



# Railways Act 2005

## 2005 CHAPTER 14

### PART 4

#### NETWORK MODIFICATIONS ETC.

##### *Discontinuance of railway passenger services*

## **22 Proposal by service operator to discontinue non-franchised services**

- (1) This section applies where—
  - (a) all the relevant railway passenger services on a particular line or from a particular station are provided otherwise than in satisfaction of requirements imposed by a franchise agreement;
  - (b) a proposal for the discontinuance of all the relevant railway passenger services provided on that line, or from that station, is made by the person providing them (“the service operator”); and
  - (c) the proposal is not a proposal for a minor modification.
- (2) The references in subsection (1) to relevant railway passenger services are references to railway passenger services that are not—
  - (a) secured services;
  - (b) experimental passenger services;
  - (c) services involving travel through the Channel Tunnel;
  - (d) services that are provided otherwise than as regular scheduled services for the line or station in question; or
  - (e) services excluded from the application of this section by an order under section 38.
- (3) The service operator must give notice to the national authority setting out—
  - (a) particulars of the proposal to discontinue those services; and
  - (b) a summary of the results of the assessment carried out in accordance with subsection (5).

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*Status: This is the original version (as it was originally enacted).*

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- (4) The particulars set out in the notice must include, in particular—
- (a) the services to which the proposal relates; and
  - (b) the proposal date;
- and the proposal date must be a date not less than three months after the date of the notice.
- (5) Before giving the notice under subsection (3), the service operator must carry out an assessment of whether the proposal satisfies the criteria set out in the relevant part of the closures guidance; and that assessment must be carried out in accordance with that guidance.
- (6) The national authority to which a notice is given under subsection (3) must—
- (a) consider whether the closure in question should be allowed; and
  - (b) before the proposal date, form an opinion on that matter in accordance with the criteria set out in the relevant part of the closures guidance.
- (7) If the national authority forms the opinion that the closure should be allowed, it must—
- (a) carry out a consultation under Schedule 7 about the proposal; and
  - (b) after carrying out that consultation, either notify the service operator that it has changed its opinion or refer the proposal (with or without modifications) to the Office of Rail Regulation.
- (8) The service operator must not discontinue the services in question before the end of the interim period.
- (9) If—
- (a) the national authority forms the opinion under subsection (6)(b) that the closure should not be allowed,
  - (b) the national authority changes its opinion following the consultation under subsection (7)(a), or
  - (c) on a reference to the Office of Rail Regulation under subsection (7)(b), that Office issues a closure non-ratification notice,
- the national authority must secure the provision of the services to which proposal relates after the end of the interim period.
- (10) The duty imposed by subsection (9) in relation to any services ceases if the services begin to be provided under a franchise agreement.
- (11) In this section “the national authority”—
- (a) in relation to a proposal relating to services all of which are Scotland-only services, means the Scottish Ministers; and
  - (b) in any other case, means the Secretary of State.

## **23 Proposal by funding authority to discontinue non-franchised services**

- (1) This section applies where—
- (a) all the relevant railway passenger services on a particular line or from a particular station are provided otherwise than in satisfaction of requirements imposed by a franchise agreement;
  - (b) a proposal for the discontinuance of all the relevant railway passenger services provided on that line, or from that station, is made, in accordance with section 41, by a railway funding authority; and

- (c) the proposal is not a proposal for a minor modification.
- (2) The references in subsection (1) to relevant railway passenger services are references to railway passenger services that are not—
- (a) secured services;
  - (b) experimental passenger services;
  - (c) services involving travel through the Channel Tunnel;
  - (d) services that are provided otherwise than as regular scheduled services for the line or station in question; or
  - (e) services excluded from the application of this section by an order under section 38.
- (3) The railway funding authority making the proposal must—
- (a) give notice of its proposal to the national authority, if it is not itself that authority;
  - (b) carry out a consultation under Schedule 7 about the proposal; and
  - (c) after carrying out that consultation, either withdraw the proposal or refer the proposal (with or without modifications) to the Office of Rail Regulation.
- (4) A notice to the national authority under subsection (3)(a) must set out—
- (a) particulars of the proposal for the closure including, in particular—
    - (i) the services to which the proposal relates; and
    - (ii) the proposal date; and
  - (b) a summary of the results of the assessment carried out in accordance with subsection (5).
- (5) Before—
- (a) giving a notice under subsection (3)(a), in a case where it is not itself the national authority, or
  - (b) in any other case, carrying out the consultation under subsection (3)(b),
- the railway funding authority making the proposal must carry out an assessment of whether the proposal satisfies the criteria set out in the relevant part of the closures guidance; and that assessment must be carried out in accordance with that guidance.
- (6) If arrangements under or in accordance with which the services are being provided do not require the services to be provided until the end of the interim period, the national authority must secure the provision of the services until the end of that period.
- (7) If on a reference under subsection (3)(c) the Office of Rail Regulation issues a closure non-ratification notice, the national authority must secure the provision of the services to which the proposal relates after the end of the interim period.
- (8) The duty imposed by subsection (7) in relation to any services ceases if the services begin to be provided under a franchise agreement.
- (9) In this section “the national authority”—
- (a) in relation to a proposal relating to services all of which are Scotland-only services, means the Scottish Ministers; and
  - (b) in any other case, means the Secretary of State.

## **24 Proposals to discontinue franchised or secured services**

- (1) This section applies where—
  - (a) all the relevant railway passenger services on a particular line or from a particular station fall within subsection (2);
  - (b) a proposal for the discontinuance of all the relevant railway passenger services provided on that line, or from that station, is made, in accordance with section 41, by a railway funding authority; and
  - (c) the proposal is not a proposal for a minor modification.
- (2) A service falls within this subsection if it is—
  - (a) a franchised service; or
  - (b) a secured service.
- (3) The references in subsection (1) to relevant railway passenger services are references to railway passenger services that are not—
  - (a) experimental passenger services;
  - (b) services involving travel through the Channel Tunnel;
  - (c) services that are provided otherwise than as regular scheduled services for the line or station in question; or
  - (d) services excluded from the application of this section by an order under section 38.
- (4) The railway funding authority making the proposal must—
  - (a) give notice of its proposal to the national authority, if it is not itself that authority;
  - (b) carry out a consultation under Schedule 7 about the proposal; and
  - (c) after carrying out that consultation, either withdraw the proposal or refer the proposal (with or without modifications) to the Office of Rail Regulation.
- (5) A notice to the national authority under subsection (4)(a) must set out—
  - (a) particulars of the proposal for the closure including, in particular—
    - (i) the services to which the proposal relates; and
    - (ii) the proposal date; and
  - (b) a summary of the results of the assessment carried out in accordance with subsection (6).
- (6) Before—
  - (a) giving a notice under subsection (4)(a), in a case where it is not itself the national authority, or
  - (b) in any other case, carrying out the consultation under subsection (4)(b),the railway funding authority making the proposal must carry out an assessment of whether the proposal satisfies the criteria set out in the relevant part of the closures guidance; and that assessment must be carried out in accordance with that guidance.
- (7) If the franchise agreement or any other arrangement under or in accordance with which the services are being provided does not require the services to be provided until the end of the interim period, the national authority must secure the provision of the services until the end of that period.

- (8) If on a reference under subsection (4)(c) the Office of Rail Regulation issues a closure non-ratification notice, the national authority must secure the provision of the services to which the proposal relates after the end of the interim period.
- (9) The duty of the national authority under subsection (8)—
- (a) is discharged without its taking further steps so long as the provisions of the franchise agreement or other arrangements, in force at the time of the proposal, so far as they require the provision of the services, continue in force without modification; and
  - (b) ceases if the services begin to be provided under a franchise agreement.
- (10) Nothing in subsection (7) or (8) requires the Secretary of State to secure the provision of a Welsh service unless it appears to him that he will be receiving funds from the National Assembly for Wales that are reasonably equivalent to those provided by the Assembly in respect of the service previously provided.
- (11) In this section “the national authority”—
- (a) in relation to a proposal relating to services all of which are—
    - (i) Scotland-only services, or
    - (ii) relevant cross-border services,means the Scottish Ministers; and
  - (b) in any other case, means the Secretary of State.
- (12) For the purposes of subsection (11), a cross-border service is a “relevant cross-border service” if it—
- (a) does not begin or end or otherwise make a scheduled call in Wales; and
  - (b) is a service in respect of which more funding is provided by the Scottish Ministers than the Secretary of State.

## **25 Proposal to discontinue excluded services**

- (1) Where a proposal for the discontinuance of all the excluded services provided by a particular person (“the service operator”) on a particular line, or from a particular station, is made by the service operator—
- (a) the following provisions of this section apply to so much of the proposal as relates to special procedure excluded services which are not excluded London services; and
  - (b) Schedule 8 applies to so much of it as relates to special procedure excluded services which are excluded London services.
- (2) The service operator must give notice to the national authority setting out—
- (a) particulars of the proposal to discontinue the services; and
  - (b) a summary of the results of the assessment carried out in accordance with subsection (4).
- (3) The particulars set out in the notice must include, in particular—
- (a) the services to which the proposal relates; and
  - (b) the proposal date;
- and the proposal date must be a date not less than three months after the date of the notice.

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

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- (4) Before giving the notice under subsection (2), the service operator must carry out an assessment of whether the proposal satisfies the criteria set out in the relevant part of the closures guidance; and that assessment must be carried out in accordance with that guidance.
- (5) The national authority to which a notice is given under subsection (2) must—
- (a) consider whether the closure in question should be allowed; and
  - (b) before the proposal date, form an opinion on that matter in accordance with the criteria set out in the relevant part of the closures guidance.
- (6) If the national authority is of the opinion that the closure should be allowed, it must—
- (a) carry out a consultation under Schedule 7 about the proposal; and
  - (b) after carrying out that consultation, either notify the service operator that it has changed its opinion or refer the proposal (with or without modifications) to the Office of Rail Regulation;
- and the service operator must not discontinue the services in question before the Office of Rail Regulation has issued a closure ratification notice.
- (7) In this section—
- “excluded service” means a railway passenger service other than one which is—
- (a) a relevant railway passenger service for the purposes of any of sections 22(1), 23(1) and 24(1); or
  - (b) an experimental passenger service;
- “excluded London service” means an excluded service which—
- (a) is provided by Transport for London or a subsidiary of Transport for London; or
  - (b) is designated as a London service for the purposes of this section by an order made by the Secretary of State, or is of a description of services so designated;
- “special procedure excluded service” means an excluded service which is designated as a special procedure service for the purposes of this section by an order made by the national authority, or is of a description of services so designated;
- “the national authority”—
- (a) in relation to a proposal relating to one or more services each of which is—
    - (i) a Scotland-only service, or
    - (ii) a cross-border service in relation to which no funding is provided by a railway funding authority other than the Scottish Ministers,
 means those Ministers; and
  - (b) in any other case, means the Secretary of State.
- (8) A service may be designated by order made by the Secretary of State as a London service for the purposes of this section, or may fall within a description of services so designated, only if it is a service that begins and ends in Greater London and does not otherwise make any scheduled call outside Greater London.
- (9) An order under this section designating an excluded service, or a description of excluded service—

- (a) as a London service, or
  - (b) as a special procedure service,
- is subject to the negative resolution procedure.
- (10) Where any order under section 49(3) of the 1993 Act (application of Schedule 5 to that Act) is in force immediately before the commencement of this section, that order shall have effect after commencement of this section as an order under this section designating any services, or descriptions of service, to which it applies as special procedure services; and any other service, or description of services, which immediately before the commencement of this section is treated as a service, or description of services, in relation to which Schedule 5 to that Act is to have effect is to be treated after commencement of this section as designated by an order under this section as a special procedure service, or description of special procedure services.
- (11) Where any order under paragraph 5A(1)(b)(ii) of Schedule 5 to that Act (application of that Schedule to London services) is in force immediately before the commencement of this section, that order shall have effect after commencement of this section as an order under this section designating any services, or descriptions of service, to which it applies as London services.
- (12) For the purposes of this section (apart from the reference, in the definition of “excluded service” in subsection (7), to “relevant railway passenger service”) “railway” has its wider meaning.