

SCHEDULES

SCHEDULE 27

MINOR AND CONSEQUENTIAL AMENDMENTS ABOUT RAILWAYS

Railways Act 1993 (c. 43)

- 17 The Railways Act 1993 has effect subject to the following amendments.
- 18 In section 7 (licence exemptions), omit subsection (10) (limit on grant of licence exemption by Secretary of State).
- 19 In section 9 (licence conditions), after subsection (3) insert—
- “(3A) Conditions included in a licence by virtue of subsection (1)(a) above may include provision about any matter which is dealt with (whether in the same or a different manner) by an access agreement.”
- 20 (1) Section 13 (modification references to Competition Commission) is amended as follows.
- (2) In subsection (8)(c)(i), for “Director” substitute “Regulator”.
- (3) In subsection (8A)(a)—
- (a) for “and 85” substitute “, 85”, and
- (b) after “documents)” insert “and 93B (false or misleading information)”.
- 21 In section 17 (directions requiring facility owners to enter into contracts for use of their railway facilities), after subsection (7) insert—
- “(7A) Any reference in this section to obtaining permission to use a railway facility includes, where the facility is track, permission to connect other track to it.”
- 22 In section 18(9) (access contracts requiring approval of Regulator), after paragraph (a) insert—
- “(aa) subsection (7A),”.
- 23 (1) Section 20 (exemption of railway facilities from sections 17 and 18) is amended as follows.
- (2) In subsections (1), (3) and (13), after “above” insert “and section 22A below”.
- (3) In subsection (2), omit the words following paragraph (b).
- (4) In the sidenote, for “and 18” substitute “, 18 and 22A”.
- 24 (1) Section 27 (transfer of franchise assets and shares) is amended as follows.
- (2) In subsection (8), for “transfer scheme” substitute “a scheme under Schedule 21 to the Transport Act 2000”.
- (3) In subsection (9), for “Part II below” substitute “Schedule 21 to the Transport Act 2000”.

Status: This is the original version (as it was originally enacted).

- 25 (1) Section 34 (Passenger Transport Authorities and Executives: franchising) is amended as follows.
- (2) In subsections (1) and (3), for “Board” (in both places) substitute “Authority”.
- (3) In subsection (22), in the definition of “section 20(2) agreement”, for the words from “has” to the end substitute “means an agreement made between the Authority and a Passenger Transport Executive pursuant to section 20(2)(b) of the Transport Act 1968.”
- 26 (1) Section 35 (termination and variation of section 20(2) agreements) is amended as follows.
- (2) In subsection (1), for “Board” (in both places) substitute “Authority”.
- (3) In subsection (10), for “section 33” substitute “section 34”.
- 27 In section 45(2)(b) (closure conditions: general), for the words from “a bus substitution service” to the end substitute “an alternative service for the carriage of passengers by road (in this Part referred to as a “bus substitution service”)”.
- 28 (1) Section 46 (variation of closure conditions) is amended as follows.
- (2) In subsection (1)—
- (a) after “may” insert “, subject to subsection (1A),”, and
- (b) omit the words from “other than” to “1985”.
- (3) After that subsection insert—
- “(1A) The Secretary of State may not vary or revoke a condition imposed under Schedule 5 to this Act.
- (1B) The Secretary of State may only—
- (a) revoke a condition requiring the Authority to secure the provision of a bus substitution service, or
- (b) vary such a condition so as to permit the Authority to withdraw the service from any locality or point,
- in accordance with section 47B below.”
- 29 In section 54(3) (exercise of franchising functions for encouraging investment), in paragraph (b) of the definition of “franchising functions”, for the words from “Part II” to “those sections” substitute “Schedule 21 to the Transport Act 2000”.
- 30 (1) Section 55 (orders for securing compliance) is amended as follows.
- (2) In subsection (1), for “(5)” substitute “(5B)”.
- (3) In subsections (2) and (4), for “subsection (5)” substitute “subsections (5) to (5B)”.
- (4) In subsection (5)(a), for “or, as the case may be, section 5 above” substitute “above or, as the case may be, section 207 of the Transport Act 2000”.
- (5) Omit subsection (12).
- 31 In the sidenote for section 56 insert at the end “for section 55 orders”.
- 32 (1) In section 57 (validity and effect of orders) is amended as follows.
- (2) In subsection (2), omit paragraph (b).

- (3) After that subsection insert—
- “(2A) If such an application is made in relation to a provision of an order requiring the payment of a sum in the event of a contravention and the sum would be payable before the time when the application is determined, it need not be paid until that time.
- (2B) Where such an application is so made the court, if satisfied as mentioned in subsection (2) above, may (instead of quashing the order or the provision of the order) make provision under either or both of paragraphs (a) and (b) of subsection (2C) below.
- (2C) The provision referred to in subsection (2B) above is—
- (a) provision substituting for the sum, or provision for determining a sum, specified in the order such lesser sum, or such other provision for determining a sum, as the court considers appropriate in all the circumstances of the case; and
- (b) provision substituting for the date by which the sum is to be paid specified in or determined in accordance with the order such later date as the court considers appropriate in all the circumstances of the case.
- (2D) Where the court substitutes a lesser sum, or different provision for determining a sum, it may require the payment of interest on the new sum at such rate, and from such date, as it determines; and where it specifies as the date by which the sum is to be paid a date before the determination of the application it may require the payment of interest on the sum from that date at such rate as it determines.”
- (4) In subsection (9), for “section 58” substitute “sections 57F and 58”.
- (5) In the sidenote, after “of” insert “section 55”.
- 33 (1) Section 58 (power to require information) is amended as follows.
- (2) In subsection (1)—
- (a) for the words from “may be” to “requirement, the” substitute “may have contravened or be contravening—
- (a) a relevant condition or requirement, or
- (b) a final or provisional order made by the appropriate authority,
- the”, and
- (b) after “55” insert “or 57A”.
- (3) In the sidenote insert at the end “for purposes of sections 55 and 57A”.
- 34 In section 60(5)(c) (effect of petition for railway administration order), after “55” insert “or 57A”.
- 35 In section 67(6)(b) (references made to the Competition Commission), for “Board” (in both places) substitute “Authority”.
- 36 (1) Section 72(2) (matters to be entered in register maintained by Regulator) is amended as follows.

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- (2) In paragraph (a) (provisions about licences), after sub-paragraph (viii) (inserted by Schedule 17) insert—
- “(ix) every penalty imposed by the Regulator under section 57A above;
 - (x) every statement of policy published by the Regulator under that section;”.
- (3) In paragraph (b) (provisions about access agreements), after sub-paragraph (v) insert—
- “(va) every direction under section 22A above;
 - (vb) every notice given by or to the Regulator or the Competition Commission under Schedule 4A to this Act;”.
- 37 (1) Section 73(2) (matters to be entered in register by Authority) is amended as follows.
- (2) In paragraph (d) (amendments of franchise agreements), insert at the end “other than any which are not likely to have a material effect on the provision of services under the agreement or on any sums payable under the agreement.”
- (3) After paragraph (e) insert—
- “(f) every penalty imposed by the Authority under section 57A above;
 - (g) every statement of policy published by the Authority under that section;”.
- 38 In section 80 (furnishing of information to Authority)—
- (a) in subsection (1), for the words from the beginning to the end of paragraph (c) substitute “Licence holders” and insert at the end “or the Transport Act 2000”, and
 - (b) omit subsection (6).
- 39 (1) Section 83 (interpretation) is amended as follows.
- (2) For the definition of “appropriate officer” in subsection (1) substitute—
- ““appropriate authority” has the meaning given by section 55(10) above;”.
- (3) After that definition insert—
- ““bus substitution service” has the meaning given by section 45(2)(b) above;”.
- (4) After the definition of “station services” in that subsection insert—
- ““through ticket” means—
- (a) a ticket which is valid for a journey which involves use of the services of more than one passenger service operator; or
 - (b) a combination of two or more tickets issued at the same time which are between them valid for such a journey;
- and “through ticketing” shall be construed accordingly;”.
- (5) After subsection (2) insert—
- “(3) For the purposes of this Part, references to a condition of a licence or licence exemption which relates, or does not relate, to consumer protection shall be construed in accordance with section 7A above.”

- 40 (1) Section 135 (concessionary travel) is amended as follows.
- (2) In subsection (6)(a), for “(5)” substitute “(4)”.
- (3) In subsection (9), for “subsections (4) and (5) above are” substitute “subsection (4) above is”.
- 41 (1) Section 145 (restrictions on disclosure of information) is amended as follows.
- (2) In subsection (2)(a), insert at the end “or the Transport Act 2000”.
- (3) After subsection (5) insert—
- “(5A) Subsection (1) above does not prevent the transfer of records in accordance with section 3(4) of the Public Records Act 1958.”
- 42 (1) Section 150(1) (Crown application) is amended as follows.
- (2) In paragraph (a), for “22” substitute “22C”.
- (3) In paragraph (b), for “55 to 58, except sections 55(8) and 58(4) and (5);” substitute “55(1) to (7) and (9) to (11), sections 56 and 57 and section 58(1) to (3), (6) and (7);”.
- 43 In section 151(1) (interpretation), insert at the appropriate place—
- ““the Authority” means the Strategic Rail Authority;”.
- 44 (1) Section 154(3) (extent) is amended as follows.
- (2) For paragraph (a) substitute—
- “(a) section 36(1), (4) and (5);”.
- (3) For paragraph (c) substitute—
- “(c) sections 124 and 129(3);”.
- 45 In paragraph 4 of Schedule 1 (official seal), for “their respective” substitute “his”.
- 46 In paragraph 6(2)(a) of Schedule 2 (information disclosed in confidence by Franchising Director to rail users' consultative committee), for “Franchising Director” substitute “Authority”.
- 47 In paragraph 6(2)(a) of Schedule 3 (information disclosed in confidence by Franchising Director to Central Rail Users' Consultative Committee), for “Franchising Director” substitute “Authority”.
- 48 In paragraph 2 of Schedule 6 (effect of administration order), after “55” insert “or 57A”.
- 49 (1) Schedule 11 (pensions) is amended as follows.
- (2) In paragraph 1(1) (interpretation), in paragraph (a) of the definition of “eligible persons”—
- (a) after “of the Board,” insert—
- “(ia) the Authority or any subsidiary of the Authority,”
and
- (b) for “franchise company” substitute “body corporate which is, or is to be, the franchisee or the franchise operator under a franchise agreement”.
- (3) In paragraphs 3(4) and 4(5), for “after consultation with” substitute “with the consent of”.

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- (4) In paragraph 10(15), for “Board” (in both places) substitute “Authority”.
- (5) In paragraph 11(10), in the definition of “relevant employer” insert at the end—
 - “(d) the Authority; or
 - (e) a wholly owned subsidiary of the Authority.”