



Railways Act 1993

1993 CHAPTER 43

PART I

THE PROVISION OF RAILWAY SERVICES

Closures

38 Proposals to discontinue franchised etc. passenger services

(1) This section applies in any case where—

- (a) any railway passenger services on any line or from any station are provided on behalf of the Franchising Director and he proposes to discontinue those services, or
- (b) any railway passenger services on any line or from any station are provided in satisfaction of requirements imposed by a franchise agreement, but—
 - (i) the person so providing those services intends not to continue to provide them when the requirement so to provide them comes to an end, and
 - (ii) the Franchising Director proposes that they should then be discontinued;

and any reference in this section to a closure is a reference to a discontinuance falling within paragraph (a) or (b) above.

(2) If in a case to which this section applies—

- (a) the closure is certified by the Regulator as being a minor closure,
- (b) the closure in question is one in respect of which, in consequence of the application of section 49(6) below, neither section 37 above nor Schedule 5 to this Act is to apply,
- (c) the closure is one in respect of which neither of the conditions in subsection (3) below is satisfied, and any requirement imposed by a franchise agreement to provide the services in question has come to an end, or

Status: This is the original version (as it was originally enacted).

(d) the services in question fall within any of paragraphs (a) to (c) of subsection (4) below,

the Franchising Director may discontinue the services in question, notwithstanding any duty imposed on him by or under this Part to secure their provision, and subsections (5) and (6) below shall not apply in relation to the closure.

(3) The conditions mentioned in subsection (2)(c) above are—

- (a) that all the railway passenger services on the line or from the station in question are provided on behalf of the Franchising Director and he proposes to discontinue all such services on that line or from that station; or
- (b) that all the railway passenger services on the line or from the station in question are provided in satisfaction of requirements imposed by a franchise agreement, and—
 - (i) the person so providing those services intends not to continue providing them when the requirement so to provide them comes to an end, and
 - (ii) the Franchising Director proposes that all such services on that line or from that station should then be discontinued.

(4) In determining, for the purposes of paragraph (a) or (b) of subsection (3) above, whether all the railway passenger services on a line or from a station are provided as mentioned in that paragraph there shall be left out of account any services—

- (a) which involve travel through the Channel Tunnel;
- (b) which are provided otherwise than as regular scheduled services for that line or for that station, as the case may be;
- (c) which are designated, or which are of a class or description designated, by order under section 49(2) below as services in relation to which section 37 above is not to have effect; or
- (d) which are experimental passenger services, within the meaning of section 48 below, or which are provided on an experimental basis, for the purposes of section 56A of the Transport Act 1962;

and this section shall not have effect in relation to any services falling within paragraph (d) above.

(5) Subject to subsection (2) above, where this section applies, the Franchising Director shall publish in two successive weeks in a local newspaper circulating in the area affected and in two national newspapers, and in such other manner as appears to him to be appropriate, a notice containing—

- (a) particulars of the proposal to effect the closure,
- (b) the date on which it is proposed that the closure will take effect,
- (c) particulars of any alternative transport services which appear to him to be available,
- (d) the addresses of the premises at which a statement of the reasons for the proposed closure can be inspected, or from which a copy of that statement can be obtained, and any fees payable for copies of the statement,
- (e) a statement that objections to the proposed closure may be lodged with the Regulator within such period as may be specified for the purpose in the notice (being not less than six weeks from the date of the last publication of the notice in a local newspaper),

and shall be under a duty during the interim period to secure the provision of the services to which the proposed closure relates.

- (6) Without prejudice to any subsequent application of this section in relation to the services in question—
- (a) if the final decision on the closure question is that the proposed closure will not be allowed to take effect, the Franchising Director shall be under a duty to secure the provision of those services after the interim period; and
 - (b) if the final decision on the closure question is that the proposed closure will be allowed to take effect subject to compliance with conditions, the Franchising Director shall be under a duty to comply with those conditions or to secure that they are complied with.
- (7) In this section—
- “the area affected” means the area in which is situated the station or, as the case may be, the line mentioned in subsection (1) above;
 - “the final decision on the closure question” means—
 - (a) in a case where the decision of the Regulator under section 43(9) below with respect to the proposed closure is not referred to the Secretary of State under section 44 below, that decision; or
 - (b) in a case where that decision is referred to the Secretary of State under section 44 below, the disposal of that reference by the Secretary of State;
 - “the interim period” means—
 - (a) in a case falling within paragraph (a) of subsection (1) above, the period beginning with the date mentioned in subsection (5)(b) above and ending four weeks after the date of the final decision on the closure question; or
 - (b) in a case falling within paragraph (b) of that subsection, the period beginning immediately after the requirement mentioned in subparagraph (i) of that paragraph comes to an end and ending four weeks after the date of the final decision on the closure question;
 - “minor closure” has the same meaning as it has in section 37 above.
- (8) The services which are to be regarded for the purposes of this section as provided on behalf of the Franchising Director are the same services as are to be so regarded for the purposes of section 37 above.
- (9) Any sums received by the Franchising Director under this section shall be paid into the Consolidated Fund.