



Railways Act 1993

1993 CHAPTER 43

PART III

MISCELLANEOUS, GENERAL AND SUPPLEMENTAL PROVISIONS

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—
 - (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.

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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 Transport Act 1962 or section 41(2) of the 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 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.

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,

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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 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 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 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 the European Communities dated 29th July 1991 on the development of the Community's railways;
- (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 Trade Descriptions Act 1968;
- (b) the Fair Trading Act 1973;
- (c) the Consumer Credit Act 1974;
- (d) the Restrictive Trade Practices Act 1976;
- (e) the Resale Prices Act 1976;
- (f) the Estate Agents Act 1979;
- (g) the Competition Act 1980;
- (h) the Telecommunications Act 1984;
- (j) the Airports Act 1986;
- (k) the Gas Act 1986;
- (l) the Insolvency Act 1986;
- (m) the Consumer Protection Act 1987;
- (n) the Electricity Act 1989;
- (o) the Property Misdescriptions Act 1991;
- (p) the Water Industry Act 1991;
- (q) the 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

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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.
- (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.

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.
- (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.

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 section 331 of the Criminal Procedure (Scotland) Act 1975 (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.

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 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;

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- (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 Local Government Act 1972 or (in relation to a local authority in Scotland) the Local Government (Scotland) Act 1973;
- “serve” shall be construed in accordance with subsection (1) above.

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;
 - (e) subject to, and in accordance with, section 48 of the 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 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;

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- (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 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.

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 Companies Act 1985;
 - “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, district council, regional council, islands council or London borough council, the Common Council of the City of London or the Council of the Isles of Scilly;
 - “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;

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“securities” has the meaning given by section 142 of the Financial Services Act 1986;

“shares” includes stock;

“subsidiary” has the meaning given by section 736 of the 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 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
 - (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 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 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 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.

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).
- (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 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.

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;
 - “subordinate legislation” has the same meaning as in the Interpretation Act 1978.

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);

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- (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 Regulation of Railways Act 1889,
 - (ii) the Railway Fires Act 1905, and
 - (iii) the 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.