Railways Act 2005

2005 CHAPTER 14

PART 4

NETWORK MODIFICATIONS ETC.

Excluded proposals

34 Minor modifications

(1) A proposal is a proposal for a minor modification if—

(a) it is a proposal for a closure which has been determined under the following provisions of this section to be a minor modification; or

(b) it is a proposal for a closure of a description of closures in relation to which such a determination has been made.

(2) It is the Scottish Ministers who may make a determination that a closure is a minor modification, or that closures of a particular description are minor modifications, where the only closures to which the determination relates consist in—

(a) the discontinuance of one or more Scotland-only services;

(b) the discontinuance of one or more cross-border services in relation to which no funding is provided by a railway funding authority other than the Scottish Ministers;

(c) the discontinuance of two or more services none of which is a service not mentioned in paragraph (a) or (b);

(d) the discontinuance of a network or part of a network that is wholly in Scotland; or

(e) the discontinuance of a station or part of a station that is wholly in Scotland.

[[F1](2A) It is the Welsh Ministers who may make a determination that a closure is a minor modification, or that closures of a particular description are minor modifications, where the only closures to which the determination relates consist in—

(a) the discontinuance of one or more Wales-only services; or

(b) the discontinuance of a station, or part of a station, that—

(i) is wholly in Wales, and

(ii) is a station to which subsection (2B) applies or part of such a station.

(2B) This subsection applies to a station at which the only scheduled calls made by any railway passenger service are those made by a railway passenger service provided under a Welsh franchise agreement or secured to any extent by the Welsh Ministers.**]**

(3) It is the Secretary of State who, in any other case, may make a determination that a closure is a minor modification, or that closures of a particular description are minor modifications.

(4) A determination may be made under this section only if the person making it considers—

(a) in the case of a determination relating to a particular closure, that the closure is eligible under section 35 to be regarded as a minor modification; or

(b) in the case of a determination relating to a description of closures, that all the closures falling within that description are or will be so eligible.

(5) A person who makes a determination under this section in relation to a particular closure for the purposes of section 22, 26 or 29 may make it subject to conditions; and, in such a case, the closure is not to be treated as a minor modification unless, as the case may be—

(a) the person providing the service or services to be discontinued, or

(b) the person operating or using the network or station, or the part of a network or station, in question,

has agreed to comply with those conditions.

(6) The person who makes a determination under this section in relation to a particular closure must notify the **[**[F2]Office of Rail and Road**]** about that determination.

(7) A determination under this section in relation to a description of closures may be revoked at any time by the person who made it.

(8) A person who makes or revokes a determination under this section in relation to a description of closures must—

(a) send a copy of the determination or revocation to the **[**[F2]Office of Rail and Road**]**; and

(b) publish it in such manner as he considers appropriate.

(9) The revocation of such a determination shall not affect any closure if its status has been relied on before the revocation as grounds for—

(a) a failure to give a notice under this Part; or

(b) the carrying out of any closure.

(10) Any general determination which—

(a) has been made under section 46A of the 1993 Act,

(b) is a determination that closures of a particular class or description are minor closures, and

(c) is in force immediately before the coming into force of this section,

shall have effect after that time as a determination made under this section that closures of that class or description are minor modifications for the purposes of this Part.

(11) Any conditions agreed to under section 37(1), 39(1) or 41(1) of the 1993 Act in connection with any determination under the section in question that a closure is a minor closure shall have effect after the commencement of this section as if agreed to for the purposes of subsection (5).

Textual Amendments

F1 S. 34(2A)(2B) inserted (14.10.2018) by The Welsh Ministers (Transfer of Functions) (Railways) Order 2018 (S.I. 2018/631), art. 1(3), **Sch. para. 50**

F2 Words in s. 34 substituted (16.10.2015) by The Office of Rail Regulation (Change of Name) Regulations 2015 (S.I. 2015/1682), reg. 1(2), **Sch. para. 3(m)**

Commencement Information

I1 S. 34 in force at 1.12.2006 by S.I. 2006/2911, art. 2, **Sch.**

35 Closures eligible to be treated as minor modifications

(1) The discontinuance of a railway passenger service is eligible to be treated as a minor modification so far as the service is a service on a stretch of line along which there is no station (or no station in use) and the circumstances are such that—

(a) trains that would otherwise use that stretch of line in travelling between two stations will instead pass along an alternative route; and

(b) passengers travelling on such a train will not be required to make additional changes and will not incur significant increases of journey times.

(2) The discontinuance of the operation of a part of a network is eligible to be treated as a minor modification so far as that part of the network consists in a stretch of track along which there is no station (or no station in use) and the circumstances are such that—

(a) trains that would otherwise use that stretch of line in travelling between two stations will instead pass along an alternative route; and

(b) passengers travelling on such a train will not be required to make additional changes and will not incur significant increases of journey times.

(3) The discontinuance of the operation of a part of a network is eligible to be treated as a minor modification so far as that part of the network consists of a stretch of track which does no more than serve a station or light maintenance depot, or some part of it, and the circumstances are such that—

(a) that part of the network is not necessary for the operation or use of a station, or part of a station, for the purposes of or in connection with the provision of railway passenger services; or

(b) the operation or use of such station or part of a station as is served by that part of the network is or has been the subject of a proposal which is a proposal for a minor modification.

(4) The discontinuance of the operation of a part of a network is eligible to be treated as a minor modification so far as—

(a) that part of the network consists of installations associated with any such stretch of track as is mentioned in subsection (2) or (3); and

(b) the circumstances are as mentioned in that subsection.

(5) The discontinuance of the operation or use of—

(a) a part of a network (other than track), or

(b) a part of a station,

is eligible to be treated as a minor modification so far as the operation or use of that part of the network or that part of the station is not necessary for the operation or use of the network or station for or in connection with the provision of railway passenger services.

(6) Where it appears to **[**[F3]the national authority**]** that closures of any description not specified in this section should, because of their temporary nature or limited effect on the provision of railway passenger services, be treated as minor modifications, **[**[F4]the national authority**]** may, by order, provide for closures of that description to be treated for the purposes of section 34 as eligible under this section to be so treated.

[[F5](6A) Except where subsection (6B) or (7) applies, the Secretary of State is the national authority for the purposes of subsection (6).

(6B) The Welsh Ministers are the national authority for the purposes of subsection (6) where the only closures to which the order relates consist in—

(a) the discontinuance of one or more Wales-only services; or

(b) the discontinuance of a station, or part of a station, that—

(i) is wholly in Wales, and

(ii) is a station to which subsection (6C) applies or part of such a station.

(6C) This subsection applies to a station at which the only scheduled calls made by any railway passenger service are those made by a railway passenger service provided under a Welsh franchise agreement or secured to any extent by the Welsh Ministers.**]**

(7) **[**[F6]The Scottish Ministers are the national authority for the purposes of subsection (6)**]** where the only closures to which the order relates consist in—

(a) the discontinuance of one or more Scotland-only services;

(b) the discontinuance of one or more cross-border services in relation to which no funding is provided by a railway funding authority other than the Scottish Ministers;

(c) the discontinuance of two or more services none of which is a service not mentioned in paragraph (a) or (b);

(d) the discontinuance of a network or part of a network that is wholly in Scotland; or

(e) the discontinuance of a station or part of a station that is wholly in Scotland.

[F7]…

(8) An order under subsection (6) is subject to the negative resolution procedure.

Textual Amendments

F3 Words in s. 35(6) substituted (14.10.2018) by The Welsh Ministers (Transfer of Functions) (Railways) Order 2018 (S.I. 2018/631), art. 1(3), **Sch. para. 51(2)(a)**

F4 Words in s. 35(6) substituted (14.10.2018) by The Welsh Ministers (Transfer of Functions) (Railways) Order 2018 (S.I. 2018/631), art. 1(3), **Sch. para. 51(2)(b)**

F5 S. 35(6A)-(6C) inserted (14.10.2018) by The Welsh Ministers (Transfer of Functions) (Railways) Order 2018 (S.I. 2018/631), art. 1(3), **Sch. para. 51(3)**

F6 Words in s. 35(7) substituted (14.10.2018) by The Welsh Ministers (Transfer of Functions) (Railways) Order 2018 (S.I. 2018/631), art. 1(3), **Sch. para. 51(4)(a)**

F7 Words in s. 35(7)(e) omitted (14.10.2018) by virtue of The Welsh Ministers (Transfer of Functions) (Railways) Order 2018 (S.I. 2018/631), art. 1(3), **Sch. para. 51(4)(b)**

Commencement Information

I2 S. 35 in force at 1.12.2006 by S.I. 2006/2911, art. 2, **Sch.**

36 Designation of experimental passenger services

(1) The power to designate a railway passenger service as experimental for the purposes of this Part is exercisable—

(a) if it is a Scotland-only service, by the Scottish Ministers;

(b) if it is a cross-border service in respect of which more funding is provided by the Scottish Ministers than the Secretary of State, by those Ministers;

[[F8](ba) if it is a Wales-only service, by the Welsh Ministers;**]**

(c) if it is **[**[F9]any other Welsh service**]** in respect of which more funding is provided by **[**[F10]the Welsh Ministers**]** than the Secretary of State, by **[**[F10]the Welsh Ministers**]**; and

(d) in the case of any other service, by the Secretary of State.

(2) The designation must be in relation to a line or station on or from which the service will be provided.

(3) A service may not be designated as experimental for a period exceeding five years.

(4) Where a service is designated as experimental for a period of less than five years—

(a) the designation may subsequently be extended (on one or more occasions) by the person who made it; but

(b) the aggregate of the periods for which the service is designated as experimental must not exceed five years.

(5) In determining for the purposes of this section the period or aggregate period for which a service is designated as experimental, any period before the service is introduced is to be disregarded.

(6) The person who designates a service as experimental or extends such a designation must—

(a) send a copy of the designation or extension to the **[**[F11]Office of Rail and Road**]**; and

(b) publish notice of the designation or extension in two successive weeks—

(i) in a local newspaper circulating in the area affected by the designation or extension; and

(ii) in two national newspapers.

(7) Where—

(a) a service is designated as experimental or its designation is extended, and

(b) the service is to be provided otherwise than in satisfaction of requirements imposed by a franchise agreement,

the person designating must give notice of the designation or extension to the person who is to provide the service.

(8) For the purposes of subsection (6)(b)(i) the area affected by a designation, or by the extension of a designation, is the area in which is situated the line or station in relation to which the designation is or was made.

(9) For the purposes of subsection (6)(b)(ii) as it applies in relation to—

(a) a Scotland-only service, or

(b) a Wales-only service,

a newspaper which circulates generally in Scotland or, as the case may be, Wales is to be regarded as being a national newspaper.

(10) Where any railway passenger service is treated immediately before the commencement of this section as an experimental passenger service for the purposes of Part 1 of the 1993 Act—

(a) that service shall be treated as designated as experimental for the purposes of this Part; and

(b) the period for which it is treated as having been designated at that time shall be taken into account in determining the period or aggregate period for which it may be designated under this section.

Textual Amendments

F8 S. 36(1)(ba) inserted (14.10.2018) by The Welsh Ministers (Transfer of Functions) (Railways) Order 2018 (S.I. 2018/631), art. 1(3), **Sch. para. 52(a)**

F9 Words in s. 36(1)(c) substituted (14.10.2018) by The Welsh Ministers (Transfer of Functions) (Railways) Order 2018 (S.I. 2018/631), art. 1(3), **Sch. para. 52(b)(i)**

F10 Words in s. 36(1)(c) substituted (13.6.2018) by The Welsh Ministers (Transfer of Functions) (Railways) Order 2018 (S.I. 2018/631), art. 1(2)(b)(xiii), **Sch. para. 52(b)(ii)**

F11 Words in s. 36(6) substituted (16.10.2015) by The Office of Rail Regulation (Change of Name) Regulations 2015 (S.I. 2015/1682), reg. 1(2), **Sch. para. 3(n)**

Commencement Information

I3 S. 36 in force at 1.12.2006 by S.I. 2006/2911, art. 2, **Sch.**

37 Discontinuance of experimental passenger services

(1) Where—

(a) a railway funding authority is a party to a franchise agreement under which an experimental passenger service is provided,

(b) the person providing the service proposes to discontinue it after the requirement to provide it has come to an end, and

(c) that authority does not propose to secure the continued provision of the service,

that authority must give notice of the proposed discontinuance of the service.

(2) Where—

(a) an experimental passenger service is provided otherwise than in satisfaction of requirements imposed by a franchise agreement, and

(b) the person providing the service proposes to discontinue it,

that person must give notice of his proposal and must not discontinue the service before the end of the notice period.

(3) The notice required to be given under this section is a notice which—

(a) sets out the details of the proposed discontinuance; and

(b) is published in the required manner.

(4) A notice is published in the required manner if it is published, in two successive weeks—

(a) in a local newspaper circulating in the area affected by the proposal;

(b) in two national newspapers; and

(c) in such other manner as appears to the person giving the notice to be appropriate.

(5) A person giving notice of a proposed discontinuance under subsection (2) must send to the **[**[F12]Office of Rail and Road**]** a copy of the notice published under subsection (3)(b).

(6) In this section "the notice period", in relation to a proposal to discontinue a service, means the period of six weeks after the notice of that proposal has been published in the required manner.

(7) For the purposes of subsection (4)(a) the area affected by a proposal to discontinue an experimental passenger service is the area in which is situated the line or station in relation to which the service is designated as experimental.

(8) For the purposes of subsection (4)(b) as it applies in relation to—

(a) a Scotland-only service, or

(b) a Wales-only service,

a newspaper which circulates generally in Scotland or, as the case may be, Wales is to be regarded as being a national newspaper.

Textual Amendments

F12 Words in s. 37(5) substituted (16.10.2015) by The Office of Rail Regulation (Change of Name) Regulations 2015 (S.I. 2015/1682), reg. 1(2), **Sch. para. 3(o)**

Modifications etc. (not altering text)

C1 S. 37 power to exclude conferred (22.7.2008) by Crossrail Act 2008 (c. 18), **s. 27**

C2 S. 37: power to exclude conferred (23.2.2017) by High Speed Rail (London - West Midlands) Act 2017 (c. 7), **ss. 41**, 70(1)

C3 S. 37: power to exclude conferred (11.2.2021) by High Speed Rail (West Midlands - Crewe) Act 2021 (c. 2), **ss. 36**, 64(1)

Commencement Information

I4 S. 37 in force at 1.12.2006 by S.I. 2006/2911, art. 2, **Sch.**

38 Services, networks and stations excluded by order

(1) The national authority may by order—

(a) exclude a railway passenger service, or all railway passenger services of a specified description, from the application of any one or more of sections 22 to 24;

(b) exclude a network or part of a network, or all networks or parts of them of a specified description, from the application of any one or more of sections 26 to 28;

(c) exclude a station or part of a station, or all stations or parts them of a specified description, from the application of any one or more of sections 29 to 31.

(2) In subsection (1) "the national authority"—

(a) as respects a railway passenger service which is—

(i) a Scotland-only service, or

(ii) a cross-border service in relation to which so much of the funding as is provided by a railway funding authority is funding provided by the Scottish Ministers,

means those Ministers;

(b) as respects a network or station, or part of a network or station, that is wholly in Scotland, means the Scottish Ministers; [F13]...

[[F14](ba) as respects a railway passenger service which is a Wales-only service, means the Welsh Ministers;

(bb) as respects a station, or part of a station, that—

(i) is wholly in Wales, and

(ii) is a station to which subsection (2A) applies or part of such a station,

means the Welsh Ministers; and**]**

(c) as respects any other railway passenger service, network or station, or part of a network or station, means the Secretary of State.

[[F15](2A) This subsection applies to a station at which the only scheduled calls made by any railway passenger service are those made by a railway passenger service provided under a Welsh franchise agreement or secured to any extent by the Welsh Ministers.**]**

(3) An order under this section is subject to the negative resolution procedure.

(4) Where any order under section 49(2), (4) or (5) of the 1993 Act (exclusions from closure procedures under that Act) is in force immediately before the commencement of this section, that order shall have effect after the commencement of this section—

(a) in the case of an order under section 49(2), as an order under this section excluding the services to which it applies from sections 22 to 24 of this Act;

(b) in the case of an order under section 49(4), as an order under this section excluding the networks, or parts of networks, to which it applies from sections 26 to 28; and

(c) in the case of an order under section 49(5), as an order under this section excluding any stations, or parts of stations, to which it applies from sections 29 to 31.

Textual Amendments

F13 Word in s. 38(2) omitted (14.10.2018) by virtue of The Welsh Ministers (Transfer of Functions) (Railways) Order 2018 (S.I. 2018/631), art. 1(3), **Sch. para. 53(2)**

F14 S. 38(2)(ba)(bb) inserted (14.10.2018) by The Welsh Ministers (Transfer of Functions) (Railways) Order 2018 (S.I. 2018/631), art. 1(3), **Sch. para. 53(2)**

F15 S. 38(2A) inserted (14.10.2018) by The Welsh Ministers (Transfer of Functions) (Railways) Order 2018 (S.I. 2018/631), art. 1(3), **Sch. para. 53(3)**

Commencement Information

I5 S. 38 in force at 1.12.2006 by S.I. 2006/2911, art. 2, **Sch.**

Changes to legislation:
There are currently no known outstanding effects for the Railways Act 2005, Cross Heading: Excluded proposals.