



# Railways Act 2005

## 2005 CHAPTER 14

### PART 4

#### NETWORK MODIFICATIONS ETC.

##### *Substitution services*

### 39 Quality contracts schemes in connection with service modifications

(1) After subsection (1) of section 124 of the 2000 Act insert—

“(1A) A Passenger Transport Authority, or a Passenger Transport Authority jointly with one or more other local transport authorities, may also make a quality contracts scheme covering the whole or part of their area or combined area if they are satisfied—

- (a) that making a quality contracts scheme is an appropriate way of securing that the transport needs of the potential users of a relevant railway service that has been or is to be reduced or discontinued are met;
- (b) that the making of the scheme will contribute, in an appropriate way, to meeting the transport needs of other persons living, working or studying in the localities served by that service;
- (c) that the scheme is compatible with the local transport plan of the Passenger Transport Authority who make the scheme or (as the case may be) of each of the authorities who join in making the scheme; and
- (d) that the scheme will meet the needs of the persons mentioned in paragraphs (a) and (b) in a way which is economic, efficient and effective.

(1B) A local transport authority may join in making a scheme under subsection (1A) by reference to the reduction or discontinuance of a railway passenger service only if—

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- (a) they are the Passenger Transport Authority, or one of the Passenger Transport Authorities, by reference to which that service is a relevant railway service in relation to the scheme;
- (b) the relevant railway service by reference to which the scheme is made is or was operating in the authority's area; or
- (c) the persons who live, work or study in localities served by that service include persons living, working or studying in that area."

(2) After subsection (9) of that section insert—

“(10) In subsection (1A) the references to a local transport plan, in the case of a local transport authority not having a local transport plan, are references to the policies developed by that authority under section 108(1)(a).

(11) In this section “relevant railway service”—

- (a) in relation to a scheme made by a single Passenger Transport Authority acting alone, means—
  - (i) a railway passenger service operating entirely within the area of that Authority; or
  - (ii) the part of a railway passenger service so operating;
- (b) in relation to a scheme made jointly by more than one local transport authority, means—
  - (i) a railway passenger service operating wholly or primarily within the area of a Passenger Transport Authority who join in making the scheme;
  - (ii) a railway passenger service operating wholly or primarily within the combined area of two or more Passenger Transport Authorities who join in making the scheme; or
  - (iii) the part of a railway passenger service operating as mentioned in sub-paragraph (i) or (ii).

(12) In this section—

“potential users”, in relation to a relevant railway service, means persons who (but for the reduction or discontinuance of the service) would have made use of it; and

“railway passenger service” has the same meaning as in the Railways Act 1993 (c. 43) (see section 83(1) of that Act).

(13) For the purposes of references in this section to where a railway passenger service or part of such a service operates—

- (a) a service shall be treated as operating at each of the places where stops are made at stations for the purpose of allowing passengers to join or leave the service; and
- (b) a part of a service is any part of that service so far as it operates at any one or more of those places.”

(3) In section 126(4) of that Act (approval of scheme), after “section 124(1)” insert “ or (as the case may be) paragraphs (a) to (d) of section 124(1A) ”.

(4) In section 132 of that Act (variation of scheme)—

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- (a) in subsection (2), for “paragraphs (a) and (b) of section 124(1)” substitute “subsection (1)(a) and (b) of section 124 or those set out in subsection (1A)(a) to (d) of that section”;
  - (b) in subsection (3) and (4), for “those conditions”, in each place, substitute “the relevant conditions”; and
  - (c) after subsection (4) insert the subsection set out in subsection (5) of this section.
- (5) The subsection inserted after section 132(4) of that Act is—
- “(4A) In subsections (3) and (4) “the relevant conditions” means—
- (a) in the case of a scheme made under section 124(1) and not subsequently varied under subsection (1)(a) of this section, the conditions set out in section 124(1)(a) and (b);
  - (b) in the case of a scheme made under section 124(1A) and not subsequently varied under subsection (1)(a) of this section, the conditions set out in section 124(1A)(a) to (d); and
  - (c) in the case of a scheme that has been varied under subsection (1)(a) of this section, the conditions by reference to which it was last so varied.”

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**Commencement Information**

**II** [S. 39](#) in force at 1.12.2006 by [S.I. 2006/2911](#), art. 2, [Sch.](#)

## **40 Substitute road services**

- (1) Where a railway passenger service—
- (a) is temporarily interrupted, or
  - (b) has been discontinued,
- the appropriate national authority may secure the provision of a substitute service for the carriage of passengers by road by means of public service vehicles or private hire vehicles.
- (2) Where a railway passenger service has been temporarily interrupted, the route and stopping places of the substitute service need not correspond precisely to those of the interrupted service if it is not practicable for them to do so.
- (3) Where a railway passenger service has been discontinued, the route and stopping places of the substitute service need not correspond precisely to those of the discontinued service if—
- (a) it is not practicable for them to do so; or
  - (b) the substitute service broadly corresponds to the discontinued service in terms of the localities served.
- (4) For the purposes of this section the appropriate national authority is—
- (a) in a case where the railway passenger service that is interrupted or discontinued is a service [<sup>F1</sup>(other than a Welsh service provided under a Welsh franchise agreement or secured to any extent by the Welsh Ministers)] beginning or ending in England or otherwise making at least one scheduled call in England, the Secretary of State;

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- [<sup>F2</sup>(aa) in a case where that railway passenger service is a Welsh service provided under a Welsh franchise agreement (but is not a Wales-only service), the Secretary of State in relation to the service to the extent that it is not a Welsh component of a Welsh service;
- (ab) in the case of a railway passenger service that is a Welsh service secured to any extent by the Welsh Ministers (but is not a Wales-only service), the Secretary of State in relation to the service to the extent that it is not so secured;]
- (b) in a case where that railway passenger service is a relevant Scottish passenger service, the Scottish Ministers;
- [<sup>F3</sup>(c) in a case where that railway passenger service is a Wales-only service, the Welsh Ministers;
- (d) in a case where that railway passenger service is a Welsh service provided under a Welsh franchise agreement (but is not a Wales-only service), the Welsh Ministers in relation to the service to the extent that it is a Welsh component of a Welsh service;
- (e) in a case where that railway passenger service is a Welsh service secured to any extent by the Welsh Ministers, the Welsh Ministers in relation to the service to the extent that it is so secured;]

and where in any case there is more than one appropriate national authority they shall each have the powers conferred by this section.

- (5) In this section a “relevant Scottish passenger service” is—
  - (a) a railway passenger service provided under a Scottish franchise agreement; or
  - (b) a railway passenger service not falling within paragraph (a) which is a Scotland-only service or (without being such a service) is a service the provision of which is secured by the Scottish Ministers.
- (6) In this section “private hire vehicles” means—
  - (a) vehicles licensed under section 37 of the Town Police Clauses Act 1847 (c. 89), section 6 of the Metropolitan Public Carriage Act 1869 (c. 115), section 48 of the Local Government (Miscellaneous Provisions) Act 1976 (c. 57) or section 7 of the Private Hire Vehicles (London) Act 1998 (c. 34) or under any similar enactment; or
  - (b) taxis or private hire cars licensed under section 10 of the Civic Government (Scotland) Act 1982 (c. 45).
- (7) In this section—
  - “public service vehicles” has the meaning given by section 1 of the Public Passenger Vehicles Act 1981 (c. 14); and
  - “stopping place”, in relation to a service, means a place at which a service makes a stop for the purposes of allowing passengers to join or leave the service.

#### Textual Amendments

- F1** Words in s. 40(4)(a) inserted (14.10.2018) by [The Welsh Ministers \(Transfer of Functions\) \(Railways\) Order 2018 \(S.I. 2018/631\)](#), art. 1(3), **Sch. para. 54(2)**
- F2** S. 40(4)(aa)(ab) inserted (14.10.2018) by [The Welsh Ministers \(Transfer of Functions\) \(Railways\) Order 2018 \(S.I. 2018/631\)](#), art. 1(3), **Sch. para. 54(3)**
- F3** S. 40(4)(c)-(e) substituted for s. 40(4)(c) (14.10.2018) by [The Welsh Ministers \(Transfer of Functions\) \(Railways\) Order 2018 \(S.I. 2018/631\)](#), art. 1(3), **Sch. para. 54(4)**

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#### Commencement Information

- I2** S. 40(1)-(3) in force at 24.7.2005 by [S.I. 2005/1909](#), [art. 2](#), [Sch.](#)
- I3** S. 40(4) in force at 24.7.2005 for specified purposes by [S.I. 2005/1909](#), [art. 2](#), [Sch.](#)
- I4** S. 40(4)(b)(5) in force at 16.10.2005 by [S.I. 2005/2812](#), [art. 2\(1\)](#), [Sch. 1](#)
- I5** S. 40(6)(7) in force at 24.7.2005 by [S.I. 2005/1909](#), [art. 2](#), [Sch.](#)

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