i) to ascertain what practices or procedures are being followed in relation to security; or
    - (ii) to test the effectiveness of any practice or procedure relating to security; or
  - (c) to require the owner or operator of the relevant asset to furnish to him such information as the authorised person considers necessary for that purpose;
- but nothing in paragraph (a) above shall entitle an authorised person to subject any rolling stock, or any part of any rolling stock, to any test.
- (3) An authorised person, for the purpose of exercising any power conferred on him by subsection (1) or (2) above in relation to any relevant asset, shall have power—
- (a) to board any rolling stock and to take all such steps as are necessary to ensure that it is not moved; or
  - (b) to enter any land or other property comprised either in any track or in a network, station or light maintenance depot;
- but nothing in this subsection authorises any use of force.
- (4) A person is guilty of an offence if he—
- (a) intentionally obstructs an authorised person acting in the exercise of any power conferred on him by this section;
  - (b) fails, without reasonable excuse, to comply with a requirement imposed on him under paragraph (c) of subsection (2) above to furnish information to an authorised person; or



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- (c) in furnishing any information required under that paragraph, makes a statement which he knows to be false in a material particular, or recklessly makes a statement which is false in a material particular.
- (5) A person guilty of an offence under subsection (4) above shall be liable—
  - (a) on summary conviction, to a fine not exceeding the statutory maximum;
  - (b) on conviction on indictment, to a fine or to imprisonment for a term not exceeding two years, or to both.
- (6) No proceedings shall be instituted in England and Wales in respect of an offence under subsection (4) above except by or with the consent of the Secretary of State or the Director of Public Prosecutions.
- (7) Expressions used in this section and in section 119 or 120 above have the same meaning in this section as they have in that section.

VALID FROM 30/03/2004

#### **[<sup>F1</sup>121A Railway security services: approved providers**

- (1) In this section “railway security service” means a process or activity carried out for the purpose of—
  - (a) complying with a requirement of an instruction under section 119, or
  - (b) facilitating a person’s compliance with a requirement of an instruction under section 119.
- (2) Regulations may provide for the Secretary of State to maintain a list of persons who are approved by him for the provision of a particular railway security service.
- (3) The regulations may—
  - (a) prohibit the provision of a railway security service by a person who is not listed in respect of that service;
  - (b) prohibit the use or engagement for the provision of a railway security service of a person who is not listed in respect of that service;
  - (c) create a criminal offence;
  - (d) make provision about application for inclusion in the list (including provision about fees);
  - (e) make provision about the duration and renewal of entries on the list (including provision about fees);
  - (f) make provision about training or qualifications which persons who apply to be listed or who are listed are required to undergo or possess;
  - (g) make provision about removal from the list which shall include provision for appeal;
  - (h) make provision about the inspection of activities carried out by listed persons;
  - (i) confer functions on the Secretary of State or on a specified person;
  - (j) confer jurisdiction on a court.
- (4) Regulations under subsection (3)(c)—
  - (a) may not provide for a penalty on summary conviction greater than a fine not exceeding the statutory maximum,

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- (b) may not provide for a penalty of imprisonment on conviction on indictment greater than imprisonment for a term not exceeding two years (whether or not accompanied by a fine), and
  - (c) may create a criminal offence of purporting, with intent to deceive, to do something as a listed person or of doing something, with intent to deceive, which purports to be done by a listed person.
- (5) An instruction under section 119 may—
- (a) include a requirement to use a listed person for the provision of a railway security service;
  - (b) provide for all or part of the instruction not to apply or to apply with modified effect where a listed person provides a railway security service.
- (6) Regulations under this section—
- (a) may make different provision for different cases,
  - (b) may include incidental, supplemental or transitional provision,
  - (c) shall be made by the Secretary of State by statutory instrument,
  - (d) shall not be made unless the Secretary of State has consulted organisations appearing to him to represent persons affected by the regulations, and
  - (e) shall be subject to annulment in pursuance of resolution of either House of Parliament.]

#### **Textual Amendments**

**F1** S. 121A inserted (30.3.2004) by [Railways and Transport Safety Act 2003 \(c. 20\)](#), **ss. 106, 120**; [S.I. 2004/827](#), **art. 3(aa)**

### *Statutory authority*

#### **122 Statutory authority as a defence to actions in nuisance etc.**

- (1) Subject to the following provisions of this section—
- (a) any person shall have authority—
    - (i) to use, or to cause or permit any agent or independent contractor of his to use, rolling stock on any track, or
    - (ii) to use, or to cause or permit any agent or independent contractor of his to use, any land comprised in a network, station or light maintenance depot for or in connection with the provision of network services, station services or light maintenance services, and
  - (b) any person who is the owner or occupier of any land shall have authority to authorise, consent to or acquiesce in—
    - (i) the use by another of rolling stock on any track comprised in that land, or
    - (ii) the use by another of that land for or in connection with the provision of network services, station services or light maintenance services,

if and so long as the qualifying conditions are satisfied in the particular case.
- (2) For the purposes of this section, the “qualifying conditions” are—
- (a) in relation to any use of rolling stock on track—

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- (i) that the track is comprised in a network, station or light maintenance depot, and
    - (ii) that the operator of that network, station or light maintenance depot is the holder of an appropriate licence or has the benefit of an appropriate licence exemption; and
  - (b) in relation to any use of land for or in connection with the provision of network services, station services or light maintenance services, that the operator of the network, station or light maintenance depot in question is the holder of an appropriate licence or has the benefit of an appropriate licence exemption.
- (3) The authority conferred by this section is conferred only for the purpose of providing a defence of statutory authority—
  - (a) in England and Wales—
    - (i) in any proceedings, whether civil or criminal, in nuisance; or
    - (ii) in any civil proceedings, other than proceedings for breach of statutory duty, in respect of the escape of things from land;
  - (b) in Scotland, in any civil proceedings on the ground of nuisance where the rule of strict liability applies, other than proceedings for breach of statutory duty.
- (4) Nothing in this section shall be construed as excluding a defence of statutory authority otherwise available under or by virtue of any enactment.
- (5) The owner or occupier of any land shall be regarded for the purposes of this section as “acquiescing” in—
  - (a) any use by another of rolling stock on track comprised in that land, or
  - (b) any use of that land by another for or in connection with the provision of network services, station services or light maintenance services,notwithstanding that it is not within his power to put an end to that use by that other.
- (6) For the purposes of this section—
  - (a) any reference to the use of rolling stock on track includes a reference to the carriage of any passengers or other persons, or any goods, of any class or description for any purpose on or by means of that rolling stock on that track; and
  - (b) rolling stock shall be regarded as “used” on any track at any time when it is present on that track, irrespective of whether the rolling stock is comprised in a train or not, whether the rolling stock is moving or stationary and, if moving, irrespective of the means by which the motion is caused.
- (7) In this section—
  - “appropriate licence”, in relation to the operator of a network, station or light maintenance depot, means a licence which authorises him to be the operator of that network, station or light maintenance depot;
  - “appropriate licence exemption”, in relation to the operator of a network, station or light maintenance depot, means any such licence exemption as exempts him from the requirement to hold the licence that would otherwise be the appropriate licence in his case;and expressions used in this section and in Part I above have the same meaning in this section as they have in that Part.

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### *Miscellaneous and general*

#### **123 No person to be common carrier by railway.**

No person shall be regarded as a common carrier by railway.

#### **124 Carriage of mail by railway.**

Sections 33 to 42 of the <sup>M21</sup>Post Office Act 1953 (which make provision for and in connection with the power of the Post Office to compel railway undertakers to convey mail-bags on their trains) shall cease to have effect.

#### **Marginal Citations**

**M21** 1953 c. 36.

#### <sup>F2</sup>**125** .....

#### **Textual Amendments**

**F2** S. 125 repealed and superseded (18.9.1996) by 1996 c. 42, s. 8(2)

#### **126 General duties and powers of the Board.**

- (1) In section 3 of the <sup>M22</sup>Transport Act 1962, at the beginning of subsection (1) (duty of the Board to provide railway services in Great Britain) there shall be inserted the words “Subject to subsection (1A) of this section,” and after that subsection there shall be inserted—

“(1A) The Board shall be discharged from the duty imposed by subsection (1) of this section with respect to the provision of railway services in Great Britain if and to the extent that such services are, or have at any time since the coming into force of this subsection been,—

- (a) provided by the Board, or a subsidiary of the Board, pursuant to any agreements or arrangements falling within subsection (1B) of this section; or
- (b) provided (whether under or by virtue of the Railways Act 1993 or otherwise) by persons other than the Board and their subsidiaries;

but, notwithstanding anything in this subsection, it shall be the duty of the Board to have, as respects any railway services provided as mentioned in paragraph (a) of this subsection (and any other services or facilities provided in connection therewith) due regard to efficiency, economy and safety of operation.

- (1B) The agreements or arrangements mentioned in subsection (1A)(a) of this section are as follows, namely—

- (a) an agreement or arrangement made pursuant to the Railways Act 1993, to which the Franchising Director and the Board, or a subsidiary of the Board, are parties;

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**Status:** Point in time view as at 27/06/1998. This version of this part contains provisions that are not valid for this point in time.

**Changes to legislation:** There are currently no known outstanding effects for the Railways Act 1993, Part III. (See end of Document for details)

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- (b) an agreement made between—
  - (i) the Board or a subsidiary of the Board, and
  - (ii) a person who is the owner or operator of a railway asset or track,

being an agreement under which the Board or a subsidiary of the Board operates that railway asset or track or uses it to provide network, station or light maintenance services.

(1C) For the purposes of subsection (1B) above and this subsection—

- (a) any reference to a railway asset includes a reference to any part of a railway asset;
- (b) “operator”, in relation to a railway asset or track, means the person having the management of that railway asset or track for the time being;
- (c) “owner”, in relation to a railway asset or track, means any person—
  - (i) who has an estate or interest in, or right over, the railway asset or track in question; and
  - (ii) whose permission to use that railway asset or track is needed by another before that other may use it;

and, subject to that, expressions used in either subsection and in Part I of the Railways Act 1993 have the same meaning in that subsection as they have in that Part.”

(2) At the end of that section there shall be added—

“(5) Subject to subsection (6) of this section, section 82 of the Railways Act 1993 (meaning of “railway services”) shall apply for the purposes of this section as it applies for the purposes of Part I of that Act.

(6) If it appears to the Secretary of State that the Board—

- (a) have ceased to provide railway services of a description falling within any paragraph (“the relevant paragraph”) of subsection (1) of that section, or
- (b) have ceased to provide such services otherwise than as mentioned in subsection (1A)(a) of this section,

he shall by order provide that, as from the date on which the order comes into force, subsection (1) of that section shall, in its application for the purposes of this section, have effect as if the relevant paragraph (which shall be specified in the order) were omitted therefrom.

(7) An order under subsection (6) of this section may make such consequential amendments or repeals of or in this section or any other enactment as may appear to the Secretary of State to be necessary or expedient for the purposes of, or in connection with, the order.

(8) The power to make an order under subsection (6) of this section shall be exercisable by statutory instrument; and a statutory instrument containing any such order shall be subject to annulment in pursuance of a resolution of either House of Parliament.”

*Status: Point in time view as at 27/06/1998. This version of this part contains provisions that are not valid for this point in time.*

*Changes to legislation: There are currently no known outstanding effects  
for the Railways Act 1993, Part III. (See end of Document for details)*

### Marginal Citations

M22 1962 c. 46.

## 127 Power of the Board to provide business support services for other operators.

- (1) The Board shall have power to provide business support services for—
  - (a) the Regulator;
  - (b) any person who provides, or secures the provision of, railway services; or
  - (c) any person carrying on any undertaking which was, immediately before 1st April 1993, carried on by the Board or any wholly owned subsidiary of the Board.
- (2) Without prejudice to the generality of the expression, the provision of “business support services” includes for the purposes of this section—
  - (a) the provision of any service or facility for or in relation to—
    - (i) information technology;
    - (ii) property management;
    - (iii) marketing;
    - (iv) the issuing of tickets;
    - (v) research; or
    - (vi) engineering; and
  - (b) the provision of technical or specialist advice.
- (3) If the Secretary of State is of the opinion—
  - (a) that the Board has ceased to provide business support services of any class or description, or
  - (b) that it is no longer necessary, or no longer desirable, for the Board to have power to provide any business support services, or business support services of any class or description,

he may by order provide that, as from the date on which the order comes into force, the Board shall cease to have power to provide the business support services in question.
- (4) The power of the Secretary of State to make an order under subsection (3) above is exercisable in relation to any power of the Board to provide business support services, whether under this section or otherwise.
- (5) An order under subsection (3) above may make such consequential amendments or repeals in any enactment as may appear to the Secretary of State to be necessary or expedient for the purposes of, or in connection with, the order.
- (6) In this section “railway services” has the same meaning as in Part I above.

## 128 Amendment of section 13 of the Transport Act 1962.

- (1) Section 13 of the <sup>M23</sup>Transport Act 1962 (which confers on the British Waterways Board and the Board powers to manufacture and produce items for business purposes) shall be amended in accordance with the following provisions of this section.

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- (2) After subsection (1) (which confers on the Boards power to undertake activities for the purposes of any business falling within paragraphs (a) to (c) of that subsection), there shall be inserted—

“(1A) Subsection (1) of this section shall have effect, in relation to the Railways Board, with the insertion after paragraph (c) of the following—

“(d) of the Rail Regulator,

- (e) of any person who provides, or secures the provision of, railway services, within the meaning of Part I of the Railways Act 1993, or
- (f) of any person carrying on any undertaking which was, immediately before 1st April 1993, carried on by the Railways Board or any wholly owned subsidiary of that Board,”

and with the omission of the word or immediately preceding that paragraph.”

- (3) At the end of that section, there shall be added—

“(9) If the Secretary of State is of the opinion that it is no longer necessary, or no longer desirable, for the Railways Board to conduct any of the activities mentioned in subsection (1) of this section for the purposes of the business of any persons, or of persons of any class or description, mentioned in that subsection, he may by order provide that, as from the date on which the order comes into force, that Board shall cease to have power to conduct the activity in question in relation to the person in question.

(10) An order under subsection (9) of this section may make such consequential amendments or repeals in any enactment as may appear to the Secretary of State to be necessary or expedient for the purposes of, or in connection with, the order.

(11) Any order made under subsection (9) of this section shall be made by statutory instrument, and any such statutory instrument shall be subject to annulment in pursuance of a resolution of either House of Parliament.

(12) Any reference in this section to “business” includes, in the case of the Rail Regulator, a reference to the carrying on of any activity in the exercise of his powers or the performance of his duties.”

#### **Marginal Citations**

**M23** 1962 c. 46.

## **129 Bye-laws.**

- (1) An independent railway operator may make bye-laws regulating—
- (a) the use and working of, and travel on or by means of, any relevant assets;
  - (b) the maintenance of order on any relevant assets; and
  - (c) the conduct of all persons while on any relevant assets.
- (2) Without prejudice to the generality of subsection (1) above, an independent railway operator may, in particular, make bye-laws—
- (a) with respect to tickets issued for entry upon relevant assets or travel by railway and the evasion of payment of fares or other charges;

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for the Railways Act 1993, Part III. (See end of Document for details)*

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- (b) with respect to interference with, or obstruction of, the working of any railway or any relevant asset or the provision of any railway service;
  - (c) with respect to the smoking of tobacco in railway carriages and elsewhere and the prevention of nuisance;
  - (d) with respect to the receipt and delivery of goods; and
  - (e) for regulating the passage of bicycles and other vehicles on footways and other premises controlled by him and intended for the use of those on foot.
- (3) In section 67 of the <sup>M24</sup>Transport Act 1962, after subsection (9) (confirmation of bye-laws by the Minister) there shall be inserted—
- “(9A) The Minister may charge the Board such fees in respect of any bylaws submitted for confirmation under this section as he may consider appropriate for the purpose of defraying any administrative expenses incurred by him in connection therewith.”
- (4) Subsections (3) and (5) to (12) of section 67 of the <sup>M25</sup>Transport Act 1962 (procedure for making bye-laws) shall apply in relation to bye-laws under this section as they apply in relation to bye-laws under subsection (1) of that section, but with the substitution for any reference to the Board of a reference to the independent railway operator in question.
- (5) Subsection (4) of that section shall apply in relation to bye-laws under this section as it applies in relation to bye-laws under subsection (1) of that section, but—
- (a) taking the reference to “a Board” as including a reference to an independent railway operator (and construing the reference to “the Board in question” accordingly); and
  - (b) taking the reference to “their railway” as including, in the case of that independent railway operator, a reference to any relevant asset.
- (6) If and to the extent that, immediately before the coming into force of a transfer scheme, any bye-laws—
- (a) made by the Board under section 67 of the <sup>M26</sup>Transport Act 1962, or having effect as if so made, or
  - (b) made by an independent railway operator under this section, or having effect as if so made,
- have effect in relation to an undertaking, or part of an undertaking, transferred by the scheme, those bye-laws shall, as from the coming into force of the transfer scheme in relation to that undertaking or, as the case may be, that part of the undertaking, have effect in relation to the undertaking or part (as the case may be) as bye-laws made under this section by the transferee.
- (7) In this section “independent railway operator” means any person, other than the Board, who is authorised by a licence to be the operator of a railway asset or of railway assets of a class or description.
- (8) The exclusion of the Board from being an independent railway operator is without prejudice to the Board’s subsidiaries and wholly owned subsidiaries.
- (9) For the purposes of this section “relevant assets”, in the case of any independent railway operator, means—
- (a) any railway assets in relation to which he is the operator; and
  - (b) any rolling stock not falling within paragraph (a) above of which he has the management for the time being.



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- (10) Expressions used in this section and in Part I or II above have the same meaning in this section as they have in that Part.
- (11) Apart from the amendment made by subsection (3) above, this section is without prejudice to section 84(3) of the <sup>M27</sup>Transport Act 1962.
- (12) Any sums received by the Secretary of State under or by virtue of this section shall be paid into the Consolidated Fund.

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

**C2** S. 129 modified (18.12.1996) by 1996 c. 61, s. 15

**Marginal Citations**

**M24** 1962 c. 46.

**M25** 1962 c. 46.

**M26** 1962 c. 46.

**M27** 1962 c. 46.

**130 Penalty fares.**

- (1) The Secretary of State may by regulations make provision for and in connection with—
  - (a) the imposition of requirements on persons travelling by, present on, or leaving trains or stations to produce, if required to do so in accordance with the regulations, a ticket or other authority authorising them to travel by, be present on, or leave the train or station in question; and
  - (b) the charging of persons in breach of such requirements to financial penalties (in this section referred to as “penalty fares”) in such circumstances, and subject to compliance with such conditions (if any), as may be prescribed;and in this section any reference to a ticket or other authority of any description includes a reference to any other document which, under the regulations, is required to be produced in conjunction with any such ticket or other authority, for the purpose of demonstrating that the ticket or other authority produced by a person is valid in his case.
- (2) Regulations may make provision for or with respect to—
  - (a) the persons who may be charged penalty fares;
  - (b) the persons by or on behalf of whom penalty fares may be charged;
  - (c) the trains and stations by reference to which penalty fares may be charged;
  - (d) the amount, or the greatest amount, which a person may be charged by way of penalty fare, whether a specified amount or one determined in a prescribed manner;
  - (e) the authorising of persons to be collectors;
  - (f) the manner in which charges to penalty fares may be imposed by collectors, including any requirements to be complied with by or in relation to collectors;
  - (g) the authorising of collectors in prescribed circumstances to require persons on trains or stations to furnish prescribed information;
  - (h) the display of prescribed notices in places of a prescribed description;

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- (j) the manner in which, and the period within which, any penalty fare charged to a person is to be paid;
  - (k) the issue of prescribed documents to persons who are charged, or who have paid, penalty fares;
  - (l) the recovery of any unpaid penalty fare as a civil debt, including provision—
    - (i) for or with respect to defences that are to be available in proceedings for the recovery of an unpaid penalty fare; or
    - (ii) for presumptions of fact to operate, in such proceedings, in favour of the person charged with the penalty fare, but subject to compliance with prescribed procedural requirements;
  - (m) the retention, by persons by or on behalf of whom charges to penalty fares are imposed, of sums paid by way of penalty fare;
  - (n) the remission of liability to pay penalty fares and the repayment of sums paid by way of penalty fare;
  - (o) the prevention of a person's being liable both to payment of a penalty fare and to prosecution for a prescribed offence;
  - (p) the imposition of prohibitions on the charging of penalty fares by or on behalf of persons who are suspected by the Secretary of State or the Regulator, on reasonable grounds, of failing to comply with such requirements imposed by or under the regulations as may be prescribed.
- (3) The documents mentioned in subsection (2)(k) above include any document which consists of or includes—
- (a) notice of the imposition of a charge to a penalty fare;
  - (b) a receipt for the payment of a penalty fare; or
  - (c) a ticket or other authority to travel by, be present on, or leave a train or station.
- (4) Regulations may impose, or make provision for and in connection with the imposition or enforcement of, prescribed requirements in prescribed circumstances on or against a holder of a passenger licence or station licence or a passenger service operator (whether or not one by or on behalf of whom penalty fares are or are to be charged); and, without prejudice to the generality of the foregoing, any such regulations may make provision with respect to—
- (a) the display of notices relating to penalty fares;
  - (b) the provision of facilities for the issue of tickets or other authorities to travel by, be present on, or leave trains or stations;
  - (c) the provision of information to prescribed persons or persons of a prescribed class or description.
- (5) The functions which may be conferred on the Regulator by regulations include—
- (a) functions which involve the exercise by him of judgement or a discretion; and
  - (b) functions which empower him in prescribed circumstances to impose such conditions or requirements as he may think fit on prescribed persons or on persons of a prescribed class or description.
- (6) Regulations may confer power on the Regulator to make by rules any provision which could be made by the Secretary of State by regulations, other than provision for or with respect to any matter specified in—
- (a) paragraph (d), (l) or (o) of subsection (2) above; or
  - (b) subsection (7) below;

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and any such rules shall have effect, to such extent as may be prescribed, as if they were regulations.

(7) Regulations may provide that where information is required to be furnished pursuant to the regulations—

- (a) a refusal to furnish any such information, or
- (b) the furnishing of information which is false in a material particular,

shall, in prescribed circumstances, be an offence punishable on summary conviction by a fine not exceeding level 2 on the standard scale.

(8) Apart from subsection (7) above, nothing in this section creates, or authorises the creation of, any offence.

(9) Regulations may make provision for any area within Great Britain and may make different provision for or in relation to different areas.

(10) Any power of the Regulator to make rules under or by virtue of this section includes power to revoke, amend or re-enact any rules so made; and—

- (a) any such rules may make different provision for different cases; and
- (b) without prejudice to paragraph (a) above, subsection (9) above shall apply in relation to any such rules as it applies in relation to regulations.

(11) Subsections (2) to (5) above are without prejudice to the generality of subsection (1) above.

(12) In this section—

“collectors” means the individuals who perform the function (whether as servants or agents or otherwise) of imposing the charge of a penalty fare on the person liable to pay it under the regulations in each particular case;

“document”, without prejudice to the generality of the expression, includes any badge, token, or photograph or any other form of identification, certification or authentication;

“prescribed” means specified in, or determined in accordance with, regulations;

“regulations” means regulations under subsection (1) above;

“station” includes a reference to a part of a station;

“ticket or other authority” shall be construed in accordance with subsection (1) above;

“train” includes a reference to a part of a train;

and, subject to that, expressions used in Part I above and in this section have the same meaning in this section as they have in that Part.

### **131 Modification of Restrictive Trade Practices Act 1976.**

(1) The <sup>M28</sup>Restrictive Trade Practices Act 1976 (the “1976 Act”) shall not apply to an agreement relating to the provision of railway services if the making of the agreement, and the inclusion in it of each provision by virtue of which the 1976 Act would (apart from this subsection) apply to the agreement, is required or approved—

- (a) by the Secretary of State or the Regulator, in pursuance of any function assigned or transferred to him under or by virtue of any provision of this Act (other than this section);

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for the Railways Act 1993, Part III. (See end of Document for details)*

- (b) by or under any agreement the making of which is required or approved by the Secretary of State or the Regulator in pursuance of any such function; or
  - (c) by or under a licence granted under Part I above.
- (2) In subsection (3) below, “relevant agreement” means an agreement—
- (a) which relates to the provision of railway services; and
  - (b) to which (notwithstanding the provisions of subsection (1) above) the 1976 Act applies.
- (3) If it appears to the Secretary of State—
- (a) that those provisions of a relevant agreement, or of relevant agreements of some particular class or description, by virtue of which the 1976 Act applies to that agreement or those agreements do not have, and are not intended or likely to have, to any significant extent the effect of restricting, distorting or preventing competition, or
  - (b) that all or any of those provisions have, or are intended or likely to have, that effect to a significant extent, but that the effect is not greater than is necessary for—
    - (i) the protection of the interests of users of railway services,
    - (ii) the promotion of the use of any railway network in Great Britain or elsewhere for the carriage of passengers and goods or the development of any such railway network,
    - (iii) the promotion of efficiency and economy on the part of persons providing railway services, or
    - (iv) the promotion of measures designed to facilitate the making by passengers of journeys which involve use of the services of more than one passenger service operator,
- he may give a direction to the Director requiring him not to make an application to the Restrictive Practices Court under Part I of the 1976 Act in respect of that relevant agreement or, as the case may be, any relevant agreement of that class or description.
- (4) The Secretary of State may vary or revoke any direction given under subsection (3) above if he is satisfied that there has been a material change of circumstances such that—
- (a) the grounds for the direction have ceased to exist; or
  - (b) there are grounds for giving a different direction;
- and where the Secretary of State so varies or revokes any direction, he shall give notice of the variation or revocation to the Director.
- (5) In this section “agreement” has the same meaning as in the 1976 Act; and, subject to that, expressions which are used in this section and in Part I above have the same meaning in this section as they have in that Part.

**Marginal Citations**

M28 1976 c.34.

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*Changes to legislation:* There are currently no known outstanding effects for the Railways Act 1993, Part III. (See end of Document for details)

### Transport police

#### 132 Schemes for the organisation etc. of transport police.

- (1) The Secretary of State may make a scheme for the organisation, control and administration of the transport police employed by the Board.
- (2) A scheme may only be made after consultation with the Board and with—
  - (a) persons to whom the Board is for the time being making available the services of transport police, or
  - (b) such bodies or persons appearing to the Secretary of State to be representative of those persons as he may consider appropriate.
- (3) A scheme may make provision enabling the Board to make an agreement—
  - (a) with any such person as may be specified in the scheme, or
  - (b) with any person falling within any such class or description of person as may be so specified,for making the services of transport police available to that person for such period, to such extent, and on such terms, as may be specified in the agreement.
- (4) A scheme which makes such provision as is mentioned in subsection (3) above shall also make provision for the method of settling any dispute in relation to transport police which may arise between the Board and the person with whom any such agreement as is mentioned in that subsection is made.
- <sup>F3</sup>(5) .....
- (6) A scheme may contain such supplemental, incidental, consequential or transitional provision as the Secretary of State may consider appropriate.
- (7) A scheme may make modifications consequential on its provisions in section 53 of the <sup>M29</sup>British Transport Commission Act 1949.
- (8) Schedule 10 to this Act shall have effect for the purpose of making provision consequential upon the provisions of this section.
- (9) The power to make a scheme shall be exercisable by statutory instrument, and a statutory instrument containing a scheme shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (10) In this section—
  - (a) “transport police” means constables appointed under section 53 of the British Transport Commission Act 1949; and
  - (b) “scheme” means a scheme made under subsection (1) above.

#### Textual Amendments

**F3** S. 132(5) repealed (1.4.1994) by 1994 c. 8, s. 2(3)(4), **Sch.**

#### Commencement Information

**I1** S. 132 partly in force; s. 132 not in force at Royal Assent see s. 154(2); s. 132(1)-(7)(9)(10) in force at 8.3.1994 by S.I. 1994/571, **art. 2**; s. 132(8) in force for specified purposes at 8.3.1994 by S.I. 1994/571, **art. 2**

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#### **Marginal Citations**

**M29** 1949 c. xxix.

### **133 Terms and conditions of employment of transport police.**

- (1) There shall continue to be a conference consisting of an equal number of representatives of the Board and of transport police to which all questions relating to rates of pay, hours of duty and conditions of service of transport police shall be referred.
- (2) In the event of disagreement between the two sides of the conference, an independent chairman shall be appointed with power to give decisions which shall have effect as decisions of the conference.
- (3) The independent chairman shall be chosen by agreement between the two sides of the conference or, failing such agreement, shall be nominated by the Secretary of State.
- (4) In this section “transport police” has the meaning given in section 132(10) above.

#### *Pensions and other benefits*

### **134 Pensions.**

- (1) Schedule 11 to this Act shall have effect.
- (2) Section 74 of the <sup>M30</sup>Transport Act 1962 (power of Secretary of State to make orders about pensions) shall cease to have effect, so far as relating to the Board and (within the meaning of that section) its subsidiaries, on the coming into force of subsection (1) above.
- (3) Subsection (2) above is without prejudice to the continuing validity of any orders made under that section.

#### **Commencement Information**

**I2** S. 134 wholly in force; s. 134 not in force at Royal Assent see s. 154(2); s. 134(1) in force for specified purposes and s. 134(2)(3) in force at 6.1.1994 by S.I. 1993/3237, art. 2(2); s. 134(1) in force at 16.8.1994 insofar as not already in force by S.I. 1994/2142, art. 2

#### **Marginal Citations**

**M30** 1962 c. 46.

### **135 Concessionary travel for railway staff etc.**

- (1) The conditions that may be included in a passenger licence include conditions in respect of arrangements for the provision of staff concessionary travel.
- (2) The Franchising Director may promote the provision of staff concessionary travel.
- (3) The Franchising Director may enter into agreements or other arrangements concerning the provision of staff concessionary travel.

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- (4) Franchise agreements may include conditions with respect to the provision of staff concessionary travel.
- (5) Agreements or arrangements under section 51 or 52 above may include provisions with respect to the provision of staff concessionary travel.
- (6) The Franchising Director may perform any of his functions—
  - (a) under or by virtue of subsections (2) to (5) above, or
  - (b) under any agreements or arrangements entered into, or conditions or provisions included, by virtue of those subsections,by entering into agreements or arrangements under which other persons (in this subsection referred to as “sub-contractors”) are to perform the function in question; and subsections (2) and (3) of section 51 above shall apply in relation to agreements or arrangements under this subsection as they apply in relation to agreements or arrangements under subsection (1) of that section, but taking references to sub-contractors, within the meaning of that subsection, as references to sub-contractors, within the meaning of this subsection.
- (7) Without prejudice to the generality of subsection (3) above, the agreements or arrangements that may be made under that subsection include agreements or arrangements under which the Franchising Director undertakes to secure the provision of staff concessionary travel (as well as agreements or arrangements under which some other person undertakes to provide, or to secure the provision of, staff concessionary travel).
- (8) Subsection (7) above applies, with the necessary modifications, in relation to—
  - (a) the conditions mentioned in subsection (4) above, and
  - (b) the provisions mentioned in subsection (5) above,as it applies in relation to the agreements and arrangements mentioned in subsection (3) above.
- (9) This section is without prejudice to the generality of—
  - (a) the conditions which may be included in licences, or
  - (b) the provision which may be made in franchise agreements or in agreements or other arrangements under section 51 or 52 above,whether or not with respect to free or concessionary travel; and subsections (4) and (5) above are without prejudice to the generality of subsection (3) above.
- (10) Any sums required by the Franchising Director for making payments under or by virtue of this section shall be paid by the Secretary of State out of money provided by Parliament.
- (11) Any sums received by the Franchising Director under or by virtue of this section shall be paid into the Consolidated Fund.
- (12) Any reference in this section to the provision of “staff concessionary travel” is a reference to the provision of free travel, or travel at concessionary rates, for, or for some class or description of, persons, or dependants of persons, who are or have at any time been employed by—
  - (a) a person carrying on a business of providing railway services; or
  - (b) a person providing welfare or health care services to persons employed by a person falling within paragraph (a) above.

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for the Railways Act 1993, Part III. (See end of Document for details)*

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- (13) In the application of subsection (12) above in relation to any such agreement, arrangements, conditions or provisions as are mentioned in this section, it is immaterial whether or not the provision of free travel, or travel at concessionary rates, mentioned in that subsection extends, in the case of the agreement, arrangements, conditions or provisions in question, only to persons falling within that subsection or to such persons and others; and the reference in subsection (2) above to promoting the provision of staff concessionary travel shall be construed accordingly.
- (14) Expressions used in this section and in Part I above have the same meaning in this section as they have in that Part.

### *Financial provisions*

#### **136 Grants and subsidies.**

- (1) The Secretary of State shall continue to be the competent authority of Great Britain in relation to the railways financial status regulations.
- (2) The Secretary of State shall be the competent authority of Great Britain, in relation to persons who operate services for the carriage of goods by railway, for the purposes of the public service obligations regulations.
- (3) The following persons, that is to say—
- (a) the Secretary of State,
  - (b) the Franchising Director,
  - (c) to the extent specified in subsection (4) below, every Passenger Transport Executive, and
  - (d) to the extent specified in subsection (5) below—
    - (i) every non-metropolitan county or district council in England or in Wales and every [F<sup>4</sup>council constituted under section 2 of the Local Government etc. (Scotland) Act 1994] in Scotland, and
    - (ii) every London borough council and the Common Council of the City of London,
- shall each be the competent authority of Great Britain in relation to passenger service operators for the purposes of the public service obligations regulations.
- (4) For the purposes of subsection (3) above, a Passenger Transport Executive shall only be the competent authority in relation to those railway passenger services—
- (a) which the Executive provides, or secures are provided, by virtue of section 10(1) or 20(2)(b) of the <sup>M31</sup>Transport Act 1968; or
  - (b) which, in consequence of their being specified in a statement submitted to the Franchising Director under subsection (5) of section 34 above, are provided under a franchise agreement to which the Executive is a party.
- (5) For the purposes of subsection (3) above—
- (a) a council falling within paragraph (d)(i) of that subsection shall only be the competent authority in relation to those railway passenger services whose provision the council secures under section 63 of the <sup>M32</sup>Transport Act 1985 (passenger transport in areas other than passenger transport areas); and
  - (b) a council falling within paragraph (d)(ii) of that subsection shall only be the competent authority in relation to those railway passenger services in respect



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of which the council enters into and carries out agreements under section 59 of the <sup>M33</sup>London Regional Transport Act 1984 (provision of extra transport services in London).

- (6) The Secretary of State and the Franchising Director may each, in his capacity as competent authority by virtue of subsection (3) above, give directions to any passenger service operator imposing on him obligations with respect to the provision or operation of railway passenger services.
- (7) It shall fall to the Secretary of State or the Franchising Director to make any payments of compensation which are required to be made to a passenger service operator by any provision of the public service obligations regulations in respect of any obligations imposed on that operator by directions under subsection (6) above, and the Secretary of State or the Franchising Director may, subject to and in accordance with the provisions of those regulations, determine the manner of calculating, and the conditions applicable to, those payments.
- (8) The power of giving directions under subsection (6) above shall be so exercised that the aggregate amount of any compensation payable under the public service obligations regulations, for periods ending after 1st April 1992, in respect of all obligations imposed by directions under that subsection shall not exceed £3,000 million or such greater sum not exceeding £5,000 million as the Secretary of State may by order specify.
- (9) A statutory instrument containing an order under subsection (8) above shall not be made unless a draft of the instrument has been laid before and approved by a resolution of the House of Commons.
- (10) Without prejudice to any right which the Secretary of State or the Franchising Director may have under this Act to bring civil proceedings in respect of any contravention or apprehended contravention of any directions under subsection (6) above, the obligations imposed by any such directions shall not give rise to any form of duty or liability enforceable against a passenger service operator by proceedings before any court to which the passenger service operator would not otherwise be subject.
- (11) In this section—

“the public service obligations regulations” means Council Regulation (EEC) No. 1191/69 on public service obligations in transport, as amended by Council Regulation (EEC) No. 1893/91;

“the railways financial status regulations” means Council Regulation (EEC) No. 1192/69 on common rules with respect to the financial status of railway undertakings.
- (12) Expressions used in this section and in Part I above have the same meaning in this section as they have in that Part.
- (13) Section 3 of the <sup>M34</sup>Railways Act 1974 (which is superseded by this section) shall cease to have effect.

#### Textual Amendments

- F4** Words in s. 136(3)(d)(i) substituted (1.4.1996) by 1994 c. 39, s. 180(1), **Sch. 13 para. 184(2)**; S.I. 1996/323, **art. 4(1)(c)**

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#### **Marginal Citations**

- M31** 1968 c. 73.  
**M32** 1985 c. 67.  
**M33** 1984 c. 32.  
**M34** 1974 c. 48.

### **137 Payments by the Secretary of State in respect of track access charges in connection with railway goods services.**

- (1) The Secretary of State may, for the purpose of securing the provision of adequate services for the carriage of goods by railway, enter into agreements with goods service operators under which he undertakes to make payments to the goods service operator in question in respect of all or any part of the track access charges which may be incurred by the goods service operator in connection with the provision of the services to which the agreement relates.
- (2) The Secretary of State shall not enter into an agreement by virtue of subsection (1) above unless he is satisfied that benefits of a social or environmental nature are likely to result from the provision of those services for the carriage of goods by railway to which the agreement relates.
- (3) Any sums required by the Secretary of State for making payments under agreements entered into by virtue of this section shall be paid out of money provided by Parliament.
- (4) In this section—
  - “goods service operator” means a person who operates services for the carriage of goods by railway;
  - “track access charge” means any payment required to be made under an access agreement conferring any permission or right to use track;
and expressions used in this section and in Part I above have the same meaning in this section as they have in that Part.

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

- C3** *S. 137:* certain functions made exercisable by the Scottish Ministers concurrently with the Minister concerned (1.7.1999) by *S.I. 1999/1750, arts. 1(1), 3, Sch. 2; S.I. 1998/3178, art. 3*

### **138 Grants and other payments towards facilities for public passenger transport to and from airports, harbours etc.**

- (1) Section 56 of the <sup>M35</sup>Transport Act 1968 (Ministerial grants and local authority payments towards capital expenditure incurred in the provision, improvement or development of facilities for public passenger transport) shall be amended in accordance with the following provisions of this section.
- (2) After subsection (2) there shall be inserted—
  - “(2A) Where a relevant local authority proposes to make payments under subsection (2) of this section in respect of any facilities, that authority may enter into an agreement with the Franchising Director under which the Franchising Director undertakes to exercise franchising functions of his, to

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refrain from exercising such functions, or to exercise such functions in a particular manner, in relation to the use of the facilities in question.

(2B) In subsection (2A) of this section, the following expressions have the following meanings respectively, that is to say—

“the Franchising Director” means the Director of Passenger Rail Franchising;

“franchising functions”, in relation to the Franchising Director, has the same meaning as it has in relation to him in section 54 of the Railways Act 1993;

“relevant local authority” means—

- (a) a non-metropolitan county or district council in England or in Wales;
- (b) a London borough council or the Common Council of the City of London; or
- (c) a regional or islands council in Scotland;

and any reference to a relevant local authority shall be taken to include a reference to any two or more such authorities acting jointly.”

(3) That section shall have effect, and be taken always to have had effect, with the insertion after subsection (3) (which prevents the making of any such grants or payments for the purposes of the provision, improvement or development of an airfield, harbour, dock, pier or jetty) of the following subsection—

“(3A) Nothing in subsection (3) of this section precludes the making of grants under subsection (1) or payments under subsection (2) thereof for the purposes of the provision, improvement or development of facilities for or in connection with public passenger transport by land to or from an airfield, harbour, dock, pier or jetty.”

#### Marginal Citations

M35 1968 c. 73.

VALID FROM 01/07/1999

#### 139 Grants to assist the provision of facilities for freight haulage by railway.

- (1) The Secretary of State may, out of money provided by Parliament, make grants in accordance with this section towards the provision of any facilities which are to be provided for or in connection with the carriage of goods by railway or the loading or unloading of goods carried or intended to be carried by railway.
- (2) The Secretary of State shall not make a grant under this section unless he is satisfied—
  - (a) that, if the facilities in question are provided, they will be used for or in connection with the carriage, or the loading or unloading, of goods of particular classes or descriptions;
  - (b) that if the facilities are not provided, those goods will be carried by road; and
  - (c) that it is in the public interest for those goods to be carried by railway.

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- (3) Grants under this section shall only be made towards expenditure which appears to the Secretary of State to be expenditure of a capital nature which is to be incurred in providing the facilities in question.
- (4) Without prejudice to the generality of subsection (1) above, the facilities towards the provision of which grants under this section may be made include track, rolling stock, depots, access roads and equipment for use in connection with the carriage, loading or unloading of goods.
- (5) No grant under this section shall be made except in pursuance of an application made to the Secretary of State by the person who intends to provide the facilities; and any such application shall be supported by such evidence as the Secretary of State may require with respect to—
  - (a) the use which is to be made of the facilities for or in connection with the carriage of goods by railway or the loading or unloading of goods carried or intended to be carried by railway;
  - (b) the amount and destination of the goods in connection with which the facilities are to be used; and
  - (c) the matters as to which he is required by subsection (2)(b) and (c) above to be satisfied if he is to make a grant under this section.
- (6) The Secretary of State may, in making a grant under this section, impose such terms and conditions as he thinks fit.
- (7) Expressions used in this section and in Part I above have the same meaning in this section as they have in that Part.
- (8) Section 8 of the <sup>M36</sup>Railways Act 1974 (freight facilities grants) shall cease to have effect.

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

**C4** S. 139: transfer of functions (1.7.1999) by S.I. 1999/672, arts. 1(2), 2, **Sch. 1**

**C5** S. 139(1)(2)(3)(5)(6): certain functions made exercisable by the Scottish Ministers concurrently with the Ministers (1.7.1999) by S.I. 1999/1750, arts. 1(1), 3, **Sch. 2**; S.I. 1998/3178, **art. 3**

#### Marginal Citations

**M36** 1974 c. 48.

## 140 Grants to assist the provision of facilities for freight haulage by inland waterway.

- (1) The Secretary of State may, out of money provided by Parliament, make grants in accordance with this section towards the provision of any facilities which are to be provided for or in connection with the carriage of goods by inland waterway or the loading or unloading of goods carried or intended to be carried by inland waterway.
- (2) The Secretary of State shall not make a grant under this section unless he is satisfied—
  - (a) that, if the facilities in question are provided, they will be used for or in connection with the carriage, or the loading or unloading, of goods of particular classes or descriptions;
  - (b) that if the facilities are not provided, those goods will be carried by road; and

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- (c) that it is in the public interest for those goods to be carried by inland waterway.
- (3) Grants under this section shall only be made towards expenditure which appears to the Secretary of State to be expenditure of a capital nature which is to be incurred in providing the facilities in question.
- (4) Without prejudice to the generality of subsection (1) above, the facilities towards the provision of which grants under this section may be made include cargo-carrying craft, inland waterway terminals, wharves, access roads and equipment for use in connection with the carriage, loading or unloading of goods.
- (5) No grant under this section shall be made except in pursuance of an application made to the Secretary of State by the person who intends to provide the facilities; and any such application shall be supported by such evidence as the Secretary of State may require with respect to—
- (a) the use which is to be made of the facilities for or in connection with the carriage of goods by inland waterway or the loading or unloading of goods carried or intended to be carried by inland waterway;
  - (b) the amount and destination of the goods in connection with which the facilities are to be used; and
  - (c) the matters as to which he is required by subsection (2)(b) and (c) above to be satisfied if he is to make a grant under this section.
- (6) The Secretary of State may, in making a grant under this section, impose such terms and conditions as he thinks fit.
- (7) In this section—
- “goods” has the same meaning as in Part I above;
  - “inland waterway” includes every such waterway, whether natural or artificial.
- (8) Section 36 of the <sup>M37</sup>Transport Act 1981 (grants to assist the provision of facilities for freight haulage by inland waterway) shall cease to have effect.

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

C6 S. 140: transfer of functions (1.7.1999) by S.I.1999/672, arts. 1(2), 2, Sch. 1

**Marginal Citations**

M37 1981 c. 56.

**141 Financial assistance for employees seeking to acquire franchises or parts of the Board’s undertaking etc.**

- (1) If it appears to the Board that any persons employed by the Board, or by any subsidiary of the Board, are taking steps towards—
- (a) the submission of such a tender as is mentioned in section 26 above, or
  - (b) the making of an offer for any part of the Board’s undertaking or for any shares of any subsidiary of the Board,

the Board may provide financial assistance to those persons for the purpose of defraying, in whole or in part, any expenses incurred or to be incurred by them for the purposes of the submission of the tender or the making of the offer.

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for the Railways Act 1993, Part III. (See end of Document for details)*

- (2) Without prejudice to the generality of the expression, “steps” includes, for the purposes of subsection (1) above, the formation of, or the acquisition of interests in, a company (in this subsection referred to as an “employees’ company”); and accordingly—
  - (a) any reference in that subsection to the submission of a tender or to the making of an offer includes a reference to the submission of a tender or, as the case may be, to the making of an offer by an employees’ company; and
  - (b) the reference to expenses incurred or to be incurred by those persons includes a reference to expenses incurred or to be incurred by an employees’ company.
- (3) The Secretary of State may give the Board directions with respect to the provision of financial assistance under this section.
- (4) Without prejudice to the generality of subsection (3) above, any such direction may, in particular—
  - (a) specify a limit on the total amount of the financial assistance which may be provided under this section or on the amount, or the total amount, which may be so provided—
    - (i) in cases of any particular class or description specified in the direction; or
    - (ii) during any period or periods so specified; or
  - (b) require the provision of any such financial assistance by the Board to be subject to conditions, including conditions as to repayment.
- (5) Expressions used in this section and in Part I or II above have the same meaning in this section as they have in that Part.

**Commencement Information**

- I3** *S. 141* wholly in force at 1.4.1994; *s. 141* not in force at Royal Assent see *s. 154(2)*; *s. 141* (except subsection (1)(a)) in force at 6.1.1994 by *S.I. 1993/3237*, **art. 2(2)**; *s. 141* in force at 1.4.1994 insofar as not already in force by *S.I. 1994/ 571*, art. 5

**142 General financial provisions.**

There shall be paid out of money provided by Parliament—

- (a) any administrative expenses incurred by the Secretary of State or the Treasury in consequence of the provisions of this Act; and
- (b) any increase attributable to this Act in the sums payable out of money so provided under any other Act.

*Supplemental*

**143 Regulations and orders.**

- (1) Any power under this Act to make regulations, and any power of the Secretary of State under this Act to make orders, shall be exercisable by statutory instrument.
- (2) Any statutory instrument—

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- (a) which contains (whether alone or with other provisions) regulations or an order under this Act made by the Secretary of State, other than an order under section 136(8) above or section 154(2) below, and
  - (b) which is not subject to any requirement that a draft of the instrument be laid before and approved by a resolution of each House of Parliament,
- shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (3) Any power conferred by this Act to make regulations, and any power conferred by this Act on the Secretary of State to make an order, includes power, exercisable in the same manner, to make such incidental, supplemental, consequential or transitional provision as may appear necessary or expedient to the authority by whom the power to make the regulations or order is exercisable.
- (4) Any power under this Act to make regulations, and any power of the Secretary of State under this Act to make an order, may be exercised—
- (a) in relation to all cases to which the power extends, or in relation to those cases subject to specified exceptions, or in relation to any specified cases or classes or descriptions of case;
  - (b) so as to make, as respects the cases in relation to which it is exercised, different provision for different cases or for different classes or descriptions of case.

#### 144 Directions.

- (1) It shall be the duty of any person to whom a direction is given under this Act to comply with and give effect to that direction; and, without prejudice to the generality of the foregoing, the Board shall, in particular, comply with and give effect to any direction given under section 84, 85, 89, 90 or 113 above—
- (a) notwithstanding any duty imposed upon the Board by section 3(1) of the <sup>M38</sup>Transport Act 1962 or section 41(2) of the <sup>M39</sup>Transport Act 1968; and
  - (b) in the case of a direction under section 89 or 90 above which relates to a subsidiary of the Board, notwithstanding the interests of the subsidiary or any other member of the subsidiary;
- and a Passenger Transport Executive shall, in particular, comply with and give effect to any direction under section 33 or 34(17) above, notwithstanding any duty imposed upon the Executive by section 9A or 20 of the <sup>M40</sup>Transport Act 1968.
- (2) Without prejudice to any right which any person may have to bring civil proceedings in respect of any contravention or apprehended contravention of any direction given under this Act, compliance with any such direction shall be enforceable by civil proceedings, by the person by whom the direction was given, for an injunction or interdict or for any other appropriate relief.
- (3) Any power conferred by this Act to give a direction shall, unless the context otherwise requires, include power to vary or revoke the direction.
- (4) Any direction given under this Act shall be in writing.

#### Marginal Citations

M38 1962 c. 46.

M39 1968 c. 73.



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*Changes to legislation: There are currently no known outstanding effects  
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**M40** 1968 c. 73.

## **145 General restrictions on disclosure of information.**

- (1) Subject to the following provisions of this section, no information with respect to any particular business which—
- (a) has been obtained under or by virtue of any of the provisions of this Act; and
  - (b) relates to the affairs of any individual or to any particular business,
- shall, during the lifetime of that individual or so long as that business continues to be carried on, be disclosed without the consent of that individual or the person for the time being carrying on that business.
- (2) Subsection (1) above does not apply to any disclosure of information which is made—
- (a) for the purpose of facilitating the carrying out by the Secretary of State, the Regulator, the Franchising Director or the Monopolies Commission of any of his or, as the case may be, their functions under this Act;
  - (b) for the purpose of facilitating the carrying out by—
    - (i) any Minister of the Crown,
    - (ii) the Director General of Fair Trading,
    - (iii) the Monopolies Commission,
    - (iv) the Director General of Telecommunications,
    - (v) the Director General of Gas Supply,
    - (vi) the Director General of Water Supply,
    - (vii) the Director General of Electricity Supply,
    - (viii) the Civil Aviation Authority,
    - (ix) the Insolvency Practitioners Tribunal, or
    - (x) a local weights and measures authority in Great Britain,
of any of his or, as the case may be, their functions under any of the enactments or instruments specified in subsection (3) below;
  - (c) for the purpose of enabling or assisting the Secretary of State or the Treasury to exercise any powers conferred by the <sup>M41</sup>Financial Services Act 1986 or by the enactments relating to companies, insurance companies or insolvency or for the purpose of enabling or assisting any inspector appointed under the enactments relating to companies to carry out his functions;
  - (d) for the purpose of enabling or assisting an official receiver to carry out his functions under the enactments relating to insolvency or for the purpose of enabling or assisting a recognised professional body for the purposes of section 391 of the <sup>M42</sup>Insolvency Act 1986 to carry out its functions as such;
  - (e) for the purpose of facilitating the carrying out by the Health and Safety Commission or the Health and Safety Executive of any of its functions under any enactment or of facilitating the carrying out by any enforcing authority, within the meaning of Part I of the <sup>M43</sup>Health and Safety at Work etc. Act 1974, of any functions under a relevant statutory provision, within the meaning of that Act;
  - (f) for the purpose of facilitating the carrying out by the Comptroller and Auditor General of any of his functions under any enactment;
  - (g) for the purpose of facilitating the carrying out by the International Rail Regulator of any of his functions under any subordinate legislation made for the purpose of implementing the Directive [91/440/EEC](#) of the Council of



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the European Communities dated 29th July 1991 on the development of the Community's railways;

[<sup>F5</sup>or Council Directive [95/18/EC](#) on the licensing of railway undertakings or Council Directive [95/19/EC](#) on the allocation of railway infrastructure capacity and the charging of infrastructure fees]

- (h) in connection with the investigation of any criminal offence or for the purposes of any criminal proceedings;
  - (j) for the purposes of any civil proceedings brought under or by virtue of this Act or any of the enactments or instruments specified in subsection (3) below; or
  - (k) in pursuance of a Community obligation.
- (3) The enactments and instruments referred to in subsection (2) above are—
- (a) the <sup>M44</sup>Trade Descriptions Act 1968;
  - (b) the <sup>M45</sup>Fair Trading Act 1973;
  - (c) the <sup>M46</sup>Consumer Credit Act 1974;
  - (d) the <sup>M47</sup>Restrictive Trade Practices Act 1976;
  - (e) the <sup>M48</sup>Resale Prices Act 1976;
  - (f) the <sup>M49</sup>Estate Agents Act 1979;
  - (g) the <sup>M50</sup>Competition Act 1980;
  - (h) the <sup>M51</sup>Telecommunications Act 1984;
  - (j) the <sup>M52</sup>Airports Act 1986;
  - (k) the <sup>M53</sup>Gas Act 1986;
  - (l) the <sup>M54</sup>Insolvency Act 1986;
  - (m) the <sup>M55</sup>Consumer Protection Act 1987;
  - (n) the <sup>M56</sup>Electricity Act 1989;
  - (o) the <sup>M57</sup>Property Misdescriptions Act 1991;
  - (p) the <sup>M58</sup>Water Industry Act 1991;
  - (q) the <sup>M59</sup>Water Resources Act 1991;
  - (r) any subordinate legislation made for the purpose of securing compliance with the Directive [84/450/EEC](#). of the Council of the European Communities dated 10th September 1984 on the approximation of the laws, regulations and administrative provisions of the member States concerning misleading advertising.
- (4) The Secretary of State may by order provide that subsections (2) and (3) above shall have effect subject to such modifications as are specified in the order.
- (5) Nothing in subsection (1) above shall be construed—
- (a) as limiting the matters which may be published under section 71 above or may be included in, or made public as part of, a report of the Regulator, the Franchising Director, the Monopolies Commission, the Central Committee or a consultative committee under any provision of Part I above;
  - (b) as applying to any information—
    - (i) which has been so published or has been made public as part of such a report; or
    - (ii) which has otherwise been made available to the public by virtue of being disclosed in any circumstances in which, or for any purpose for which, disclosure is not precluded by this section.

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- (6) Any person who discloses any information in contravention of this section is guilty of an offence and shall be liable—
- (a) on summary conviction, to a fine not exceeding the statutory maximum;
  - (b) on conviction on indictment, to imprisonment for a term not exceeding two years or to a fine or to both.
- (7) In this section—
- “the Central Committee” has the same meaning as in Part I above;
- “consultative committee” has the same meaning as in Part I above and includes a reference to the London Regional Passengers’ Committee.

#### Textual Amendments

**F5** Words in s. 145(2)(g) inserted (27.6.1998) by S.I. 1998/1340, reg. 21(10)

#### Commencement Information

**I4** S. 145 wholly in force at 1.4.1994; s. 145 not in force at Royal Assent see s. 154(2); s. 145(1)-(6) (except for the purposes of subsections 5(a) and 5(b)(i)) in force at 24.12.1993 by S.I. 1993/3237, art. 2(1); s. 145 in force at 1.4.1994 insofar as not already in force by S.I. 1994/571, art. 5

#### Marginal Citations

**M41** 1986 c. 60.  
**M42** 1986 c. 45.  
**M43** 1974 c. 37.  
**M44** 1968 c. 29.  
**M45** 1973 c. 41.  
**M46** 1974 c. 39.  
**M47** 1976 c. 34.  
**M48** 1976 c. 53.  
**M49** 1979 c. 38.  
**M50** 1980 c. 21.  
**M51** 1984 c. 12.  
**M52** 1986 c. 31.  
**M53** 1986 c. 44.  
**M54** 1986 c. 45.  
**M55** 1987 c. 43.  
**M56** 1989 c. 29.  
**M57** 1991 c. 29.  
**M58** 1991 c. 56.  
**M59** 1991 c. 57.

## 146 Making of false statements etc.

- (1) If any person, in giving any information or making any application under or for the purposes of any provision of this Act, or of any regulations made under this Act, makes any statement which he knows to be false in a material particular, or recklessly makes any statement which is false in a material particular, he is guilty of an offence and shall be liable—
- (a) on summary conviction, to a fine not exceeding the statutory maximum;
  - (b) on conviction on indictment, to a fine.

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- (2) No proceedings shall be instituted in England and Wales in respect of an offence under this section except by or with the consent of the Secretary of State or the Director of Public Prosecutions.

#### **147 Offences by bodies corporate or Scottish partnerships.**

- (1) Where a body corporate is guilty of an offence under this Act and that offence is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, any director, manager, secretary or other similar officer of the body corporate or any person who was purporting to act in any such capacity he, as well as the body corporate, shall be guilty of that offence and shall be liable to be proceeded against and punished accordingly.
- (2) Where the affairs of a body corporate are managed by its members, subsection (1) above shall apply in relation to the acts and defaults of a member in connection with his functions of management as if he were a director of the body corporate.
- (3) Where a Scottish partnership is guilty of an offence under this Act in Scotland and that offence is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, a partner, he as well as the partnership shall be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

#### **Extent Information**

**E1** For extent of s. 147, see [s.154\(2\)\(f\)\(4\)](#)

#### **148 Proceedings in Scotland.**

- (1) Subject to subsection (2) below, summary proceedings for an offence under this Act which is triable either on indictment or summarily may be commenced within a period of six months from the date on which evidence sufficient in the opinion of the procurator fiscal to warrant proceedings came to his knowledge.
- (2) No such proceedings shall be commenced by virtue of this section more than three years after the commission of the offence.
- (3) For the purposes of this section, a certificate signed by or on behalf of the procurator fiscal and stating the date on which evidence sufficient in his opinion to warrant proceedings came to his knowledge shall be conclusive evidence of that fact.
- (4) A certificate stating that matter and purporting to be so signed shall be deemed to be so signed unless the contrary is proved.
- (5) Subsection (3) of [<sup>F6</sup>section 136 of the Criminal Procedure (Scotland) Act 1995] (which relates to the date of commencement of proceedings) shall apply for the purposes of this section as it applies for the purposes of that section.
- (6) This section extends to Scotland only.

*Status: Point in time view as at 27/06/1998. This version of this part contains provisions that are not valid for this point in time.*

*Changes to legislation: There are currently no known outstanding effects  
for the Railways Act 1993, Part III. (See end of Document for details)*

### Textual Amendments

**F6** Words in s. 148(5) substituted (1.4.1996) by 1995 c. 40, s. 5, **Sch. 4 para. 88**

## 149 Service of documents.

- (1) Any document required or authorised by virtue of this Act to be served (whether the expression “serve” or the expression “give” or “send” or any other expression is used) on any person may be served—
  - (a) by delivering it to him or by leaving it at his proper address or by sending it by post to him at that address; or
  - (b) if the person is a body corporate, by serving it in accordance with paragraph (a) above on the secretary of that body; or
  - (c) if the person is a partnership, by serving it in accordance with paragraph (a) above on a partner or a person having the control or management of the partnership business.
- (2) For the purposes of this section and section 7 of the <sup>M60</sup>Interpretation Act 1978 (which relates to the service of documents by post) in its application to this section, the proper address of any person on whom a document is to be served shall be his last known address, except that—
  - (a) in the case of service on a body corporate or its secretary, it shall be the address of the registered or principal office of the body;
  - (b) in the case of service on a partnership or a partner or a person having the control or management of a partnership business, it shall be the address of the principal office of the partnership;

and for the purposes of this subsection the principal office of a company constituted under the law of a country or territory outside the United Kingdom or of a partnership carrying on business outside the United Kingdom is its principal office within the United Kingdom.
- (3) If a person to be served by virtue of this Act with any document by another has specified to that other an address within the United Kingdom other than his proper address (as determined in pursuance of subsection (2) above) as the one at which he or someone on his behalf will accept documents of the same description as that document, then, in relation to that document, that address shall be treated as his proper address for the purposes of this section and for the purposes of the said section 7 in its application to this section, instead of that determined in accordance with subsection (2) above.
- (4) This section shall not apply to any document in relation to the service of which provision is made by rules of court.
- (5) In this section—

“local authority” includes a metropolitan county passenger transport authority;

“secretary”, in relation to a local authority, means the proper officer within the meaning of the <sup>M61</sup>Local Government Act 1972 or (in relation to a local authority in Scotland) the <sup>M62</sup>Local Government (Scotland) Act 1973;

“serve” shall be construed in accordance with subsection (1) above.

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*Changes to legislation: There are currently no known outstanding effects for the Railways Act 1993, Part III. (See end of Document for details)*

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

- C7** S. 149 applied (31.5.1994) by S.I. 1994/1432, **art. 1(4)**  
S. 149 applied (E.W.) (7.10.2001) by S.I. 2001/3352, **rule 9.9**

**Marginal Citations**

- M60** 1978 c. 30.  
**M61** 1972 c. 70.  
**M62** 1973 c. 65.

VALID FROM 30/09/2006

**[<sup>F7</sup>149A Service of documents under sections 118 to 120: additional provisions**

- (1) Any document required or authorised by virtue of sections 118 to 120 or this section of this Act to be given or served by the Secretary of State to or on any person may also be given or served, where—
- (a) an address for service using electronic communications has been given by that person and not withdrawn in accordance with subsection (6), and
  - (b) that person has agreed to accept service by electronic communications of documents in a certain form and has not withdrawn that agreement in accordance with that subsection,
- by using electronic communications to send the document in that form to that person at that address.
- (2) A document given to or served on a person in accordance with subsection (1) must be in a form sufficiently permanent to be used for subsequent reference.
- (3) Where a document is given to or served on a person in accordance with subsection (1), the document is, unless the contrary is proved, to be deemed to have been given to or served on that person at the time at which the electronic communication is transmitted except where transmission is made outside that person's normal business hours, in which case it is to be taken to have been given or served on the next working day, and in this subsection, “working day” means any day other than—
- (a) a Saturday or a Sunday;
  - (b) Christmas Day or Good Friday; or
  - (c) a day which is a bank holiday under the Banking and Financial Dealings Act 1971 (c. 80) in any part of the United Kingdom.
- (4) A document required or authorised by virtue of sections 118 to 120 of this Act to be given or served by the Secretary of State is also to be treated as given or served where—
- (a) that person and the Secretary of State have agreed to his having access to documents of a particular description and in a certain form on a web site (instead of their being given to or served on him in any other way specified in this section or section 149);
  - (b) that person has not withdrawn his agreement in accordance with subsection (7);
  - (c) the document in question is a document to which the agreement applies;

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- (d) the Secretary of State has given that person a notice, in a manner agreed between them for the purpose—
- (i) stating that the document has been published on a web site maintained by or on behalf of the Secretary of State;
  - (ii) setting out the address of that web site; and
  - (iii) setting out the place on that web site where the document may be accessed and how it may be accessed by that person; and
- (e) the published document is in a form sufficiently permanent to be used for subsequent reference.
- (5) Where a document is given to or served on a person in accordance with subsection (4), the document is, unless the contrary is proved, to be deemed to have been given to or served on that person at the same time as the notice required to be given under subsection (4)(d) is given.
- (6) A person who has supplied the Secretary of State with an address for service using electronic communications and has agreed to accept service of documents in a certain form in accordance with subsection (1) may give notice to the Secretary of State withdrawing that address or that agreement or both.
- (7) A person who has an agreement with the Secretary of State under subsection (4)(a) may give notice to the Secretary of State withdrawing that agreement.
- (8) A withdrawal under subsection (6) or (7) shall take effect on the later of—
- (a) the date specified by the person in the notice; and
  - (b) the date which is fourteen days after the date on which the notice is given.
- (9) Oral notice is not sufficient for the purposes of subsection (6) or (7).
- (10) This section shall not apply to any document in relation to the service of which provision is made by the rules of the court.
- (11) In this section—
- “address”, in relation to electronic communications, means any number or address used for the purposes of such communications;
- “electronic communication” has the same meaning as in the Electronic Communications Act 2000 (c. 7).]

#### **Textual Amendments**

- F7** S. 149A inserted (30.9.2006) by The Transport Security (Electronic Communications) Order 2006 (S.I. 2006/2190), {art. 6}

## **150 Crown application.**

- (1) The following provisions of this Act bind the Crown—
- (a) sections 17 to 22;
  - (b) sections 55 to 58, except sections 55(8) and 58(4) and (5);
  - (c) sections 59 to 62;
  - (d) sections 85 to 88, 91 to 94, 96 and 97;

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- (e) subject to, and in accordance with, section 48 of the <sup>M63</sup>Health and Safety at Work etc. Act 1974, section 117 (other than subsection (5)) so far as affecting or relating to provisions of, or regulations under, Part I of that Act which bind the Crown;
  - (f) section 118, except subsections (7) and (8);
  - (g) sections 119 to 121, except sections 120(4) and (5) and 121(4) to (6);
  - (h) section 122;
  - (j) section 144, so far as relating to other provisions of this Act which bind the Crown;
  - (k) Schedule 4;
  - (l) Schedule 6, to the extent that it applies, amends or modifies the operation of provisions of the <sup>M64</sup>Insolvency Act 1986 which bind the Crown so far as affecting or relating to the matters specified in paragraphs (a) to (e) of section 434 of that Act;
  - (m) Schedule 7;
  - (n) Schedule 8;
  - (o) the amendments and repeals made by Schedules 12 and 14, to the extent that the enactments to which they relate bind the Crown.
- (2) Nothing in subsection (1) above so far as relating—
- (a) to sections 55 to 58 above, or
  - (b) to section 144 above, so far as relating to those sections,
- shall authorise proceedings to be brought against Her Majesty in her private capacity.
- (3) Subsection (2) above shall be construed as if section 38(3) of the <sup>M65</sup>Crown Proceedings Act 1947 (interpretation of references in that Act to Her Majesty in her private capacity) were contained in this Act.
- (4) No person with whom the Franchising Director enters into an agreement or arrangement pursuant to section 51 above shall be regarded, by virtue of that agreement or arrangement, as a servant or agent of the Crown, or as having any status, immunity or privilege of the Crown.

#### Commencement Information

**I5** [S. 150](#) wholly in force at 1.4.1994; [s. 150](#) not in force at Royal Assent see [s. 154\(2\)](#); [s. 150\(1\)-\(3\)](#) in force at 24.12.1993 by [S.I. 1993/3237](#), [art. 2\(1\)](#); [s. 150](#) in force at 1.4.1994 insofar as not already in force by [S.I. 1994/571](#), [art. 5](#)

#### Marginal Citations

**M63** 1974 c. 37.  
**M64** 1986 c. 45.  
**M65** 1947 c. 44.

## 151 General interpretation.

- (1) In this Act, unless the context otherwise requires—
- “the Board” means the British Railways Board;
  - “body corporate” has the meaning given by section 740 of the <sup>M66</sup>Companies Act 1985;



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“company” means any body corporate;

“contravention”, in relation to any direction, condition, requirement, regulation or order, includes any failure to comply with it and cognate expressions shall be construed accordingly;

“debentures” includes debenture stock;

“the Franchising Director” means the Director of Passenger Rail Franchising;

“functions” includes powers, duties and obligations;

“local authority” means any county council, [<sup>F8</sup>county borough council,] district council, <sup>F9</sup>. . . or London borough council, the Common Council of the City of [<sup>F10</sup>London,] the Council of the Isles of Scilly [<sup>F11</sup>or any council constituted under section 2 of the Local Government etc. (Scotland) Act 1994];

“modifications” includes additions, alterations and omissions and cognate expressions shall be construed accordingly;

“the Monopolies Commission” means the Monopolies and Mergers Commission;

“notice” means notice in writing;

“publicly owned railway company” means a company which is wholly owned by the Crown and which carries on, or is to carry on,—

- (a) an undertaking derived, or to be derived, (whether wholly or partly and whether directly or indirectly) from, or from some part of, an undertaking carried on by the Board or a wholly owned subsidiary of the Board; or
- (b) an undertaking in the course of which the company uses, or will use, any property, rights or liabilities acquired, or to be acquired, (whether directly or indirectly) from the Board or a wholly owned subsidiary of the Board;

“the Regulator” means the Rail Regulator;

“securities” has the meaning given by section 142 of the <sup>M67</sup>Financial Services Act 1986;

“shares” includes stock;

“subsidiary” has the meaning given by section 736 of the <sup>M68</sup>Companies Act 1985;

“transfer scheme” means a scheme made under or by virtue of section 85 or 86 above;

“wholly owned subsidiary” has the meaning given by section 736 of the <sup>M69</sup>Companies Act 1985.

- (2) For the purposes of this Act, a company shall be regarded as “wholly owned by the Crown” at any time when it has no members other than—
  - (a) the Secretary of State, the Franchising Director or a Government department,
  - (b) a company which is itself wholly owned by the Crown, or
  - (c) a person acting on behalf of the Secretary of State, the Franchising Director, a Government department or such a company.
- (3) For the purposes of this Act, a company shall be regarded as “wholly owned by the Franchising Director” at any time when it has no members other than—
  - (a) the Franchising Director,
  - (b) a company which is itself wholly owned by the Franchising Director, or



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- (c) a person acting on behalf of the Franchising Director or such a company.
- (4) Any consent or approval under or by virtue of this Act shall be given in writing.
- (5) For the purposes of this Act any class or description may be framed by reference to any matters or circumstances whatever.
- (6) Nothing in this Act affects the operation of the <sup>M70</sup>Transfer of Undertakings (Protection of Employment) Regulations 1981, in their application in relation to the transfer of an undertaking, or part of an undertaking, within the meaning of those Regulations.
- (7) Nothing in this Act, and nothing done under it, shall prejudice or affect the operation of any of the relevant statutory provisions (whenever made) as defined in Part I of the <sup>M71</sup>Health and Safety at Work etc. Act 1974.
- (8) Subsection (7) above is without prejudice to section 117 above.
- (9) The provisions of section 3 of the <sup>M72</sup>Administration of Justice (Scotland) Act 1972 (power of arbiter to state case to Court of Session) shall not apply in relation to any determination under this Act made by an arbiter.

#### Textual Amendments

- F8** Words in definition of 'local authority' in s. 151(1) inserted (1.4.1996) by 1994 c. 19, s. 66(6), **Sch. 16 para. 107** (with s. 66(7), **Sch. 17 paras. 22(1), 23(2)**); S.I. 1996/396, **art. 4**
- F9** Words in definition of 'local authority' in s. 151(1) repealed (1.4.1996) by 1994 c. 39, s. 180(1)(2), **Sch. 13 para. 184(3)(a), Sch. 14**; S.I. 1996/323, **art. 4(1)(d)**
- F10** Word in definition of 'local authority' in s. 151(1) substituted (1.4.1994) by 1994 c. 39, s. 180(1), **Sch. 13 para. 184(3)(b)**
- F11** Words in definition of 'local authority' inserted (1.4.1994) by 1994 c. 39, s. 180(1), **Sch. 13 para. 184(3)(c)**

#### Commencement Information

- I6** **S. 151** wholly in force at 6.1.1994; **s. 151** not in force at Royal Assent see **s. 154(2)**; **s. 151(1)** in force for specified purposes and **s. 151(5)** wholly in force at 24.12.1993 by S.I. 1993/3237, **art. 2(1)**; **S. 151** in force insofar as not already in force at 6.1.1994 by S.I. 1993/3237, **art. 2(2)**

#### Marginal Citations

- M66** 1985 c. 6.  
**M67** 1986 c.60.  
**M68** 1985 c. 6.  
**M69** 1985 c. 6.  
**M70** S.I. 1981/1794.  
**M71** 1974 c. 37.  
**M72** 1972 c. 59.

## 152 Minor and consequential amendments, transitional provisions and repeals.

- (1) The enactments mentioned in Schedule 12 to this Act shall have effect with the amendments there specified (being minor amendments and amendments consequential on provisions of this Act).

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- (2) The transitional provisions contained in Schedule 13 to this Act shall have effect; but those provisions are without prejudice to sections 16 and 17 of the <sup>M73</sup>Interpretation Act 1978 (effect of repeals).
- (3) The enactments mentioned in Schedule 14 to this Act (which include some that are spent or no longer of practical utility) are hereby repealed to the extent specified in the third column of that Schedule.

#### **Commencement Information**

**I7** S. 152 partly in force; s. 152 not in force at Royal Assent see s. 154(2); s. 152(1)(3) in force for specified purposes at 6.1.1994 by S.I. 1993/3237, art. 2(2); s. 152(3) in force for specified purposes at 8.3.1994 by S.I. 1994/571, art. 2 ; s. 152(3) in force for further specified purposes at 31.3.1994 by S.I. 1994/571, art. 4; s. 152(1)-(3) in force for specified purposes at 1.4.1994 by S.I. 1994/571, art. 5; s. 152(3) in force for specified purposes at 15.7.1994 by S.I. 1994/1648, art. 2

#### **Marginal Citations**

**M73** 1978 c. 30.

### **153 Power to make consequential modifications in other Acts etc.**

- (1) The Secretary of State may by order make such modifications of existing provisions as appear to him to be necessary or expedient in consequence of the provisions of this Act, or of any instrument made under or by virtue of this Act, being modifications in respect of—
  - (a) any reference in an existing provision to the Board or any subsidiary of the Board;
  - (b) any reference (in whatever terms) in an existing provision to any railway, railway service or railway undertaking;
  - (c) any reference (in whatever terms) in an existing provision to any person who—
    - (i) provides a railway service, or
    - (ii) carries on a railway undertaking,
or who is authorised to do so under or by virtue of any enactment;
  - (d) any reference in an existing provision to any enactment amended or repealed by or under this Act;
  - (e) any existing provision, so far as appearing to the Secretary of State to be of no further practical utility, having regard to the provisions of this Act;
  - (f) any other inconsistency between an existing provision and this Act.
- (2) In this section—

“existing provision” means a provision contained in any Act (whether public general or local) passed, or in subordinate legislation made, before the relevant date;

“railway” has its wider meaning, within the meaning of Part I above;

“railway service” has the same meaning as in Part I above;

“the relevant date”, in relation to any modification, means the date of the coming into force of the provision of this Act on which the modification is consequential;

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“subordinate legislation” has the same meaning as in the <sup>M74</sup>Interpretation Act 1978.

**Marginal Citations**

**M74** 1978 c. 30.

**154 Short title, commencement and extent.**

- (1) This Act may be cited as the Railways Act 1993.
- (2) Except for section 1 and Schedule 1 (which come into force on the passing of this Act), this Act shall come into force on such day as may be specified in an order made by the Secretary of State; and different days may be so specified—
  - (a) for different provisions;
  - (b) for different purposes of the same provision; and
  - (c) for different areas within the United Kingdom.
- (3) The following provisions of this Act extend to Northern Ireland—
  - (a) sections 32(2) and (3) and 36(1), (4) and (5);
  - (b) subsections (1), (2), (4) and (5) of section 66;
  - (c) sections 84, 85, 87 to 97, 107, 109 to 116, 124, 126, 128 and 129(3);
  - (d) section 131;
  - (e) section 134;
  - (f) sections 143, 144, 146, 147(1) and (2) and 149 to 152, so far as relating to provisions of this Act which so extend;
  - (g) section 153;
  - (h) this section;
  - (j) paragraphs 6, 7 and 8 of Schedule 1, paragraph 10 of Schedule 2 and paragraph 9 of Schedule 3;
  - (k) Schedules 8 and 9;
  - (l) Schedule 11;
  - (m) the amendments and repeals made by Schedules 12 and 14, other than those relating to—
    - (i) section 6 of the <sup>M75</sup>Regulation of Railways Act 1889,
    - (ii) the <sup>M76</sup>Railway Fires Act 1905, and
    - (iii) the <sup>M77</sup>Railway Fires Act (1905) Amendment Act 1923,to the extent that the enactments to which they relate so extend.
- (4) Except as provided in subsection (3) above, this Act does not extend to Northern Ireland.

**Marginal Citations**

**M75** 1889 c. 57.

**M76** 1905 c. 11.

**M77** 1923 c. 27.

**Status:**

Point in time view as at 27/06/1998. This version of this part contains provisions that are not valid for this point in time.

**Changes to legislation:**

There are currently no known outstanding effects for the Railways Act 1993, Part III.