



Transport Act 2000

2000 CHAPTER 38

PART IV

RAILWAYS

CHAPTER I

THE STRATEGIC RAIL AUTHORITY

Securing provision of railway services and assets etc.

212 Securing of services by franchising.

- (1) In section 23 of the ^{M1}Railways Act 1993, in subsection (1) (duty of Authority to designate passenger services as eligible for provision under franchise agreements), for the words after “designate” substitute “ such services for the carriage of passengers by railway (other than services which are, by virtue of section 24 below, exempt from designation under this subsection) as it considers ought to be provided under franchise agreements. ”
- (2) In that section, after subsection (2) insert—
 - “(2A) A designation may be varied or revoked; but a variation or revocation of the designation of particular services, or services of a class or description, shall not affect any franchise agreement previously entered into with respect to those services or services of that class or description.
 - (2B) The Authority shall publish designations, and any variations or revocations of designations, in such manner as it considers appropriate.”
- (3) In section 26 of that Act (invitations to tender for franchise), after subsection (3) insert—

Changes to legislation: Transport Act 2000, Section 212 is up to date with all changes known to be in force on or before 21 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

- “(4) The directions which may be given under subsection (1) above (at any time when the Secretary of State considers it inappropriate that the person who is to be the franchisee under a franchise agreement should be selected after an invitation to tender) include—
 - (a) a direction that that person is to be the person specified in the direction, and
 - (b) a direction requiring the Authority to select that person in such manner as is so specified,
 (as well as a direction authorising the Authority to select that person in such other manner as it may consider appropriate).
- (5) The Secretary of State shall prepare and publish a statement of policy with respect to directions under subsection (1) above.
- (6) The statement shall (in particular) contain the Secretary of State’s policy about—
 - (a) when he will consider giving a direction (including, in particular, when he will consider doing so in relation to a franchise agreement which is to replace an earlier franchise agreement before the end of its franchise term); and
 - (b) the sorts of direction which he will consider giving in particular circumstances.
- (7) In deciding whether to give a direction, and (if so) what direction to give, the Secretary of State shall have regard to the statement of policy.
- (8) The Secretary of State—
 - (a) may at any time alter or replace a statement of policy; and
 - (b) shall publish the altered or replacement statement.
- (9) The Secretary of State shall undertake appropriate consultation when preparing, altering or replacing a statement of policy.
- (10) When a statement of policy is prepared, altered or replaced, a copy of the statement shall be laid before each House of Parliament.”

^{F1}(4)

(5) For section 30 of that Act substitute—

“30 Duty of Authority in absence of franchise.

- (1) The Authority shall provide, or secure the provision of, services for the carriage of passengers by railway where—
 - (a) a direction not to seek to secure the provision of the services under a franchise agreement has been given to the Authority under section 26A or 26B above (and not revoked); or
 - (b) a franchise agreement in respect of the services is terminated or otherwise comes to an end but no further franchise agreement has been entered into in respect of the services (otherwise than because of such a direction).

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- (2) The duty in subsection (1) above in relation to any services ceases if the services begin (or again begin) to be provided under a franchise agreement.
- (3) Subsection (1) above does not—
- (a) require the Authority to provide or secure the provision of services if and to the extent that, in its opinion, adequate alternative railway passenger services are available;
 - (b) preclude it from giving notice under subsection (5) of section 38 below in relation to any of the services, in which case its duty under this section to secure the provision of the services to which the notice relates will (subject to subsections (5) and (6) of that section) terminate on the day specified in the notice in pursuance of paragraph (b) of that subsection; or
 - (c) preclude it from ceasing to provide or secure the provision of any of the services in any case falling within any of paragraphs (a) to (d) of subsection (2) of that section.”
- (6) In section 18 of that Act (access agreements: contracts requiring approval of Regulator), after subsection (6) insert—
- “(6A) The grounds on which the Regulator may reject, or approve subject to modifications, a proposed access contract submitted to him pursuant to subsection (5) above include that he considers that the use of the facility for which it provides might impede the provision of services—
- (a) under a franchise agreement; or
 - (b) under an agreement entered into by the Authority pursuant to its duty under section 30 below.”

Textual Amendments

F1 S. 212(4) repealed (24.7.2005) by Railways Act 2005 (c. 14), s. 60(2), **Sch. 13 Pt. 1** (with s. 14(4)(5), **Sch. 11 para. 11(2)**); S.I. 2005/1909, art. 2, Sch.

Commencement Information

II S. 212 wholly in force at 1.2.2001, see s. 275(1)(2) and S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I** (subject to the transitional provision and saving in **Sch. 2 Pt. II**)

Marginal Citations

M1 1993 c. 43.

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Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

- Blanket amendment words substituted by [S.I. 2011/1043 art. 34](#)

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 146(1)(defn.)(a)(b) by [2000 c. 38 s. 274 Sch. 31 Pt. 2](#)
- s. 19(2)(aa) inserted by [S.I. 2019/93, Sch. 1 para. 9\(1C\)\(b\)](#) (as inserted) by [S.I. 2019/1245 reg. 25](#) (This amendment not applied to [legislation.gov.uk](#). The affecting statutory instrument has no legal effect. It was made under a procedure which meant that it ceased to have effect 28 days after signing unless it was debated and approved in Parliament within that time. It was not debated and approved within 28 days, so it has expired with no effect.)
- s. 131A(2)(a) words omitted by [2017 c. 21 Sch. 2 para. 13\(a\)\(i\)](#)
- s. 131A(2)(b) omitted by [2017 c. 21 Sch. 2 para. 13\(a\)\(ii\)](#)
- s. 131A(4) omitted by [2017 c. 21 Sch. 2 para. 13\(b\)](#)
- s. 131A(5)(b) words omitted by [2017 c. 21 Sch. 2 para. 13\(c\)\(i\)](#)
- s. 131A(5)(c) words omitted by [2017 c. 21 Sch. 2 para. 13\(c\)\(ii\)](#)
- s. 132B(1)(a) omitted by [2017 c. 21 Sch. 2 para. 19](#)
- [Sch. 16 para. 34\(4\)\(a\)para. 34\(4\)\(b\)\(c\)](#) repealed by [2005 c. 14 Sch. 13 Pt. 1](#)