

# RAILWAYS ACT 2005

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## EXPLANATORY NOTES

### COMMENTARY ON SECTIONS AND SCHEDULES

#### **Part 1: Transfer of Functions and Railway Strategy**

##### **Transfer of Functions**

##### *Section 1: Transfer etc. of SRA functions and abolition*

27. *Section 1* provides for the abolition of the Strategic Rail Authority and for the reallocation of its functions, where they are not discontinued. The Strategic Rail Authority's strategic functions and its financial obligations (see also *Section 6*) will become the responsibility of the Secretary of State for Transport, together with many of its operational functions, such as the letting and management of railway franchises. Other Strategic Rail Authority functions will be reallocated to third parties. In some cases this will not require legislative provision. The Secretary of State may make an order for the abolition of the SRA when he is satisfied (having consulted the SRA) that the liabilities of the SRA have been adequately provided for and that it is no longer necessary for the SRA to exist.
28. The intention is for the Scottish Executive and the NAW to take on increased responsibilities for passenger services and, in Scotland, infrastructure responsibilities. This section requires the Secretary of State to transfer the Strategic Rail Authority's interest in the Scotrail franchise to the Scottish Ministers. The SRA interest in the franchise agreement with Arriva Trains Wales is intended to be transferred under this section to the Secretary of State and the NAW jointly. The SRA interest in all other franchise agreements is intended to be transferred to the Secretary of State.
29. The Rail Passengers' Council, currently funded through the Strategic Rail Authority, will become a body corporate and will be funded by grant from the Department for Transport. Rail Passengers' Committees will be disbanded and the newly constituted Rail Passengers' Council will be the sole national consumer body for rail.
30. The section also provides for the transfer to the Secretary of State, and as appropriate the Scottish Ministers, the NAW and the Office of Rail Regulation of the Strategic Rail Authority's property, rights and liabilities, including shares in its subsidiary companies, such as BRB (Residuary) Limited. Provision is also made for the transfer of property, rights and liabilities to the Rail Passengers' Council.
31. This section also gives the Secretary of State powers to make modifications of legislative provisions in relation to rail pensions that may be necessary or expedient as a consequence of the transfer of the SRA's functions or its abolition or as a consequence of a transfer scheme transferring its property rights or liabilities.
32. The provisions of Part III of the Transport Act 1980 and schedule 11 to 1993 Act, among other things, set out mechanisms under which the Department for Transport provides funding to the trustees of a number of older, partially unfunded pension schemes some of which were set up by the pre-nationalisation rail companies. The role of the SRA

as sponsoring employer is likely to be transferred, on its abolition, to the Department for Transport under a transfer scheme to be made under section 1(2). The purpose of the order making power under subsection (8) is to enable consequential provision to be made in the light of that transfer of liabilities.

33. Further consideration needs to be given to the detail of the provision required. Currently, it is anticipated however that the Department for Transport will retain its existing statutory funding liabilities alongside liabilities, as sponsoring employer, which will be transferred to it from the SRA. Whatever provision is made will be designed to ensure that the existing position of beneficiaries of the relevant pension schemes and the funding of those schemes is unaffected.
34. Section 244 of the Transport Act 2000 had the effect of converting the British Railways Board's (BRB's) customary practice of providing indexation for cost of living increases for these older pension schemes into a binding obligation of the SRA. Consequential provision will be required to reflect the abolition of the SRA. It is likely this will be to transfer this obligation to the Department for Transport to reflect the expected transfer of employer obligations for these schemes to the Department. The intention again will be to ensure that the existing position of beneficiaries of the relevant schemes is unaffected by amendments made.
35. The affirmative resolution procedure will apply to any order made under subsection (8). The details of the affirmative procedure are described in section 55(4).
36. It is anticipated that the SRA will be wound up gradually, and the transfer of its functions is to be completed before it is abolished. The section includes provision to allow the Secretary of State to reduce the membership of the Strategic Rail Authority as part of the transitional period leading to abolition.