



# Railways Act 1993

## 1993 CHAPTER 43

### PART III

#### MISCELLANEOUS, GENERAL AND SUPPLEMENTAL PROVISIONS

##### *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>M1</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**

M1 1953 c. 36.

<sup>F1</sup>125 .....

**Textual Amendments**

F1 S. 125 repealed and superseded (18.9.1996) by 1996 c. 42, s. 8(2)

<sup>F2</sup>126 .....

*Status: Point in time view as at 16/10/2005.*

*Changes to legislation: There are currently no known outstanding effects for the Railways Act 1993, Cross Heading: Miscellaneous and general. (See end of Document for details)*

**Textual Amendments**

**F2** S. 126 repealed (1.2.2001) by 2000 c. 38, s. 274, **Sch. 31 Pt. IV**; S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I** (subject to savings and transitional provisions in **Sch. 2 Pt. II**)

**F3** **127** .....

**Textual Amendments**

**F3** S. 127 repealed (1.2.2001) by 2000 c. 38, s. 274, **Sch. 31 Pt. IV**; S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I** (subject to savings and transitional provisions in **Sch. 2 Pt. II**)

**F4** **128** .....

**Textual Amendments**

**F4** S. 128 repealed (1.2.2001) by 2000 c. 38, s. 274, **Sch. 31 Pt. IV**; S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I** (subject to savings and transitional provisions in **Sch. 2 Pt. II**)

**129** **Bye-laws.**

**F5** .....

**Textual Amendments**

**F5** S. 129 repealed (15.10.2005) by Transport Act 2000 (c. 38), ss. 274, 275(1), **Sch. 31 Pt. IV** (with **Sch. 28 paras. 5(2), 17**); S.I. 2005/2862, **art. 3**

**130** **Penalty fares.**

- (1) [<sup>F6</sup>The Secretary of State and the Scottish Ministers shall each have power by regulations to] 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.

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- [<sup>F7</sup>(1A) The power of the Scottish Ministers under this section shall be exercisable only in relation to trains and stations used for the purposes of—
- (a) railway passenger services provided under Scottish franchise agreements; or
  - (b) a railway passenger service not falling within paragraph (a) which is a Scotland-only service or (without being such a service) is a service the provision of which is secured by the Scottish Ministers.]
- (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;
  - (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 [<sup>F8</sup>Authority], 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

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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 [<sup>F8</sup>Authority] 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 [<sup>F8</sup>Authority] 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;
- 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.
- [<sup>F9</sup>(9A) Before making any regulations which have the effect of varying the amount, or the greatest amount, which a person within, or travelling to or from, Greater London may be charged by way of penalty fare, the Secretary of State must consult the Mayor of London.]
- (10) Any power of the [<sup>F8</sup>Authority] 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.

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[<sup>F10</sup>(11A) A statutory instrument containing regulations made by the Scottish Ministers under this section is subject to annulment in pursuance of a resolution of the Scottish Parliament.]

(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.

#### Textual Amendments

- F6** Words in s. 130(1) substituted (16.10.2005) by [Railways Act 2005 \(c. 14\)](#), **ss. 47(1)**, 60; S.I. 2005/2812, **art. 2(1)**, Sch. 1
- F7** S. 130(1A) inserted (16.10.2005) by [Railways Act 2005 \(c. 14\)](#), **ss. 47(2)**, 60; S.I. 2005/2812, **art. 2(1)**, Sch. 1
- F8** Words in s. 130(2)(p)(5)(6)(10) substituted (1.2.2001) by [2000 c. 38](#), s. 216, **Sch. 17 para. 30**; S.I. 2001/57, **art. 3(1)**, **Sch. 2 Pt. I** (subject to savings and transitional provisions in Sch. 2 Pt. II)
- F9** S. 130(9A) inserted (20.7.2000) by [1999 c. 29](#), **s. 206** (with Sch. 12 para. 9(1)); S.I. 2000/801, **art. 2(2)(c)**, **Sch. Pt. III**
- F10** S. 130(11A) inserted (16.10.2005) by [Railways Act 2005 \(c. 14\)](#), **ss. 47(3)**, 60; S.I. 2005/2812, **art. 2(1)**, Sch. 1

[<sup>F11</sup>131] .....

#### Textual Amendments

- F11** S. 131 repealed (1.3.2000) by [1998 c. 41](#), s. 74(3), **Sch. 14 Pt. I** (with s. 73); S.I. 2000/344, **art. 2**, **Sch.**

**Status:**

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**Changes to legislation:**

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