SCHEDULES

SCHEDULE 1

Section 1

TRANSFER ETC. OF FUNCTIONS OF THE STRATEGIC RAIL AUTHORITY

PART 1

TRANSFER AND ABOLITION OF FUNCTIONS

Transfer to ORR of consumer protection and other functions relating to licensing

1 (1) In section 7 of the 1993 Act—

(a) in subsections (1) and (3) (consultation with SRA about exemptions), omit "and the Authority"; and

(b) subsections (5A), (6A) and (8A) (consumer protection conditions) shall cease to have effect.

(2) In subsection (9) of that section, for "subsections (6) and (6A)" substitute "subsection (6)".

2 Section 7A of the 1993 Act (consumer protection conditions) shall cease to have effect.

3 (1) In section 8 of the 1993 Act (licences), in subsection (1)—

(a) in paragraph (a), omit "and the Authority";

(b) in paragraph (b), omit "given after consultation with the Authority".

(2) In subsection (2) of that section, paragraph (a) shall cease to have effect.

(3) In subsection (6) of that section (consent required for surrender of licence), for "and the Authority consent" substitute "consents".

(4) In subsection (7) of that section—

(a) in paragraph (a), omit ", to the Authority"; and

(b) in paragraph (b), for "Authority" substitute "Secretary of State".

(5) In subsection (8) of that section, omit "and the Authority".

4 In section 11 of the 1993 Act (assignment of licences)—

(a) in subsection (2)(b), omit "and the Authority";

(b) in subsection (4), omit "or persons".

5 (1) In section 12 of the 1993 Act, subsections (1A) to (1C) (modification of consumer protection conditions) shall cease to have effect.

(2) In subsection (2) of that section, for "of any conditions of a licence which do not relate to consumer protection" substitute "under this section".

6 In section 13 of the 1993 Act (modification references to Competition Commission) —

(a) for "the appropriate authority", wherever occurring, substitute "the Office of Rail Regulation"; and

(b) subsections (1A) to (1C) shall cease to have effect.

7 In section 13A of the 1993 Act (time limits under section 13), for "the appropriate authority", wherever occurring, substitute "the Office of Rail Regulation".

8 In section 14 of the 1993 Act (reports on modification references)—

(a) for "the appropriate authority", wherever occurring, substitute "the Office of Rail Regulation"; and

(b) subsection (5A) shall cease to have effect.

9 In section 15 of the 1993 Act (modification following report)—

(a) subsections (1B) and (3A) (reports to the SRA) shall cease to have effect;

(b) in subsections (2), (4A), (4B), (4C) and (4D), omit "or Authority", wherever occurring; and

(c) in subsection (4), omit "or (3A)" and "or the Authority".

10 (1) This paragraph applies to things done under or for the purposes of any provision of sections 13 to 15C of the 1993 Act (modification of licences) so far as they were done before the commencement of this paragraph by or in relation to the Strategic Rail Authority as the appropriate authority.

(2) In relation to times after the commencement of this paragraph, those things shall have effect, so far as necessary for giving them continuing validity or effect, as if done by or in relation to the Office of Rail Regulation.

Transfers relating to the provision, improvement or development of railway facilities

11 (1) In sections 16A, 16C(3), 16D, 16E(2)(a), 16F(3)(a) and 16G of the 1993 Act (directions by Office of Rail Regulation, on applications made by or with the consent of the SRA, to provide, improve or develop railway facilities), for "Authority", wherever occurring, substitute "appropriate facilities authority".

(2) In section 16A of that Act, in subsection (3), for "Authority's consent" substitute "consent of the appropriate facilities authority".

(3) In that section, after that subsection insert—

"(3A) In this section and sections 16B to 16G below `the appropriate facilities authority'—

(a) in relation to facilities in Scotland, means the Scottish Ministers; and

(b) in relation to any other facilities, means the Secretary of State."

(4) In section 16B(1) and (4) of that Act (exemptions of facilities from section 16A), for "Secretary of State", in each place, substitute, "appropriate facilities authority".

(5) In section 16B of that Act, after subsection (6) insert—

"(7) A statutory instrument containing an order made under this section by the Scottish Ministers shall be subject to annulment in pursuance of a resolution of the Scottish Parliament."

(6) An exemption granted under subsection (1) of section 16B of that Act before the commencement of this paragraph—

(a) which is in force at the time of the commencement of this paragraph or is to come into force after that time, and

(b) is contained in an order the power to make which is exercisable after that time by the Scottish Ministers,

is to have effect after that time as if contained in an order made by those Ministers which is not subject to subsection (7) of that section.

Transfer of functions relating to access agreements

12 (1) In sections 17 to 19 of the 1993 Act (access agreements) except in sections 17(4) and 19(7), for "the Authority", wherever occurring, substitute "the Secretary of State".

(2) In each of sections 17(4) and 19(7) (references to operating on behalf of SRA)—

(a) for "Authority", where first occurring, substitute "Secretary of State";

(b) for "Authority", in the second place, substitute "Secretary of State or the Scottish Ministers"; and

(c) for "the Authority", in the third and fourth places, substitute "him or them".

(3) In section 18(6A)(b) of that Act, for "its" substitute "his".

Transfer of functions relating to franchise agreements

13 (1) In section 23 of the 1993 Act (passenger services to be subject to franchise agreements), in subsections (1) and (2), for "Authority", wherever occurring, substitute "appropriate designating authority".

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

"(2ZA) Where the Scottish Ministers designate Scotland-only services, they may also designate cross-border services which—

(a) they consider should be provided under the same franchise agreement as particular Scotland-only services or a particular class of them; and

(b) are not exempt from designation under subsection (1) by virtue of section 24.

(2ZB) Nothing in this section requires the Secretary of State to designate a cross-border service already designated by the Scottish Ministers.

(2ZC) Before the Secretary of State or the Scottish Ministers designate a cross-border service he or they must consult the other."

(3) Subsection (2B) of that section (publication of designations etc.) shall cease to have effect.

(4) In subsection (3) of that section—

(a) before the definition of "franchise agreement" insert—

""the appropriate designating authority"—

(a) in relation to Scotland-only services, means the Scottish Ministers; and

(b) in relation to all other services, means the Secretary of State;

"the appropriate franchising authority"—

(a) in relation to a Scottish franchise agreement, means the Scottish Ministers; and

(b) in relation to any other franchise agreement, means the Secretary of State;"

(b) in the definition of "franchise agreement", for "with the Authority" substitute "with the Secretary of State, with the Scottish Ministers or with the Secretary of State and the National Assembly for Wales jointly,".

(5) Every designation made by the Strategic Rail Authority under section 23 of the 1993 Act which is in force immediately before the commencement of sub-paragraph (1) shall have effect after the commencement of that sub-paragraph as a designation in accordance with that section—

(a) in the case of services that at that time were being provided under a franchise agreement the franchised services under which consist of or include Scotland-only services, by the Scottish Ministers; and

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

14 (1) Section 24 of the 1993 Act (franchise exemptions granted by the Secretary of State) is amended as follows.

(2) In subsections (1) to (5) and (9), for "Secretary of State", wherever occurring, substitute "appropriate designating authority".

(3) In subsection (3)(a) and (b), for "he" in each place substitute "the appropriate designating authority".

(4) After subsection (3) insert—

"(3A) Before granting a franchise exemption in respect of a cross-border service, the Secretary of State must consult the Scottish Ministers."

(5) In subsection (4), for "he", in both places, substitute "it".

(6) In subsection (6), for "is not complied with, the Secretary of State" substitute "granted by the appropriate designating authority is not complied with, it".

(7) In subsection (9), for "him", in each place, substitute "it".

(8) After subsection (12) insert—

"(12A) A statutory instrument containing an order under this section by the Scottish Ministers is subject to annulment in pursuance of a resolution of the Scottish Parliament."

15 (1) Section 26 of the 1993 Act (invitation to tender for franchises) is amended as follows.

(2) In subsection (1), for the words from the beginning to "Authority" substitute "The appropriate franchising authority may select the person who is to be the franchisee in relation to a franchise agreement".

(3) In subsections (2) and (3), for "Authority", wherever occurring, substitute "appropriate franchising authority".

(4) Subsection (4) shall cease to have effect.

(5) For subsections (5) to (10) (statement by the Secretary of State about his power to give directions) substitute—

"(4A) The Secretary of State and the Scottish Ministers shall each publish a statement of policy about how he proposes, or (as the case may be) they propose, to exercise the power under subsection (1) above.

(4B) The statement must in particular include the policy of the Secretary of State or the Scottish Ministers about—

(a) when his or their selection of the person to be a franchisee under a franchise agreement is likely to be from those submitting tenders in response to an invitation to do so;

(b) when it is likely such an invitation will not be issued; and

(c) the means by which he is, or they are, proposing that the selection will be made in cases where there is no such invitation.

(4C) In deciding whether to select the person who is to be the franchisee under a franchise agreement by means of an invitation to tender and whom so to select, the appropriate franchising authority must have regard to its statement of policy.

(4D) The Secretary of State or Scottish Ministers—

(a) may at any time alter or replace the statement of policy which he has made or (as the case may be) which they have made; and

(b) where that statement is altered or replaced, must publish the altered or replacement statement.

(4E) Before preparing, altering or replacing a statement of policy—

(a) the Secretary of State must consult the National Assembly for Wales and undertake such other consultation as he considers appropriate; and

(b) the Scottish Ministers must undertake such consultation as they consider appropriate.

(4F) Where a statement of policy is prepared, altered or replaced, a copy of it must be laid—

(a) in the case of a statement prepared, altered or replaced by the Secretary of State, before Parliament; and

(b) in the case of a statement prepared, altered or replaced by the Scottish Ministers, before the Scottish Parliament."

(6) The fact that a statement of policy has not been published by any person under section 26(4A) of the 1993 Act does not affect the validity of any selection made as mentioned in section 26(1) of that Act.

16 For sections 26A, 26B and 26C of the 1993 Act (directions of the Secretary of State where no tenders or tenders appear unsatisfactory) substitute—

"**26ZA No adequate tender for franchise received**

(1) This section applies in the case of an invitation to tender under section 26 for the provision of services if—

(a) the appropriate franchising authority receives no tender in response to the invitation; or

(b) it receives a tender but considers that the services would be provided more economically and efficiently if they were provided otherwise than under a franchise agreement entered into in response to the tender.

(2) The appropriate franchising authority may —

(a) issue a new invitation to tender under section 26 for the provision of the services;

(b) decide to secure the provision of the services under a franchise agreement with a person who did not submit a tender; or

(c) decide not to seek to secure the provision of the services under a franchise agreement.

(3) Nothing in this section prevents the appropriate franchising authority, where it has decided not to seek to secure the provision of services under a franchise agreement, from subsequently making a decision to issue a new invitation to tender for the provision of those services."

17 (1) In section 27 of the 1993 Act (transfer of franchise assets or shares), for "Authority", wherever occurring, substitute "appropriate franchising authority".

(2) In subsection (8) and (9) of that section, for "Schedule 21 to the Transport Act 2000" substitute "section 12 of the Railways Act 2005".

18 (1) In section 28 of the 1993 Act (fares and approved discount fare schemes), in subsection (2), for "Authority", substitute "appropriate franchising authority".

(2) In subsection (4)—

(a) after "regarded" insert ", in relation to a franchise agreement,"; and

(b) for "Authority" substitute "appropriate franchising authority".

(3) Discount fare schemes which immediately before the commencement of this paragraph are approved for the purposes of section 28 of the 1993 Act are to be treated after the commencement of this paragraph as approved for the purposes of that section by the appropriate franchising authority.

19 In section 29 of the 1993 Act (other terms and conditions of franchise agreements), for "Authority", wherever occurring, substitute "appropriate franchising authority".

Transfer of functions as operator of last resort

20 (1) In section 30 of the 1993 Act (operator of last resort to provide or secure provision of service where no franchise agreement), for "Authority", wherever occurring, substitute "relevant franchising authority".

(2) Subsection (1)(a) shall cease to have effect.

(3) In subsection (2), for "begin (or again begin) to be provided" substitute "begin to be provided again".

(4) After subsection (3) of that section, insert—

"(3A) For the purposes of this section the Secretary of State and the Scottish Ministersshall each have power—

(a) to provide or operate network services, station services or light maintenance services; or

(b) to store goods or consign them from a place to which they have been carried by rail;

and the Scottish Ministers shall have power to provide Scotland-only services and cross-border services.

(3B) In this section "relevant franchising authority" means the person who was the appropriate franchising authority in relation to the franchise agreement that has been terminated or otherwise come to an end."

(5) Where immediately before the commencement of this paragraph any service is being provided or secured by the Strategic Rail Authority by virtue of section 30 of the 1993 Act, that section is to have effect after the commencement of this paragraph as if—

(a) the condition in subsection (1)(b) of that section were satisfied; and

(b) the relevant franchising authority were—

(i) except where sub-paragraph (ii) applies, the Secretary of State; and

(ii) where the franchised services under the franchise agreement in accordance with which the services in question were last provided included Scotland-only services, the Scottish Ministers.

Transfer etc. of functions relating to enforcement

21 (1) Section 55 of the 1993 Act (orders for securing compliance) is amended as follows.

(2) In subsections (1), (2) and (4), for "(5B)", in each place, substitute "(5C)".

(3) In subsection (5), omit "or, as the case may be, section 207 of the Transport Act 2000".

(4) In subsection (5ZA)—

(a) for "The Authority shall not" substitute "Neither the Secretary of State nor the Scottish Ministers shall";

(b) in paragraph (a), for "it has" and "the Authority" substitute, respectively "the Secretary of State has or (as the case may be) those Ministers have" and "him or them"; and

(c) in paragraph (c), for "the Authority" substitute "the Secretary of State or (as the case may be) the Scottish Ministers".

(5) After subsection (5B) insert—

"(5C) Neither the Secretary of State nor the Scottish Ministers shall be required, in respect of any contravention or apprehended contravention of the terms of a franchise agreement, to make a final order, or to make or to confirm a provisional order, if he considers or (as the case may be) they consider—

(a) that the contravention or apprehended contravention is trivial; and

(b) that it would be inappropriate, for that reason, to make or to confirm the order.

(5D) The appropriate authority must comply with subsection (6)—

(a) in a case where the appropriate authority is the Secretary of State or the Scottish Ministers, if that authority decides not to make a final

order, or not to make or to confirm a provisional order, because of provision contained in subsection (5) or (5ZA) above; or

(b) in the case of the Office of Rail Regulation, if it decides not to make a final order, or not to make or to confirm a provisional order, because of provision contained in subsection (5), (5A) or (5B) above."

(6) In subsection (6) (notice of decisions), for the words from the beginning to the end of paragraph (a) substitute—

"(6) Where the appropriate authority must comply with this subsection, it must—

(a) serve notice of its decision on the relevant operator; and".

(7) In subsection (7A), for "to the Authority in the event of any specified contravention of the order such" substitute "in the event of a specified contravention of the order—

(a) in the case of an order made by the Scottish Ministers, to them, and

(b) in any other case, to the Secretary of State,

such".

(8) In subsection (10)—

(a) in paragraph (a) of the definition of "the appropriate authority", omit "apart from a condition which relates to consumer protection,";

(b) for paragraph (b) substitute—

"(aa) in relation to any relevant condition or requirement in the case of—

(i) a franchisee under a Scottish franchise agreement,

(ii) a franchise operator in relation to such an agreement, or

(iii) a person under Scottish closure restrictions,

the Scottish Ministers; and

(b) in relation to any relevant condition or requirement in the case of—

(i) a franchisee not falling within paragraph (aa)(i),

(ii) a franchise operator not falling within paragraph (aa)(ii), or

(iii) a person under closure restrictions that are not Scottish closure restrictions,

the Secretary of State;".

22 In section 56(2A) of the 1993 Act (procedural requirements for section 55 orders), for the words from "Authority", where first occurring, to the end of the subsection substitute "Secretary of State and on the Scottish Ministers."

23 (1) Section 57A of the 1993 Act (penalties) is amended as follows.

(2) In subsection (2), for "to the Authority" substitute—

"(a) in the case of a penalty imposed by the Scottish Ministers, to them; and

(b) in any other case, to the Secretary of State".

(3) In subsection (5)—

(a) for "The Authority shall not" substitute "Neither the Secretary of State nor the Scottish Ministers shall";

(b) in paragraph (a), for "it has" and "the Authority" substitute, respectively, "the Secretary of State has or (as the case may be) those Ministers have" and "him or them"; and

(c) in paragraph (c), for "the Authority" substitute "the Secretary of State or (as the case may be) the Scottish Ministers".

24 (1) In section 57B of the 1993 Act—

(a) for "Authority", wherever occurring, substitute "Secretary of State, the Scottish Ministers"; and

(b) in subsections (3) and (4), after "statement of" insert "his, their or".

(2) The fact that a statement of policy has not been published by the Secretary of State, by the Scottish Ministers or by the Office of Rail Regulation under section 57B of the 1993 Act does not affect—

(a) the validity of any decision to impose a penalty under section 57A;

(b) any determination of the amount of any such penalty;

(c) the inclusion in a final or provisional order of any requirement to pay a sum; or

(d) any determination of the amount of the sum payable in accordance with such an order.

25 In section 57C(3) of the 1993 Act (service of penalty notices), for the words from "Authority", where first occurring, to the end of the subsection substitute "Secretary of State and on the Scottish Ministers."

26 (1) This paragraph applies to things done under or for the purposes of any provision of sections 55 to 58 of the 1993 Act (enforcement) so far as they were done before the commencement of this paragraph by or in relation to the Strategic Rail Authority as the appropriate authority.

(2) In relation to times after the commencement of this paragraph, those things shall have effect, so far as necessary for giving them continuing validity or effect—

(a) so far as they are things done by or in relation to the Strategic Rail Authority as the appropriate authority in relation to a condition relating to consumer protection, as if they were done by or in relation to the Secretary of State or the Scottish Ministers, as the case may require; and

(b) in any other case, as if they were done by or in relation to the Office of Rail Regulation.

Abolition of functions relating to railway administration orders

27 (1) The following provisions of the 1993 Act (which relate to applications by the SRA for railway administration orders and to notices to the SRA about insolvency proceedings against protected railway companies) shall cease to have effect—

(a) section 61(1)(a)(ii) and (2)(b); and

(b) section 62(2)(a)(ii), (3)(b), (5)(a)(ii), (6)(b) and (7)(b).

(2) Where a railway administration order is in force immediately before the commencement of this paragraph in relation to a company, things done by or in relation to the Strategic Rail Authority for the purposes of or in connection with that order and by virtue of —

(a) any provision of sections 59 to 62 of the 1993 Act, or

(b) any provision of Schedule 6 or 7 to that Act, or of the Insolvency Act 1986 (c. 45) as modified by Schedule 6 to the 1993 Act,

are to have effect, so far as necessary for giving them continuing validity and effect, as if done by the appropriate national authority (within the meaning of Part 1 of the 1993 Act).

Abolition of duty to investigate contravention of consumer protection conditions

28 Section 71A of the 1993 Act (duty to investigate contraventions of consumer protection conditions) shall cease to have effect.

Transfer of function of maintaining code of practice for protection of disabled rail users

29 (1) In section 71B of the 1993 Act (code of practice for protection of disabled rail users), for "Authority", in each place, substitute "Secretary of State".

(2) The code of practice under section 71B of the 1993 Act that is in force immediately before the commencement of this paragraph is to have effect after the commencement of this paragraph as if prepared and published by the Secretary of State.

(3) The Strategic Rail Authority must provide the Secretary of State with particulars of any consultation under section 71B(2) of the 1993 Act which was undertaken before the commencement of this paragraph by that Authority in relation to future revisions of the code; and that consultation is to be treated for the purposes of any revision after the commencement of this paragraph as having been undertaken by the Secretary of State.

Transfer of functions relating to maintenance of register

30 (1) In section 73 of the 1993 Act (register maintained by the SRA), for "Authority", wherever occurring, substitute "Secretary of State".

(2) In subsection (1) of that section, for "it" substitute "he".

(3) In subsection (2) of that section—

(a) for the words from "subsection (3)" to "subsection (4)" substitute "subsections (3) and (4)";

(b) after "in the register" insert "(except so far as they are required to be entered in the register maintained under section 73A below)";

(c) in paragraph (e) for "it", in each place, substitute "he"; and

(d) after paragraph (g) insert—

"(ga) every designation under section 23 and every variation or revocation of such a designation;".

(4) For subsection (3) of that section substitute—

"(3) The Secretary of State may enter the provisions of anything in the register in a manner that excludes, so far as practicable, so much of the details of those provisions as he considers it appropriate to exclude for the purpose of maintaining the confidentiality of—

(a) matters relating to the affairs of an individual the publication of which would or might, in the Secretary of State's opinion, seriously and prejudicially affect the interests of that individual; and

(b) matters relating specifically to the affairs of a particular body of persons the publication of which would or might, in the Secretary of State's opinion, seriously and prejudicially affect the interests of that body."

(5) In subsection (4) of that section, for the words from "or" to "Authority" substitute "he may decide".

(6) Subsections (5) and (6) of that section shall cease to have effect.

(7) In subsection (7) of that section—

(a) after "by", where first occurring, insert "the Scottish Ministers or"; and

(b) for "the Office of Rail Regulation may" substitute "the Scottish Ministers and the Office of Rail Regulation may each".

31 After that section insert—

"**73A Keeping of register by the Scottish Ministers**

(1) The Scottish Ministers must maintain a register.

(2) The register must be kept in such form and at such premises as the Scottish Ministers determine.

(3) Subject to subsections (4) and (5) below, the Scottish Ministers must cause the provisions of each of the following to be entered in the register—

(a) every designation made by them under section 23 of this Act, and every variation or revocation of such a designation;

(b) every franchise exemption granted by them;

(c) every franchise agreement to which they are a party;

(d) every amendment of such a franchise agreement, other than those that are unlikely to have a material effect on the provision of services under the agreement or on the sums payable under it;

(e) every determination made by them under section 34 of the Railways Act 2005 that a closure is a minor modification or that closures of a particular description are minor modifications;

(f) every revocation of a determination made by them under that section in relation to a description of closures;

(g) every condition agreed to under subsection (5) of that section in connection with a determination made by them;

(h) every final or provisional order made by them;

(i) every revocation by them of such an order;

(j) every notice given by them under section 55(6) of this Act of a decision not to make such an order;

(k) every penalty imposed by them under section 57A of this Act;

(l) every statement of policy published by them under section 57B of this Act.

(4) The Scottish Ministers may enter the provisions of anything in the register in a manner that excludes, so far as practicable, so much of the details of

those provisions as they consider it appropriate to exclude for the purpose of maintaining the confidentiality of—

(a) matters relating to the affairs of an individual the publication of which would or might, in the Scottish Ministers' opinion, seriously and prejudicially affect the interests of that individual; and

(b) matters relating specifically to the affairs of a particular body of persons the publication of which would or might, in the Scottish Ministers' opinion, seriously and prejudicially affect the interests of that body.

(5) If it appears to the Scottish Ministers that the entry of any provision in the register would be against the public interest, they may decide not to enter it in the register.

(6) The contents of the register must be available for inspection, at any time and free of charge, by the Secretary of State or the Office of Rail Regulation.

(7) The Secretary of State and the Office of Rail Regulation may each require the Scottish Ministers to supply him or (as the case may be) it free of charge with a certified copy of a part of the register or with a certified extract from it.

(8) The references in subsection (7) to a certified copy or a certified extract are references to a copy or extract that has been certified by the Scottish Ministers to be a true copy or extract.

(9) In subsection (3)(d) "amendment", in relation to a franchise agreement, means any amendment however described, including variations (whether or not effected in accordance with the terms of the agreement or by a modification of it) of the property, rights and liabilities which from time to time constitute the franchise assets."

Transfer of functions relating to the Rail Passengers' Council

32 (1) In section 76 of the 1993 Act (general duties of Rail Passengers' Council), for "Authority", wherever occurring (except in subsection (6)(a)), substitute "Secretary of State".

(2) In subsection (4) of that section, for "service" substitute "secured service (within the meaning of Part 4 of the Railways Act 2005) which is".

(3) In subsection (5) of that section, in the words after paragraph (b)—

(a) for "its" substitute "his"; and

(b) for the word "it", in the last place where it occurs, substitute "he".

(4) In subsection (6)(a) of that section, omit "and the Authority".

(5) Subsection (8) of that section shall cease to have effect.

Transfer of power to require information from licence holders

33 (1) In section 80 of the 1993 Act (duty to provide information to the SRA on request), for "Authority", wherever occurring, substitute "Secretary of State, the Scottish Ministers or the Office of Rail Regulation".

(2) In subsection (1) of that section—

(a) for "it", in each place, substitute "he, they or it"; and

(b) for "of its functions" substitute "functions of the Secretary of State, the Scottish Ministers or (as the case may be) that Office".

Abolition of functions relating to penalty fares

34 In section 130 of the 1993 Act—

(a) for paragraph (p) of subsection (2) (power to allow Secretary of State or SRA to prohibit the charging of penalty fares by person suspected of contraventions) substitute—

"(p) the imposition by the Secretary of State or the Scottish Ministers of prohibitions on the charging of penalty fares by prescribed persons and in prescribed circumstances.";

(b) subsections (5), (6) and (10) (functions conferred on the SRA by penalty fare regulations) shall cease to have effect.

Transfer of functions relating to concessionary travel

35 (1) Section 135 of the 1993 Act (concessionary travel) is amended as follows.

(2) In subsections (2) and (3), for "Authority may" substitute "Secretary of State and the Scottish Ministers may each".

(3) In subsection (6), for "The Authority may perform any of its functions" substitute "The Secretary of State and the Scottish Ministers may exercise powers and perform duties conferred or imposed on him or them".

(4) In subsection (7), for "Authority undertakes" substitute "Secretary of State undertakes, or the Scottish Ministers undertake,".

Abolition of certain functions under the 2000 Act

36 The following provisions of the 2000 Act shall cease to have effect—

(a) section 213 (powers to provide railway services);

(b) section 214 (substitute bus and taxi services); and

(c) section 219 (power to make bye-laws).

PART 2

DEFINITIONS FOR PURPOSES OF TRANSFERS TO SCOTTISH MINISTERS

37 (1) Section 83(1) of the 1993 Act (expressions defined for the purposes of that Act, Part 4 of the 2000 Act and this Act) is amended as follows.

(2) After the definition of "closure consent" insert—

""cross-border service" means a railway passenger service starting either in England and Wales or in Scotland and ending, or otherwise making at least one scheduled call, in the other;".

(3) After the definition of "rolling stock" insert—

""scheduled call", in relation to a service or journey, means a scheduled stop at a station for the purpose of allowing passengers to join or leave the service or train (including the stops where the service or journey starts and ends);

"Scotland-only service" means a railway passenger service which starts and ends in Scotland and is not a cross-border service;

"Scottish franchise agreement" means a franchise agreement the franchised services under which—

(a) consist of or include Scotland-only services; and

(b) so far as they include other services, include only cross-border services designated by the Scottish Ministers;".

SCHEDULE 2

Sections 1 and 12

TRANSFER SCHEMES

Application and commencement of scheme

1 (1) A scheme may set out the property, rights and liabilities to be transferred in one or more of the following ways—

(a) by specifying or describing them in particular;

(b) by identifying them generally by reference to an undertaking from which they are to be transferred; or

(c) by identifying them by reference to a specified part of such an undertaking.

(2) A scheme comes into force on the date appointed by the scheme.

Property, rights and liabilities that may be transferred

2 (1) The property, rights and liabilities that may be transferred by a scheme include—

(a) property, rights and liabilities that would not otherwise be capable of being transferred or assigned by the transferor;

(b) property acquired in the period after the making of the scheme and before it comes into force and rights and liabilities arising in that period;

(c) rights and liabilities arising after the scheme comes into force in respect of matters occurring before it comes into force;

(d) rights and liabilities under an enactment, Community instrument or subordinate legislation.

(2) The transfers to which effect may be given by a scheme include transfers that are to take effect in accordance with the scheme as if there were—

(a) no such requirement to obtain a person's consent or concurrence,

(b) no such liability in respect of a contravention of any other requirement, and

(c) no such interference with any interest or right,

as there would be, in the case of a transaction apart from this Act, by reason of a provision falling within sub-paragraph (3).

(3) A provision falls within this sub-paragraph to the extent that it has effect (whether under an enactment or agreement or otherwise) in relation to the terms on which the transferor is entitled or subject to anything to which the transfer relates.

(4) Sub-paragraph (5) applies where (apart from that sub-paragraph) a person would be entitled, in consequence of anything done or likely to be done by or under this Act in connection with a scheme under section 1(2)—

(a) to terminate, modify, acquire or claim an interest or right to which the transferor is entitled or subject; or

(b) to treat such an interest or right as modified or terminated.

(5) That entitlement shall be enforceable in relation to the interest or right—

(a) in consequence of what is done or likely to be done by or under this Act, and

(b) in corresponding circumstances arising after the transfer,

to the extent only that the scheme provides for it to be so enforceable.

(6) Sub-paragraphs (2) to (5) have effect where shares in a subsidiary of the transferor are or are to be transferred—

(a) as if the reference in sub-paragraph (3) to the terms on which the transferor is entitled or subject to anything to which the transfer relates included a reference to the terms on which the subsidiary is entitled or subject to anything immediately before the transfer takes effect; and

(b) as if the reference in sub-paragraph (4) to the transferor included a reference to the subsidiary.

Dividing and modifying transferor's property, rights and liabilities

3 (1) A scheme may contain provision—

(a) for the creation, in favour of a transferor or transferee, of an interest or right in or in relation to property to be transferred in accordance with the scheme;

(b) for giving effect to a transfer to a person by the creation, in favour of that person, of an interest or right in or in relation to property to be retained by a transferor;

(c) for the creation of new rights and liabilities (including rights of indemnity and duties to indemnify) as between different transferees and as between a transferee and a transferor.

(2) A scheme may contain provision for the creation of rights and liabilities for the purpose of converting arrangements between different parts of a transferor's undertaking which exist immediately before the coming into force of the scheme into a contract between different transferees, or between a transferee and a transferor.

(3) A scheme may contain provision—

(a) for rights and liabilities to be transferred so as to be enforceable by or against more than one transferee, or by or against both the transferee and the transferor; and

(b) for rights and liabilities enforceable against more than one person in accordance with provision falling within paragraph (a) to be enforceable in different or modified respects by or against each or any of them.

(4) A scheme may contain provision for interests, rights or liabilities of third parties in relation to anything to which the scheme relates to be modified in the manner set out in the scheme.

(5) In sub-paragraph (4) "third party", in relation to a scheme, means a person other than the transferor and the transferee.

(6) Paragraph 2(2) and (3) applies to the creation of interests and rights in accordance with a scheme as it applies to the transfer of interests and rights.

Obligation to effect transfers etc. under a scheme

4 (1) A scheme may contain provision for imposing on a transferee or a transferor an obligation—

(a) to enter into such agreements with another person on whom a corresponding obligation is, or could be or has been, imposed by virtue of this paragraph (whether in the same or a different scheme), or

(b) to execute such instruments in favour of any such person,

as may be specified or described in the scheme.

(2) An obligation imposed on a person by virtue of sub-paragraph (1) shall be enforceable by the relevant person in civil proceedings—

(a) for an injunction;

(b) for specific performance of a statutory duty under section 45 of the Court of Session Act 1988 (c. 36); or

(c) for any other appropriate remedy or relief.

(3) The relevant person for the purposes of sub-paragraph (2) is the person with, or in favour of whom, the agreement or instrument is to be entered into or executed.

Effect of scheme

5 (1) Where a scheme provides for the transfer of property, rights or liabilities, or for the creation of interests, rights or liabilities—

(a) this Act shall have the effect that, at the time when the scheme comes into force, the property or interests, rights or liabilities shall vest, without further assurance, in the transferee; and

(b) the provisions of that scheme in relation to that property or those interests, rights or liabilities shall have effect from that time.

(2) Sub-paragraph (1) is subject to so much of a scheme as provides for—

(a) the transfer of property, rights or liabilities which are to be transferred in accordance with the scheme, or

(b) the creation of interests, rights and liabilities which are to be created in accordance with the scheme,

to be effected by or under an agreement or instrument entered into or executed in pursuance of an obligation imposed by virtue of paragraph 4(1).

(3) In its application to Scotland, sub-paragraph (1) has effect with the omission of the words "without further assurance".

Powers and duties under statutory provisions

6 (1) A scheme may make provision for some or all of the powers and duties to which this paragraph applies—

(a) to be transferred to a transferee;

(b) to become powers and duties that are exercisable, or must be performed, concurrently by two or more transferees; or

(c) to become powers and duties that are exercisable, or must be performed, concurrently by a transferor and a transferee.

(2) The powers and duties to which this paragraph applies are the powers and duties conferred or imposed upon the transferor by or under a relevant enactment so far as they relate to—

(a) property to be transferred in accordance with the scheme;

(b) the carrying out of works designed to be used in connection with such property; or

(c) the acquisition of land for the purpose of the carrying out of such works.

(3) In this paragraph "relevant enactment" means any enactment other than—

(a) the 1993 Act;

(b) Part 4 of the 2000 Act; or

(c) this Act.

(4) This paragraph does not require a restrictive construction to be given to what may be transferred by virtue of paragraph 2(1)(d).

Supplementary provisions of schemes

7 (1) A scheme may—

(a) make such incidental, supplemental, consequential and transitional provision in connection with the transfers to be made in accordance with the scheme as the person making the scheme thinks fit;

(b) make different provision for different cases.

(2) In particular, a scheme may make provision, in relation to transfers in accordance with the scheme—

(a) for the transferee to be treated as the same person in law as the transferor;

(b) for agreements made, transactions effected or other things done by or in relation to the transferor to be treated, so far as may be necessary for the purposes of or in connection with the transfers, as made, effected or done by or in relation to the transferee;

(c) for references in an agreement, instrument or other document to the transferor, or to an employee or office holder of the transferor, to have effect, so far as may be necessary for the purposes of or in connection with a transfer, with such modifications as are specified in the scheme; and

(d) for proceedings commenced by or against the transferor to be continued by or against the transferee.

(3) Sub-paragraph (2)(c) does not apply to references in an enactment or in subordinate legislation.

(4) In this paragraph references to a transfer in accordance with a scheme include references to the creation of an interest, right or liability in accordance with a scheme.

Modification of scheme by agreement

8 (1) Where the transferor and transferee under a scheme that has come into force so agree, the scheme shall be treated for all purposes as having come into force with such modifications as may be agreed.

(2) An agreement under this paragraph which relates to rights and liabilities under a contract of employment may be entered into only if the employee is a party to the agreement.

(3) An agreement under this paragraph that adversely affects the property or rights of a person other than the transferor, the transferee or such an employee may be entered into only if that person is a party to the agreement.

(4) The provision that may be included in an agreement under this paragraph includes—

(a) any provision that could have been contained in the scheme; and

(b) incidental, supplemental, consequential and transitional provision in connection with any such provision.

Continuity of employment etc.

9 (1) Where in accordance with a scheme a person employed by a transferor becomes an employee of a transferee—

(a) he is not to be regarded for the purposes of Part 11 of the Employment Rights Act 1996 (c. 18) as having been dismissed by virtue of the transfer;

(b) his period of employment with the transferor counts for the purposes of that Act as a period of employment with the transferee;

(c) the change of employment does not break the continuity of the period of employment either for the purposes of that Act or for the purposes of Schedule 11 to the 1993 Act (pensions); and

(d) in a case in which the transferee is not engaged in the railway industry, that person's period of employment with the transferee is to be disregarded for the purpose of determining whether the termination conditions under paragraph 8 of Schedule 11 to the 1993 Act are fulfilled in his case.

(2) References in this paragraph to becoming an employee of the transferee and to employment with the transferee include references, respectively, to becoming and to being employed in the civil service of the state.

Compensation for third parties

10 (1) Where—

(a) an entitlement of a third party to an interest or right would, apart from a provision of a scheme under section 1(2) and paragraph 2(4) and (5), become enforceable in respect of the transfer or creation in accordance with such a scheme of any property, rights or liabilities,

(b) the provisions of that scheme or of paragraph 2(4) and (5) have the effect of preventing the third party's entitlement to that interest or right from being enforced in respect of anything for which the scheme provides, and

(c) provision is not made by the scheme for securing that an entitlement to that interest or right, or to an equivalent interest or right, is preserved or created so as to arise and be enforceable in respect of the first occasion when

corresponding circumstances next occur after the coming into force of the transfers for which the scheme provides,

the third party shall be entitled to compensation in respect of the extinguishment of his entitlement.

(2) The amount of compensation to which a third party is entitled under this paragraph is the amount necessary for securing, to the extent that it is just to do so, that he does not suffer financial loss from the extinguishment of his entitlement.

(3) A liability to pay compensation under this paragraph shall fall on the Secretary of State.

(4) In the preceding provisions of this paragraph "third party", in relation to a scheme, means a person other than the transferor and the transferee.

(5) This paragraph shall have effect in relation to—

(a) the provisions of an agreement or instrument entered into or executed in pursuance of an obligation imposed by a scheme under section 1(2), and

(b) the provisions of an agreement under paragraph 8 relating to property, rights or liabilities transferred or created in accordance with such a scheme,

as it has effect in relation to the scheme but as if, in the case of an agreement under paragraph 8, only persons who are not parties to the agreement were third parties.

Provision of information to person making scheme

11 (1) A person who proposes to make a scheme ("the scheme authority") may direct—

(a) a proposed transferor, or

(b) a proposed transferee,

to provide him with such information as he considers necessary to enable him to make the scheme.

(2) Such a direction must specify the period within which the information is to be provided.

(3) The period specified in the direction must be not less than 28 days beginning with the day of the giving of the direction.

(4) If a person fails to comply with such a direction, the scheme authority may serve a notice on him requiring him—

(a) to produce to the scheme authority any documents which are specified or described in the notice and are in his custody or under his control; or

(b) to provide to the scheme authority such information as may be specified or described in the notice.

(5) Documents or information to be produced or provided in accordance with such a notice must be produced or provided at the time and place, and in the form and manner, specified in the notice.

(6) No person may be required under this paragraph—

(a) to produce a document which he could not be compelled to produce in civil proceedings in the court; or

(b) to provide information which he could not be compelled to give in evidence in such proceedings.

(7) A person who intentionally alters, suppresses or destroys a document which he has been required to produce by a notice under sub-paragraph (4) is guilty of an offence and liable—

(a) on summary conviction, to a fine not exceeding the statutory maximum; and

(b) on conviction on indictment, to a fine.

(8) If a person fails to comply with a notice under sub-paragraph (4), the court may, on the application of the scheme authority, make such order as the court thinks fit for requiring the failure to be made good.

(9) Any order under sub-paragraph (8) may include provision requiring all the costs or expenses of and incidental to the application to be borne by one or more of the following—

(a) the person in default;

(b) any officers of a company or other association who are responsible for its default.

(10) In this paragraph—

(a) a reference to the production of a document includes a reference to the production of a legible and intelligible copy of information recorded otherwise than in legible form; and

(b) the reference to suppressing a document includes a reference to destroying the means of reproducing information recorded otherwise than in legible form.

(11) In this paragraph "the court" means—

(a) in England and Wales, the High Court; and

(b) in Scotland, the Court of Session.

Interpretation

12 (1) In this Schedule—

"enactment" includes an enactment comprised in an Act of the Scottish Parliament;

"transferee"—

(a) in relation to a scheme, means a person to whom property, rights or liabilities are transferred in accordance with the scheme; and

(b) in relation to particular property, rights or liabilities transferred or created in accordance with a scheme, means the person to whom that property or those rights or liabilities are transferred or in whose favour, or in relation to whom, they are created;

"transferor"—

(a) in relation to a scheme, means the person from whom property, rights or liabilities are transferred in accordance with the scheme; and

(b) in relation to particular property, rights or liabilities transferred or created in accordance with a scheme, means the person from whom that property or those rights or liabilities are transferred or the person who or whose property is subject to the interest or right created by the scheme or for whose benefit the liability is created;

"scheme" means a scheme made under section 1(2) or 12; and

"subsidiary" has the meaning given to it by section 736 of the Companies Act 1985 (c. 6).

(2) References in this Schedule to a right or to an entitlement to a right include references to an entitlement to exercise a right; and, accordingly, references to a right's arising include references to its becoming exercisable.

SCHEDULE 3

Section 2

TRANSFER OF SAFETY FUNCTIONS

Railway safety purposes

1 (1) Subject to sub-paragraph (4), in this Schedule "railway safety purposes" means so much of the general purposes of Part 1 of the 1974 Act (within the meaning of section 1 of that Act) as—

(a) relates to risks that are exclusively relevant to one or more of the purposes specified in sub-paragraph (2); or

(b) relates to so much of any risks that are primarily so relevant as arises in connection with anything mentioned in that sub-paragraph.

(2) The purposes mentioned in sub-paragraph (1) are—

(a) securing the proper construction and safe operation of transport systems falling within sub-paragraph (3);

(b) securing the proper construction and safe operation of locomotives, rolling stock or other vehicles used, or to be used, on such systems;

(c) protecting the public (whether or not they are passengers) from personal injury and other risks arising from the construction and operation of such systems;

(d) protecting persons at work from personal injury and other risks so arising.

(3) A transport system falls within this sub-paragraph if it is—

(a) a railway;

(b) a tramway;

(c) a trolley vehicle system; or

(d) a transport system using any other mode of guided transport.

(4) The Secretary of State may, by regulations, modify the definition of "railway safety purposes".

(5) Before making any regulations under sub-paragraph (4), the Secretary of State must consult—

(a) the Office of Rail Regulation;

(b) the Health and Safety Commission; and

(c) such other persons as he considers appropriate.

(6) Regulations under sub-paragraph (4) are subject to the negative resolution procedure.

(7) In this paragraph—

"guided transport", "railway", "tramway", "trolley vehicle system" and "vehicle" have the same meanings as in the Transport and Works Act 1992

(c. 42) except that, for this purpose, paragraph (b) of the definition of "railway" in section 67(1) of that Act (which includes a condition as to the minimum gauge of track) is to be disregarded; and

"person at work" has the same meaning as it for the time being has in Part 1 of the 1974 Act (see section 52 of that Act).

ORR's principal railway safety functions

2 (1) It shall be the general duty of the Office of Rail Regulation—

(a) to do such things and make such arrangements as it considers appropriate for the railway safety purposes; and

(b) to assist and encourage persons concerned with matters relevant to any of those purposes to further those purposes.

(2) It shall be the duty of the Office of Rail Regulation—

(a) to make such arrangements as it considers appropriate for the carrying out of research in connection with the railway safety purposes and for the publication of the results of such research; and

(b) to encourage research by others in that connection.

(3) It shall be the duty of the Office of Rail Regulation—

(a) to make such arrangements as it considers appropriate for the provision of training and information in connection with the railway safety purposes;

(b) to encourage the provision by others of training and information in that connection; and

(c) to make such arrangements as it considers appropriate for securing that the persons mentioned in sub-paragraph (4)—

(i) are provided with an information and advisory service with respect to matters relevant to the railway safety purposes;

(ii) are kept informed about such matters; and

(iii) are adequately advised about them.

(4) Those persons are—

(a) government departments;

(b) employers;

(c) employees;

(d) organisations representing employers and employees respectively; and

(e) other persons concerned with matters relevant to any of the railway safety purposes.

(5) It shall be the duty of the Office of Rail Regulation from time to time to submit such proposals as it considers appropriate for the making of regulations for the railway safety purposes to the authorities having power to make regulations for those purposes under any of the relevant statutory provisions.

(6) Before submitting proposals under sub-paragraph (5), the Office of Rail Regulation must consult—

(a) such government departments, and

(b) such other persons,

as it considers appropriate.

(7) Before—

(a) making regulations for the railway safety purposes independently of any proposals submitted under sub-paragraph (5), or

(b) making regulations which give effect to such proposals but with modifications,

the authority having the power to make the regulations must consult the Office of Rail Regulation.

(8) In this paragraph "employer", "employee" and "the relevant statutory provisions" have the same meanings as in Part 1 of the 1974 Act (see section 53(1) of that Act).

Removal of corresponding functions from HSC

3 (1) In section 11 of the 1974 Act (which confers functions on the HSC for general purposes that are equivalent to those conferred on the ORR for railway safety purposes by paragraph 2)—

(a) in subsection (1), for "subject to subsection (3)" substitute "subject to subsections (2A) and (3)"; and

(b) after subsection (2) insert the subsection set out in sub-paragraph (2).

(2) The subsection to be inserted is—

"(2A) In subsections (1) and (2) above—

(a) references to the general purposes of this Part do not include references to the railway safety purposes; and

(b) the reference to a power to make regulations under the relevant statutory provisions does not include a reference to any power so far as it is exercisable for the railway safety purposes."

Reports and investigations

4 (1) The Office of Rail Regulation may authorise a person to investigate and make a special report on any accident, occurrence, situation or other matter of any sort which that Office thinks it necessary or expedient to investigate—

(a) for any of the railway safety purposes; or

(b) with a view to the making of regulations for any of those purposes.

(2) The Office of Rail Regulation may cause—

(a) the contents of a special report made under this paragraph, or

(b) so much of them as it considers appropriate,

to be made public at such time, and in such manner, as it thinks fit.

(3) Where a person who is not a member, officer or employee of the Office of Rail Regulation carries out an investigation and makes a special report under this paragraph, that Office may pay him such remuneration and expenses as the Secretary of State determines.

(4) The Office of Rail Regulation may, to such extent as the Secretary of State may determine, defray the other costs (if any) of—

(a) an investigation under this paragraph; or

(b) the making of a special report following such an investigation.

(5) In section 14(1) of the 1974 Act (matters about which investigations etc. may be required or authorised by the HSC), for "it is" substitute—

"(a) those general purposes shall be treated as not including the railway safety purposes; but

(b) it is otherwise".

5 (1) This paragraph applies where, before the commencement of paragraph 4, the Health and Safety Commission directed or authorised a person to investigate and make a special report under section 14(2)(a) of the 1974 Act on any accident, occurrence, situation or other matter which the Commission thought it necessary or expedient to investigate—

(a) for any of the railway safety purposes; or

(b) with a view to the making of regulations for any of those purposes.

(2) For the purposes of the carrying out or continuation of an investigation and the making of a report after the commencement of paragraph 4, the direction or authorisation shall be treated as an authorisation by the Office of Rail Regulation under paragraph 4.

(3) If —

(a) the person to whom the Health and Safety Commission gave the direction or authorisation has made a special report to the Commission, but

(b) the Commission has not yet caused the report, or a part of it, to be made public under section 14(5) of the 1974 Act,

the report shall be treated as if it had been made to the Office of Rail Regulation under paragraph 4.

(4) If the person to whom the Health and Safety Commission gave the direction or authorisation has not yet made a special report to the Commission, the Office of Rail Regulation may direct that person—

(a) to abandon the investigation without making a special report; or

(b) to continue the investigation in such manner as that Office may direct.

(5) Where the Health and Safety Commission agreed before the commencement of paragraph 4 to exercise its power by virtue of section 14(6)(a) or (c) of the 1974 Act to pay remuneration or expenses to any person in respect of the investigation and special report or to defray costs of the investigation and report—

(a) the Commission must pay amounts accruing in respect of the agreed matters before the commencement of paragraph 4; and

(b) the Office of Rail Regulation must pay amounts so accruing after that time;

and paragraph (b) does not affect the power of that Office under that paragraph, in relation to times after the commencement of that paragraph, to make other payments of remuneration or expenses or to defray costs.

6 (1) This paragraph applies where, before the commencement of paragraph 4, the Health and Safety Commission directed an inquiry to be held under section 14(2)(b) of the 1974 Act into any accident, occurrence, situation or other matter which the Commission thought it necessary or expedient to investigate—

(a) for any of the railway safety purposes; or

(b) with a view to the making of regulations for any of those purposes.

(2) Subject to sub-paragraph (3), section 14 of the 1974 Act shall continue to apply in relation to that inquiry after the commencement of paragraph 4 but as if all things done or required to be done by or in relation to the Health and Safety Commission

under that section were done or required to be done by or in relation to the Office of Rail Regulation.

(3) Where the Health and Safety Commission agreed before the commencement of paragraph 4 to exercise its power by virtue of section 14(6)(b) or (c) of the 1974 Act to pay remuneration or expenses to any person in respect of the inquiry or to defray costs of the inquiry—

(a) the Commission must pay amounts accruing in respect of the agreed matters before the commencement of paragraph 4; and

(b) the Office of Rail Regulation must pay amounts so accruing after that time;

and paragraph (b) does not affect the power of that Office, in relation to times after the commencement of paragraph 4, to make other payments of remuneration or expenses under section 14(6)(b), or to defray costs under section 14(6)(c).

ORR acting as agent of government departments and other public authorities

7 (1) Where the Secretary of State considers that any of his statutory or other functions can appropriately be carried out by the Office of Rail Regulation in connection with the carrying out of its safety functions, he and that Office may enter into an agreement for that Office to carry out those functions on his behalf.

(2) Where the Secretary of State considers that any of the statutory or other functions of—

(a) a government department, or

(b) any other public authority,

can appropriately be carried out by the Office of Rail Regulation in connection with the carrying out of its safety functions, he may authorise the Office and that department or authority to enter into an agreement for that Office to carry out those functions on behalf of that department or authority.

(3) An agreement under this paragraph—

(a) may include provision for payments to be made to the Office of Rail Regulation for the carrying out of the functions that it is authorised or required to carry out under the agreement; but

(b) may not authorise or require the Office of Rail Regulation to carry out any function consisting in a power to make regulations or other instruments of a legislative character.

Government departments and other public authorities acting as agent of ORR

8 (1) Where the Office of Rail Regulation considers that any of its safety functions can appropriately be carried out—

(a) by a government department, or

(b) by any other public authority,

that Office and the department or authority may enter into an agreement for the department or authority to carry out those functions on that Office's behalf.

(2) An agreement under this paragraph may include provision for payments to be made by the Office of Rail Regulation to a government department or public authority for the carrying out of the functions that it is authorised or required to carry out under the agreement.

Restrictions on codes of practice by HSC

9 (1) In subsection (1) of section 16 of the 1974 Act (codes of practice with respect to the requirements of certain provisions), for "sections 2 to 7 or of health and safety regulations or of any of the existing statutory provisions" substitute "any of the enactments or instruments mentioned in subsection (1A) below".

(2) After that subsection insert—

"(1A) Those enactments and instruments are—

(a) sections 2 to 7 above;

(b) health and safety regulations, except so far as they make provision exclusively in relation to transport systems falling within paragraph 1(3) of Schedule 3 to the Railways Act 2005; and

(c) the existing statutory provisions that are not such provisions by virtue of section 117(4) of the Railways Act 1993."

Co-operation with the HSC

10 (1) It shall be the duty of the Office of Rail Regulation and the Health and Safety Commission—

(a) as soon as practicable after the commencement of this paragraph, to enter into arrangements with each other for securing co-operation and the exchange of information in connection with the carrying out of safety functions;

(b) to maintain and from time to time to review those arrangements; and

(c) to revise them whenever they consider it appropriate to do so.

(2) In sub-paragraph (1) "safety functions" means all the functions of the Health and Safety Commission and of the Health and Safety Executive and the safety functions of the Office of Rail Regulation.

(3) In section 18(5)(b) of the 1974 Act (duty of enforcing authority to act in accordance with guidance of HSC), at the beginning insert "except where that authority is the Office of Rail Regulation,".

Information powers corresponding to section 27 of the 1974 Act

11 (1) The Office of Rail Regulation may serve a notice under this paragraph on any person for the purpose of obtaining information which that Office needs for the carrying out of its safety functions.

(2) A notice under this paragraph is one requiring the person on whom it is served—

(a) to provide the Office of Rail Regulation with information about such matters as may be specified in the notice; and

(b) to do so in the form and manner so specified.

(3) The consent of the Secretary of State is required for the service of a notice under this paragraph.

(4) The consents that may be given for the purposes of sub-paragraph (3) include a general consent relating to notices of a specified description.

(5) Nothing in the Statistics of Trade Act 1947 (c. 39) is to be construed as preventing or penalising the disclosure by a Minister of the Crown or government department to—

(a) the Office of Rail Regulation,
(b) a member, officer or employee of that Office, or
(c) a committee established by that Office,

of information falling within sub-paragraph (6) about an undertaking (within the meaning of that Act).

(6) Information about an undertaking falls within this sub-paragraph if it consists of—
(a) the names and addresses of the persons carrying on the undertaking;
(b) the nature of the undertaking's activities;
(c) the number of persons of different descriptions who work in the undertaking;
(d) the addresses or places where activities of the undertaking are or were carried on;
(e) the nature of the activities carried on there; or
(f) the number of persons of different descriptions who work or worked in the undertaking there.

(7) A person to whom a disclosure that is authorised by sub-paragraph (5) is made must not use the information except for the purposes of the safety functions of the Office of Rail Regulation.

(8) It is an offence for a person—
(a) to contravene a requirement imposed by a notice under this paragraph; or
(b) to use information in contravention of sub-paragraph (7).

(9) A person guilty of an offence under sub-paragraph (8) shall be liable—
(a) on summary conviction, to a fine not exceeding the statutory maximum;
(b) on conviction on indictment—
(i) in the case of an offence of contravening a notice, to a fine; and
(ii) in the case of an offence of using information in contravention of sub-paragraph (7), to imprisonment for a term not exceeding two years or to a fine, or to both.

(10) Section 52 of the 1974 Act (meaning of "work" and related expressions) applies for the purposes of this paragraph as it applies for the purposes of Part 1 of that Act.

Railway safety levy

12 (1) Section 43A of the 1974 Act (railway safety levy) is amended as follows.

(2) In subsection (2) (expenses in respect of which levy raised), for paragraphs (a) and (b) substitute—
"(a) in respect of activities undertaken by the Office of Rail Regulation under or by virtue of this Act or Schedule 3 to the Railways Act 2005; or
(b) in respect of activities in relation to a transport system falling within paragraph 1(3) of that Schedule that are undertaken by that Office under or by virtue of any other enactment."

(3) In subsections (5) and (6), for "Commission or the Executive" substitute "Office of Rail Regulation".

(4) In subsection (9), for "to which section 117 of the Railways Act 1993 applies" substitute "falling within paragraph 1(3) of Schedule 3 to the Railways Act 2005".

Removal of requirement of consultation with HSC for railway safety regulations

13 In section 50 of the 1974 Act (consultation with HSC), after subsection (1) insert—

"(1A) Subsection (1) does not apply to the exercise of a power to make regulations so far as it is exercised—

(a) for giving effect (with or without modifications) to proposals submitted by the Office of Rail Regulation under paragraph 2(5) of Schedule 3 to the Railways Act 2005; or

(b) otherwise for or in connection with the railway safety purposes."

Regulatory Reform Act 2001

14 The effect of the preceding provisions of this Schedule is to be disregarded in determining for the purposes of section 1 of the Regulatory Reform Act 2001 (power by order to make provision reforming law which imposes burdens) whether any provision of the 1974 Act falls within subsection (4)(a) of that section (provision amended by Act within previous two years).

Interpretation

15 (1) In this Schedule—

"the 1974 Act" means the Health and Safety at Work etc. Act 1974 (c. 37); and

"railway safety purposes" has the meaning given by paragraph 1.

(2) In this Schedule a reference to the safety functions of the Office of Rail Regulation is a reference to—

(a) its functions under this Schedule;

(b) its functions under the 1974 Act; and

(c) its other functions so far as carried out for the railway safety purposes.

(3) In section 53(1) of the 1974 Act (interpretation of Part 1), after the definition of "prohibition notice" insert—

""railway safety purposes" has the same meaning as in Schedule 3 to the Railways Act 2005;".

SCHEDULE 4

Section 4

REVIEWS BY ORR OF ACCESS CHARGES AND LICENCE CONDITIONS

Introductory

1 Schedule 4A to the 1993 Act (review of access charges by ORR) is amended as follows.

Conduct of access charges reviews

2 For paragraph 1 (meaning of access charges review) substitute—

"Application of Schedule

1 This Schedule applies where an access agreement provides, or is treated as providing, for the Office of Rail Regulation to undertake reviews of the terms of that agreement as to—

(a) the amounts payable under the agreement by one of the parties to the other; and

(b) the times at which, and the manner in which, those amounts are payable.

Scope of review

1A (1) Where the Office of Rail Regulation undertakes such a review, it must, at the same time, review the conditions of every linked licence both—

(a) in relation to the matters mentioned in paragraph 1(a) and (b); and

(b) in relation to the matters about which that Office is provided with information under paragraph 1D.

(2) A review by that Office of both—

(a) the terms of an access agreement as to the matters mentioned in paragraph 1(a) and (b), and

(b) the conditions of a linked licence,

is referred to in this Schedule as an access charges review.

(3) An access charges review must include a consideration of—

(a) the time at which the next access charges review is to be undertaken in relation to both the access agreement in question and every linked licence; and

(b) the circumstances in which it would be appropriate to undertake such a review before that time.

(4) In this Schedule "linked licence", in relation to an access agreement, means a licence of which the holder is—

(a) the facility owner, or installation owner, who is a party to the agreement; or

(b) a person other than that owner who has an estate or interest in the railway facility or network installation to which the agreement relates or who has a right over it.

Response to request to carry out review

1B Where—

(a) the Secretary of State or the Scottish Ministers suggest to the Office of Rail Regulation that an access charges review should be carried out in any case, but

(b) that Office decides not to carry out the suggested review,

that Office must provide the Secretary of State or Scottish Ministers with its reasons for that decision.

Notice of access charges review

1C (1) Before beginning an access charges review, the Office of Rail Regulation must give notice of its proposal to undertake the review to each of the following—

(a) the Secretary of State;

(b) the Scottish Ministers;

(c) the Treasury;

(d) the parties to the access agreement in question; and

(e) such other persons as that Office considers appropriate.

(2) No notice is required to be given under sub-paragraph (1) to the Secretary of State or the Scottish Ministers—

(a) in the case of the Secretary of State, if the facility or installation to which the relevant agreement relates is situated wholly in Scotland; or

(b) in the case of the Scottish Ministers, if the facility or installation to which the relevant agreement relates is situated wholly in England and Wales.

(3) A notice under this paragraph must set out—

(a) the period to which the Office of Rail Regulation expects the review to relate ("the review period");

(b) the date by which the Secretary of State, the Scottish Ministers or (as the case may be) each of them needs to provide the information that has to be provided under paragraph 1D; and

(c) any conditions which that Office requires to be satisfied in the period ending with that date if it is to proceed with the review.

(4) The period set out under sub-paragraph (3)(a) must be the one which—

(a) begins with the time as from which the Office of Rail Regulation expects that any changes resulting from the review would fall to be implemented; and

(b) ends with the time as from which it thinks it likely (in the absence of special circumstances making an earlier review appropriate) that any changes resulting from the next access charges review in relation to the same agreement and licence would fall to be implemented.

(5) The date set out under sub-paragraph (3)(b) must be not less than the following period after the date of the notice—

(a) in a case which the Office of Rail Regulation is satisfied is a case of urgency, four weeks; and

(b) in any other case, three months.

(6) Before setting out a date under sub-paragraph (3)(b) that is less than three months after the date of the notice, the Office of Rail Regulation must consult each of the persons to whom the notice is to be given.

Duty to notify ORR about desired outputs and finances

1D (1) Where a notice under paragraph 1C is given to the Secretary of State, he must provide the Office of Rail Regulation with—

(a) information about what he wants to be achieved by railway activities in Great Britain as a whole during the review period; and

(b) such information as it is reasonable for him to provide about the public financial resources that are or are likely to become available to be applied during the review period for purposes that contribute (directly or indirectly) towards the achievement of what he wants.

(2) Where a notice under paragraph 1C is given to the Scottish Ministers (whether instead of or as well as to the Secretary of State), they must provide the Office of Rail Regulation with—

(a) information about what they want to be achieved by Scottish railway activities during the review period; and

(b) such information as it is reasonable for them to provide about the public financial resources that are or are likely to become available to be applied during that period for purposes that contribute (directly or indirectly) towards the achievement of what they want.

(3) The information that may be provided as falling within sub-paragraph (1)(a) or (2)(a) includes objectives and standards to be achieved in the course of carrying on railway activities.

(4) Those objectives and standards may include, in particular, objectives and standards with respect to any of the following matters—

(a) the capacity (in terms of types and numbers of trains) of networks;

(b) the frequency of railway passenger services;

(c) journey times;

(d) reliability of railway services (both in terms of punctuality and otherwise);

(e) the taking of measures to prevent or mitigate overcrowding;

(f) levels and types of fares;

(g) the quality of information provided to passengers;

(h) the accessibility of railway services to people with disabilities;

(i) the carrying out of major projects to improve railway services;

(j) the protection of persons from dangers arising from the operation of railways.

(5) In a case where information is also required to be provided by the Scottish Ministers, the information that is required to be provided by the Secretary of State does not include—

(a) any information about what he wants to be achieved by Scottish railway activities not relating to cross-border services; or

(b) information about any public financial resources so far as they appear to him to be available, or to be likely to become available, to be applied for purposes relating only to such activities.

(6) An obligation of the Secretary of State or the Scottish Ministers to provide information under this paragraph—

(a) must be discharged before the date set out in the notice given under paragraph 1C or, if a later date is fixed under sub-paragraph (7), by that later date; but

(b) may be discharged by a notification that refers that Office to information previously provided under this paragraph.

(7) The Office of Rail Regulation may at any time, by notice to each of the persons to whom the notice under paragraph 1C was given, fix a later date for the provision of information under this paragraph.

(8) Neither—

(a) the Secretary of State, nor

(b) the Scottish Ministers,

are required to provide information for the purposes of a review at any time after a decision has been made by the Office of Rail Regulation not to proceed with the review because of an actual or expected failure of the conditions set out under paragraph 1C(3)(c) to be satisfied.

(9) In this paragraph "railway activities" means activities consisting in, or involving, any of the following—

(a) providing railway services;

(b) making available railway facilities;

(c) making use of such facilities;

(d) using railway assets;

(e) allowing others to use such assets.

(10) In this paragraph "Scottish railway activities" means activities which are railway activities by reference only to—

(a) railway services which begin and end in Scotland;

(b) railway services in relation to which financial assistance is provided by the Scottish Ministers and which (without falling within paragraph (a)) begin or end in Scotland;

(c) railway facilities that are situated in Scotland; or

(d) railway assets so situated.

(11) In this paragraph "public financial resources" means any of the following—

(a) money charged on and payable out of the Consolidated Fund;

(b) money provided by Parliament;

(c) money payable out of the Scottish Consolidated Fund.

Suggestions about future reviews

1E Where the Secretary of State or the Scottish Ministers provide the Office of Rail Regulation with information under paragraph 1D, he or they may

also, at the same time, make a suggestion to that Office setting out his or their opinion about—

(a) when the next access charges review should be undertaken in relation to both the access agreement in question and every linked licence; and

(b) the circumstances in which it would be appropriate to undertake such a review before that time.

Revision of outputs and financial information

1F (1) If, at any time in the course of an access charges review, it appears to the Office of Rail Regulation that—

(a) the information that has been provided to it by the Secretary of State or the Scottish Ministers under paragraph 1D, or

(b) the information, taking it all together, that has been so provided by the Secretary of State and the Scottish Ministers,

shows that the public financial resources that are or are likely to become available will be inadequate to secure the achievement of what he or they, or both of them, want to be achieved, that Office must so notify the Secretary of State or the Scottish Ministers or (as the case may be) each of them.

(2) The Office of Rail Regulation must send a copy of every notification under sub-paragraph (1) to the Treasury.

(3) On being notified under sub-paragraph (1), the Secretary of State or the Scottish Ministers or (as the case may be) each of them—

(a) may revise any information provided to the Office of Rail Regulation, together with any suggestion made under paragraph 1E; and

(b) if the information or such a suggestion is revised, must notify the revisions to that Office.

(4) Any notification under sub-paragraph (3) must be given within whatever period is specified by the Office of Rail Regulation when notifying the Secretary of State or Scottish Ministers in accordance with sub-paragraph (1).

(5) Where the Office of Rail Regulation has already given a notification under this paragraph with respect to any information, it is required to give a further notification under this paragraph with respect to that information, or any revision of it, only if—

(a) a revision has been made in response to its previous notification; and

(b) it has not previously given a notification in respect of an earlier revision of the information.

Notification of likely adverse effect on interests of certain providers of railway services

1G (1) If, at any time in the course of an access charges review, it appears to the Office of Rail Regulation that it is likely that the implementation of the review will adversely affect the interests of persons providing railway

passenger services or of persons providing services for the carriage of goods by railway, that Office must so notify—

(a) the Secretary of State, in the case of a review notice of which was given to him under paragraph 1C; and

(b) the Scottish Ministers, in the case of a review notice of which was given to them under that paragraph.

(2) Where the Office of Rail Regulation gives a notification under sub-paragraph (1) in respect of a review relating to an access agreement to which a facility owner is a party, the notification must include—

(a) its assessment of the measures that the facility owner is likely to be required to take, as a consequence of the implementation of the review, in order to meet obligations of his arising under the access agreement in question or under any other access agreement to which he is a party; and

(b) its estimate of the cost to the facility owner of taking those measures.

(3) On being notified under sub-paragraph (1), the Secretary of State or the Scottish Ministers or (as the case may be) each of them—

(a) may revise any information provided under paragraph 1D to the Office of Rail Regulation, together with any suggestion made under paragraph 1E; and

(b) if the information or such a suggestion is revised, must notify the revisions to that Office.

(4) Any notification under sub-paragraph (3) must be given within whatever period is specified by the Office of Rail Regulation when notifying the Secretary of State or the Scottish Ministers in accordance with sub-paragraph (1).

(5) Where the Office of Rail Regulation has already given a notification under this paragraph, it is required to give a further notification under this paragraph only if—

(a) information provided to it has been revised in response to its notification; and

(b) it has not previously given a notification in respect of an earlier revision of that information.

Duty to have regard to information about desired outputs and finances etc.

1H (1) The Office of Rail Regulation must conduct an access charges review in the manner that it considers is most likely to secure that the implementation of the review will make the best and most practicable contribution to the achievement of—

(a) what the Secretary of State wants to be achieved by railway activities in Great Britain as a whole; and

(b) what the Scottish Ministers want to be achieved by Scottish railway activities.

(2) Where in the case of an access charges review the Office of Rail Regulation considers (notwithstanding any notification or revision under paragraph 1F or 1G) that the public financial resources that are or are

likely to become available will be inadequate to secure the achievement of, as the case may be—

(a) everything that the Secretary of State wants to be achieved,

(b) everything that the Scottish Ministers want to be achieved, or

(c) everything that both the Secretary of State and the Scottish Ministers want to be achieved,

it is to be for that Office to determine, for the purposes of the review, how much of what is wanted should be achieved using (but only for the purposes for which they may be applied) all the public financial resources that it considers are or are likely to be available.

(3) In conducting an access charges review the Office of Rail Regulation must have regard to the consequences of compliance by a facility owner who is a party to the access agreement in question with any terms—

(a) of that agreement, or

(b) of any other access agreement to which that facility owner is a party,

that it considers are relevant to a matter notified under paragraph 1G (including, in particular, a term requiring the facility owner to pay compensation or to take mitigatory measures).

(4) In considering the matters mentioned in paragraph 1A(3), the Office of Rail Regulation must have regard to any suggestion made under paragraph 1E, and to any revision of that suggestion.

(5) For the purposes of this paragraph—

(a) expressions used in this paragraph and in paragraph 1D have the same meanings in this paragraph as in that;

(b) what the Secretary of State or the Scottish Ministers want must be determined in every case in accordance with the information provided in that case under paragraph 1D, and with any revisions notified under paragraph 1F(3)(b) or 1G(3)(b); and

(c) the Office of Rail Regulation must have regard to the financial information so provided and revised whenever considering what is likely to make the best and most practicable contribution to the achievement of what the Secretary of State or the Scottish Ministers want."

Repeal of paragraph 3

3 Paragraph 3 (which provides for consideration of when the next review should be undertaken) shall cease to have effect.

Implementation notice

4 (1) In paragraph 4 (review notice), after sub-paragraph (2) insert—

"(2A) Before giving a review notice specifying modifications of a linked licence that are proposed for purposes connected with securing—

(a) what the Secretary of State has informed the Office of Rail Regulation he wants to be achieved by any railway activities, or

(b) what the Scottish Ministers have informed that Office they want to be achieved by any such activities,

that Office must consult the Secretary of State or (as the case may be) those Ministers."

(2) In sub-paragraph (4) of that paragraph, before paragraph (a) insert—

"(za) if the Secretary of State was given notice of the review under paragraph 1C, the Secretary of State;

(zb) if the Scottish Ministers were given notice of the review under that paragraph, those Ministers;

(zc) the Treasury;".

Termination notice

5 In paragraph 6(3) (service of termination notice), before paragraph (a) insert—

"(za) if the Secretary of State was given notice of the review under paragraph 1C, the Secretary of State;

(zb) if the Scottish Ministers were given notice of the review under that paragraph, those Ministers;".

New review notice following objections

6 In paragraph 8 (new review notices and references to Competition Competition), after sub-paragraph (4) insert—

"(4A) Paragraph 1H applies to the making of any determination by the Office of Rail Regulation of what should be included in a new review notice to be given under this paragraph as it applies to the conduct of an access charges review."

Information to be provided to Competition Commission in connection with reference

7 (1) In paragraph 9 (reference to Competition Commission), after sub-paragraph (6) insert—

"(6A) A reference to the Competition Commission under this paragraph must be accompanied by—

(a) any information which in the case in question was provided to the Office of Rail Regulation by the Secretary of State or the Scottish Ministers under paragraph 1D;

(b) any information to which he or they referred in discharging the obligation imposed by that paragraph;

(c) any suggestion which in that case was made under paragraph 1E; and

(d) any revision of anything falling within paragraph (a) to (c) which has been notified to that Office under paragraph 1F or 1G."

(2) In sub-paragraph (7) of that paragraph, after the words "Competition Commission", in the second place where they occur, insert "(in addition to the information and revisions mentioned in sub-paragraph (6A))".

(3) In sub-paragraph (8) of that paragraph, for "sub-paragraph" substitute "sub-paragraphs (6A) and".

(4) In sub-paragraph (9) of that paragraph (matters to be taken into account in assessing public interest), at the end insert "and to the information, suggestions and revisions mentioned in sub-paragraph (6A)".

Noticed of proposed relevant changes following Competition Commission report

8 (1) In paragraph 12 (changes following report), after sub-paragraph (4) insert—

"(4A) Where (after considering any representations and objections which are duly made and not withdrawn) the Office of Rail Regulation proposes to make relevant changes under this paragraph, it must give a notice to the relevant authorities which—

(a) sets out everything that would have to be included in a notice under sub-paragraph (5) with respect to the proposed changes;

(b) specifies a period within which the Secretary of State, the Scottish Ministers or each of them has the opportunity of revising, in the light of those proposals, any information provided under paragraph 1D.

(4B) If in consequence of any revision of that information that is notified to the Office of Rail Regulation within the period specified in that notice, that Office decides to modify its proposals, it must—

(a) give a new notice with respect to the modified proposals under sub-paragraph (3); and

(b) comply again with sub-paragraph (4A) and this sub-paragraph before giving notice of the modified proposals to the Competition Commission.

(4C) The relevant authorities for the purposes of sub-paragraph (4A) are each of the following—

(a) where the Secretary of State was given notice of the review under paragraph 1C, the Secretary of State;

(b) where the Scottish Ministers were given notice of the review under that paragraph, those Ministers; and

(c) in each of those cases, the Treasury."

(2) In sub-paragraph (5) of that paragraph, after "withdrawn" insert "and any revisions of information provided under paragraph 1D that were notified within the period specified under sub-paragraph (4A)".

(3) After that sub-paragraph insert—

"(5A) A notice must not be given under sub-paragraph (5) before the end of the period specified in the most recent notice given in the case in question under sub-paragraph (4A) as the period during which the Secretary of State, the Scottish Ministers or each of them has the opportunity of revising information provided under paragraph 1D."

(4) In sub-paragraph (6) of that paragraph (information to accompany notice sent to Competition Commission), at the end insert "and a copy of any revisions of information provided under paragraph 1D that have been notified within the period specified in the notice under sub-paragraph (4A)".

(5) In sub-paragraph (10) of that paragraph, for the words from "to the Authority" onwards substitute—

"(a) where the Secretary of State was given notice of the review under paragraph 1C, to the Secretary of State; and

(b) where the Scottish Ministers were given notice of the review under that paragraph, to those Ministers."

Notice of decisions by Competition Commission

9 For the last sub-paragraph of paragraph 14 (notice of relevant changes made by Competition Commission) substitute—

"(6) As soon as practicable after making relevant changes under this paragraph, the Competition Commission must send a copy of those relevant changes—

(a) where the Secretary of State was given notice of the review under paragraph 1C, to the Secretary of State;

(b) where the Scottish Ministers were given notice of the review under that paragraph, to those Ministers; and

(c) in each of those cases, to the Office of Rail Regulation."

Information to be provided to Competition Commission with proposal for relevant changes

10 (1) In sub-paragraph (3) of paragraph 15 (information to be provided to Competition Commission for purpose of their functions under paragraphs 13 and 14), after the words "Competition Commission", in the second place where they occur, insert "(in addition to the information provided in accordance with paragraph 12(5) and (6))".

(2) In sub-paragraph (4) of that paragraph, for "any information" substitute—

"(a) every revision of which they have been given notice under paragraph 12(6) of information provided under paragraph 1D; and

(b) all information".

Commencement of Schedule

11 (1) Subject to sub-paragraph (2), this Schedule does not apply in relation to any review in relation to which the Office of Rail Regulation has given a review notice under paragraph 4 of Schedule 4A to the 1993 Act before the commencement of this Schedule.

(2) Where—

(a) the Office of Rail Regulation gave a review notice before the commencement of this Schedule in any case, and

(b) that Office, following the making of objections in that case (whether before or after that commencement), is considering whether to give a new review notice under paragraph 8 of Schedule 4A to the 1993 Act or to make a reference to the Competition Commission under paragraph 9 of that Schedule,

that Office, according to what it thinks fit, may either undertake a new access charges review in accordance with that Schedule as amended by this Schedule or

proceed immediately to issue the new review notice or to make the reference to that Commission.

SCHEDULE 5

Section 19

RAIL PASSENGERS' COUNCIL ESTABLISHED BY S. 19(1)

PART 1

INTRODUCTORY

1 In this Schedule—

"accounting records" includes all books, papers and other records of the RPC relating to—

(a) the accounts which it is required to keep; or

(b) matters dealt with in those accounts;

"financial year" means—

(a) the period beginning with the establishment of the RPC and ending with the following 31st March; or

(b) a subsequent period of twelve months ending with 31st March;

"member" means the chairman or another member of the RPC;

"the RPC" means the Rail Passengers' Council established by section 19(1).

PART 2

MEMBERS AND STAFF

Remuneration etc. of members

2 (1) The RPC must pay to every member, other than the one appointed by the London Assembly, the remuneration and allowances that are provided for by the terms and conditions of his appointment.

(2) The London Transport Users' Committee must pay to the member appointed by the London Assembly the remuneration and allowances that are provided for by the terms and conditions of his appointment.

(3) The RPC must pay, or make provision for paying, to or in respect of every member, other than the member appointed by the London Assembly, such sums by way of pensions or allowances as are payable in accordance with his terms and conditions of appointment.

(4) The London Transport Users' Committee must pay, or make provision for paying, to or in respect of the member appointed by the London Assembly such sums by way of pensions or allowances as are payable in accordance with his terms and conditions of appointment.

(5) If—

(a) a person ceases to be a member of the RPC, and

(b) it appears to the Secretary of State that there are special circumstances that make it right for the person to receive compensation,

the RPC must make a payment to that person of such amount as the Secretary of State determines.

Staff

3 The RPC may employ such persons, on such terms and conditions (including terms and conditions as to remuneration), as it may determine.

4 (1) The RPC may—

(a) pay such pensions, allowances or gratuities as it may determine to or in respect of persons who are or have been employees of the RPC;

(b) make such payments as it may determine towards provision for the payment of pensions, allowances or gratuities to or in respect of such persons; or

(c) provide and maintain such schemes (whether contributory or not) as it may determine for the payment of pensions, allowance or gratuities to or in respect of such persons.

(2) The pensions, allowances or gratuities referred to in sub-paragraph (1) include pensions, allowances or gratuities by way of compensation in respect of loss of employment or loss or diminution of emoluments.

5 (1) The persons to whom section 1 of the Superannuation Act 1972 (c. 11) applies shall include employees of the RPC.

(2) If an employee of the RPC—

(a) is a participant in a scheme under section 1 of the Superannuation Act 1972 by reference to his employment by the RPC, and

(b) becomes a member of the RPC,

the Minister for the Civil Service may determine that his service as a member of the RPC is to be treated for the purposes of the scheme as service as an employee of the RPC.

(3) The RPC must pay to the Minister for the Civil Service, at such times as he may direct, such sums as he may determine in respect of any increase attributable to sub-paragraph (1) or (2) in the sums payable out of money provided by Parliament under the Superannuation Act 1972.

(4) The Minister for the Civil Service may, to such extent and subject to such conditions as he thinks fit, delegate to the RPC the function of administering a scheme under section 1 of the Superannuation Act 1972, so far as relating to employees of the RPC.

(5) If he does so, the RPC may authorise the carrying out of that function, to such extent and subject to such conditions as it may determine, by—

(a) a person nominated by it; or

(b) the employees of a person so nominated.

(6) Acts or omissions by or in relation to—

(a) a person nominated for the purposes of sub-paragraph (5), or

(b) an employee of a person so nominated,

must be treated for all purposes, so far as they are acts or omissions in or in connection with what he is authorised to carry out, as acts or omissions by or in relation to the RPC.

(7) Sub-paragraph (6) does not apply for the purposes of—

(a) criminal proceedings against the nominated person (or an employee of his); or

(b) a contract between him and the RPC so far as relating to the function.

PART 3

FINANCE

Government grants

6 (1) The Secretary of State may make grants to the RPC of such amounts as he may determine.

(2) The terms of the grants shall be such as the Secretary of State may determine.

Direction requiring payment to the Secretary of State

7 (1) The Secretary of State may give a direction to the RPC requiring it to pay him a sum specified in the direction.

(2) Before giving a direction under sub-paragraph (1), the Secretary of State must consult—

(a) the Treasury; and

(b) the RPC.

Accounts and audit

8 (1) The RPC must—

(a) keep proper accounts and proper accounting records; and

(b) in respect of each financial year, prepare a statement of its accounts.

(2) Every statement of accounts prepared under sub-paragraph (1)(b) must—

(a) give a true and fair view of the RPC's income and expenditure for the financial year in question and its state of affairs; and

(b) comply with every requirement which the Secretary of State has notified to the RPC.

(3) The requirements notified under sub-paragraph (2)(b) may include, in particular, requirements relating to—

(a) the information to be contained in the statement;

(b) the manner in which that information is to be presented; and

(c) the methods and principles according to which the statement is to be prepared.

9 (1) The statement of accounts and other accounts of the RPC relating to each financial year must be audited by the Comptroller and Auditor General.

(2) The Comptroller and Auditor General must send the RPC a copy of his report on the accounts audited under sub-paragraph (1).

(3) The RPC must send the Secretary of State—
  (a) a copy of the accounts audited under sub-paragraph (1); and
  (b) the report of the Comptroller and Auditor General.

(4) The Secretary of State must lay a copy of the documents sent to him under sub-paragraph (3) before Parliament.

PART 4

FINANCIAL FRAMEWORK AND INFORMATION

Financial framework

10 (1) The Secretary of State—
  (a) must prepare, and
  (b) may from time to time revise,
  a document to be known as the RPC's "financial framework".

(2) The financial framework must specify rules and principles according to which the RPC is to exercise and perform its powers and duties in relation to—
  (a) financial matters; and
  (b) matters relating to its employees.

(3) The RPC must not carry out any of its functions in a manner which is inconsistent with its financial framework.

(4) The fact that a transaction entered into by the RPC constitutes, or involves, a contravention of sub-paragraph (3) does not invalidate the transaction.

(5) Sub-paragraph (4) applies whether or not a person who entered into the transaction with the RPC inquired whether the transaction constituted or involved a contravention of sub-paragraph (3).

Annual reports

11 (1) As soon as practicable after the end of each financial year, the RPC must make a report on its activities during that year.

(2) In preparing its annual report the RPC must have regard to the desirability of excluding from the report, so far as practicable—
  (a) matters relating to the affairs of an individual which, in the opinion of the RPC, are matters the publication of which would or might seriously and prejudicially affect the interests of that individual; and
  (b) matters relating specifically to the affairs of a particular body of persons (whether corporate or unincorporate) which, in the opinion of the RPC, are matters the publication of which would or might seriously and prejudicially affect the interests of that body.

(3) The RPC must send a copy of every annual report under this paragraph to each of the following—
  (a) the Secretary of State;
  (b) the Scottish Ministers; and
  (c) the National Assembly for Wales.

(4) The RPC may also arrange for a copy of its annual report for a financial year to be published in such manner as it considers appropriate.

(5) The Secretary of State must lay before Parliament a copy of every annual report a copy of which has been sent to him under this paragraph.

(6) The Scottish Ministers must lay before the Scottish Parliament a copy of every annual report a copy of which has been sent to them under this paragraph.

Information

12 The RPC must give the Secretary of State information, advice and assistance about any matter in respect of which it has any functions if—
  (a) the RPC considers it appropriate to do so; or
  (b) the Secretary of State asks the RPC to do so in connection with the carrying out of any function of his.

PART 5

STATUS AND SUPPLEMENTARY POWERS

Status

13 (1) The RPC is not to be treated—
  (a) as the servant or agent of the Crown; or
  (b) as enjoying any status, immunity or privilege of the Crown.

(2) The property of the RPC is not to be regarded as property of the Crown or as held on behalf of the Crown.

Supplementary powers

14 (1) The RPC may do anything that appears to it to be likely to facilitate the carrying out of its functions, or to be conducive or incidental to the carrying out of those functions.

(2) The RPC may make charges for services or facilities that it provides or makes available at a person's request and otherwise than in performance of a duty to do so.

PART 6

PROCEDURE

Regulation of procedure

15 (1) Subject to this paragraph and paragraph 16, the RPC may regulate its own procedure.

(2) Sub-paragraph (1) includes power to make provision about quorums.

(3) The RPC must meet when convened by the chairman.

(4) The chairman may convene a meeting of the RPC whenever he thinks fit.

(5) The chairman must—
- (a) convene meetings of the RPC so that it meets at least twice a year; and
- (b) convene a meeting whenever three members of the RPC require him to do so.

(6) The RPC must secure—
- (a) that minutes are kept of the proceedings at every meeting of the RPC; and
- (b) that copies of those minutes are sent to the Secretary of State.

(7) The validity of proceedings of the RPC is not to be affected by—
- (a) a vacancy in its membership; or
- (b) a defect in the appointment of a member.

Admission of the public to meetings

16 (1) Meetings of the RPC must be open to the public; but the public must be excluded during any item of business that is confidential for the purposes of this paragraph.

(2) An item of business is confidential for the purposes of this paragraph where, if members of the public were to be present during that item, it is likely that information furnished in confidence to the RPC by—
- (a) the Office of Rail Regulation, or
- (b) the Secretary of State,

would be disclosed in breach of the obligation of confidence.

(3) An item of business is confidential for the purposes of this paragraph where the RPC has resolved that—
- (a) because of the confidential nature of the item, or
- (b) for other special reasons stated in the resolution,

it is desirable in the public interest that the public be excluded during that item.

(4) An item of business is confidential for the purposes of this paragraph where, if members of the public were to be present during that item, it is likely that—
- (a) there would be disclosed to them a matter relating to the affairs of an individual or relating specifically to the affairs of a particular body (whether corporate or unincorporate); and
- (b) public disclosure of the matter would or might, in the opinion of the RPC, seriously and prejudicially affect the interests of that individual or body.

(5) An item of business is confidential for the purposes of this paragraph where the circumstances—
- (a) are specified for the purposes of this sub-paragraph in an order made by the Secretary of State; or
- (b) are determined to be confidential for those purposes in accordance with an order so made.

(6) An order under sub-paragraph (5) is subject to the negative resolution procedure.

17 The RPC must give such notice—

(a) of any meeting of the RPC which is open to the public, and

(b) of the business to be taken at that meeting (other than items during which the public is to be excluded),

as it considers appropriate for the purpose of bringing the meeting to the attention of interested members of the public.

Local committees

18 (1) If the Secretary of State so directs, the RPC must establish committees to advise it in relation to the carrying out of its functions in relation to particular areas.

(2) The members of a committee established under this paragraph are to be appointed by the RPC.

(3) The RPC may appoint such persons as it thinks fit and the membership of the committee may consist of or include persons who are not themselves members of the RPC.

(4) The RPC may regulate the procedure of a committee established under this paragraph.

(5) The RPC may reimburse a member of a committee established under this paragraph who is not a member of the RPC—

(a) for travelling expenses;

(b) for other out-of-pocket expenses not relating to loss of remuneration.

Execution of documents

19 (1) The application of the seal of the RPC shall be authenticated by the signature of a member or employee of the RPC whom it has authorised for the purpose (whether generally or specifically).

(2) Any document which the RPC is authorised or required by or under any enactment to serve, make or issue may be signed on its behalf by a member or employee whom it has authorised for the purpose (whether generally or specifically).

(3) Every document purporting—

(a) to be an instrument made or issued by or on behalf of the RPC, and

(b) to be duly executed under the seal of the RPC, or to be duly signed or executed by a person authorised by the RPC for the purpose,

shall be received in evidence and, unless the contrary is shown, treated without further proof as so made or issued.

(4) In this paragraph the reference to a signature includes a reference to a facsimile of a signature produced by any process and “signed” is to be construed accordingly.

(5) In this paragraph “enactment” includes an enactment comprised in an Act of the Scottish Parliament.

SCHEDULE 6

Section 21

FUNCTIONS RETAINED BY LONDON TRANSPORT USERS' COMMITTEE

Members of LTUC to represent users of services in London railway area

1 In section 247(3)(b) of the Greater London Authority Act 1999 (c. 29) (members of LTUC appointed to represent railway users in particular area), for the words from "area for which" onwards substitute "area for which the Committee fell, immediately before the repeal of section 2 of the Railways Act 1993 (Rail Passengers' Committees), to be treated as the Rail Passengers' Committee for the purposes specified in subsection (4) of that section".

General duty of LTUC to keep railway matters under review

2 Before section 253 of that Act insert—

"**252A Committee to keep railways matters under review**

(1) It shall be the duty of the Committee, so far as it appears to it expedient from time to time to do so—

(a) to keep under review matters affecting the interests of the public in relation to railway passenger services provided wholly or partly within the London railway area;

(b) to keep under review matters affecting the provision of station services within that area;

(c) to make representations to, and to consult, such persons as it thinks appropriate about the matters mentioned in paragraphs (a) and (b); and

(d) to co-operate with other bodies representing the interests of users of public passenger transport services provided wholly or partly within that area.

(2) In this section—

(a) references to the London railway area are references to the area for which the Committee fell, immediately before the repeal of section 2 of the Railways Act 1993 (Rail Passengers' Committees), to be treated as the Rail Passengers' Committee for the purposes specified in subsection (4) of that section;

(b) references to railway passenger services include references to bus substitution services; and

(c) subject to that, expressions used in this section and in Part 1 of the Railways Act 1993 have the same meanings in this section as in that Part."

Duty of LTUC to investigate matters

3 In that Act, after the section 252A inserted by paragraph 2 of this Schedule, insert—

"**252B References to Committee in relation to railways**

(1) It shall be the duty of the Committee to investigate any matter relating to a relevant railway matter if—

(a) it is the subject of a representation made to the Committee by a user or potential user of railway passenger services;

(b) it is referred to the Committee by the Secretary of State, the Office of Rail Regulation, the Rail Passengers' Council, the London Assembly or Transport for London; or

(c) it appears to the Committee that it is a matter that it ought to investigate.

(2) A matter is a relevant railway matter for the purposes of subsection (1) if it relates to—

(a) the provision of railway passenger services wholly or partly within the London railway area; or

(b) the provision of station services within that area in a case in which the operator of the station is authorised by a licence under Part 1 of the Railways Act 1993.

(3) The Secretary of State may also refer the following matters to the Committee for the purpose only of requiring the Committee to prepare a report on them—

(a) matters relating to the quality of railway passenger services provided wholly or partly within the London railway area; and

(b) matters relating to the quality of station services provided in that area.

(4) The Committee must also assist the Secretary of State, to such extent and in such manner as he may require, in ascertaining whether the franchise operator in the case of a particular franchise agreement is attaining the standards set for the provision of the franchised services.

(5) The Committee is not required to investigate a matter in a case falling within subsection (1)(a) if it appears to the Committee that the representation is frivolous or vexatious.

(6) Subsection (2) of section 252A applies for the purposes of this section as it applies for the purposes of that section.

252C Action on investigation under section 252B

(1) On investigating a matter under section 252B the Committee must, if it considers it appropriate to do so—

(a) in every case, make appropriate representations to the person providing the service;

(b) in the case of a service provided under a franchise agreement by a person other than the franchisee, make appropriate representations to the franchisee; and

(c) in the case of a secured service (within the meaning of Part 4 of the Railways Act 2005), make appropriate representations to the Secretary of State.

(2) In subsection (1) "appropriate representations" means representations about—

(a) any matter appearing to the Committee to be relevant to the subject-matter of the investigation; and

(b) any other matter to which a matter so appearing relates.

(3) Subject to subsection (4), where the Committee—

(a) having made representations under subsection (1), is of the opinion that it is unable to obtain a satisfactory resolution by that means,

(b) on investigating a matter, has reason for believing that the holder of a licence under Part 1 of the Railways Act 1993 is contravening a condition of the licence, or is likely to do so, or

(c) on investigating a matter, has reason for believing that a franchisee in relation to a franchise agreement is contravening the provisions of the agreement, or is likely to do so,

the Committee must refer the matter to the Secretary of State (or if he referred it to the Committee, back to him) with a view to his exercising such of his powers as he considers appropriate in the circumstances of the case.

(4) Subsection (3) does not apply in a case where representations under subsection (2) have been made to the Secretary of State.

(5) If the Secretary of State considers that it would be more appropriate for a matter referred to him by the Committee under subsection (3) to be referred to the Office of Rail Regulation, he must—

(a) refer it to that Office, or

(b) if it was referred to the Committee by that Office, refer it back to that Office,

with a view to that Office exercising such of its powers as it considers appropriate in the circumstances of the case.

(6) The Committee must not—

(a) include a proposal for the taking of any steps in representations made by it under this section, or

(b) make a reference under this section to the Secretary of State by reason only of the failure of a person to take any steps,

unless the test in subsection (7) is satisfied.

(7) That test is satisfied if, on the basis of the information available to the Committee, it considers that, balancing each of the following against the other—

(a) the costs of taking the steps, and

(b) the benefits that will be enjoyed by persons in consequence of the taking of those steps,

the expenditure involved represents good value for money.

(8) In this section "franchise agreement" and "franchisee" have the same meanings as in Part 1 of the Railways Act 1993.

252D Reports on investigation etc.

(1) Where the Committee investigates a matter under section 252B—

(a) it may prepare a report of its findings; and

(b) it must do so if required to do so by the Secretary of State in relation to any matter falling within section 252B(3) that was referred to it by him for the purposes of that requirement.

(2) The Committee must not include a proposal for the taking of any steps in a report prepared by it under this section unless, on the basis of the information available to it, it considers that, balancing each of the following against the other—

(a) the costs of taking those steps, and

(b) the benefits that will be enjoyed by persons in consequence of the taking of those steps,

the expenditure involved represents good value for money.

(3) The Committee—

(a) must send a copy of every report prepared under this section to the Rail Passengers' Council; and

(b) may publish the report;

but the Committee may publish a report relating to findings on a matter referred to the Committee by the Secretary of State only if required to do so by him under this section.

(4) Where—

(a) the Committee prepares a report relating to a matter referred to it by the Secretary of State, but

(b) the report is not a report that the Secretary of State has required under subsection (1)(b),

the Committee must publish the report if it is required to do so by him.

(5) The Secretary of State may arrange for the publication of any report by the Committee the preparation of which he has required under subsection (1)(b).

(6) The publication of a report by the Committee or the Secretary of State may be in any manner that the Committee or (as the case may be) the Secretary of State thinks appropriate.

(7) References in this section to a matter referred to the Committee by the Secretary of State include references to a matter in relation to which he has required the Committee's assistance under section 252B(4)."

Power of Secretary of State to exclude matters from duties of LTUC

4 (1) In that Act, after the section 252D inserted by paragraph 3 of this Schedule insert—

"**252E Power to make exclusions from duties under sections 252A to 252D**

(1) The Secretary of State may by order—

(a) exclude services from one or more of the duties imposed by sections 252A to 252D;

(b) provide that one or more of those duties applies to services of a particular class or description, particular services or services provided by a particular person only to such extent as is specified in the order; or

(c) provide that one or more of those duties applies with specified modifications in the case of services of a particular class or description, particular services or services provided by a particular person.

(2) Before making an order under this section the Secretary of State must consult the Committee and the Rail Passengers' Council.

(3) The power to make exclusions by an order under this section includes—

(a) power to exclude services of a particular class or description, particular services or services provided by a particular person; and

(b) power to provide that services are excluded subject to compliance with specified conditions.

(4) An order under this section may not revoke an exclusion except—

(a) for breach of a condition; or

(b) in accordance with the order that made it."

(2) In section 420(8) of that Act (orders subject to negative resolution procedure), after "section 242(10)" insert—

"section 252E;".

Duty of Rail Passengers' Council to refer matters to the LTUC

5 In section 76 of the 1993 Act (duties of Rail Passengers' Council), after subsection (2) insert—

"(2A) If any matter falling within subsection (2)(a) appears to the Rail Passengers' Council to relate only to—

(a) the provision of railway passenger services wholly within the London railway area (within the meaning of section 252A of the Greater London Authority Act 1999), or

(b) the provision of station services within that area,

that Council must refer the matter to the London Transport Users' Committee."

SCHEDULE 7

Sections 22 to 31

CONSULTATIONS UNDER PART 4

Introductory

1 A consultation under this Schedule about a proposal—

(a) must be initiated as follows; and

(b) thereafter must be carried out in accordance with the closures guidance.

Newspaper notification

2 (1) The person carrying out the consultation must publish a notice under this paragraph, in two successive weeks—

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

(b) in two national newspapers.

(2) The notice must set out—

(a) the proposal date;

(b) the other particulars of the proposal;

(c) the address at which—

(i) the initial assessment, and

(ii) a summary of the results of that assessment,

are available for inspection, or from which a copy of that assessment and summary may be obtained;

(d) the fees payable for a copy of the assessment and summary;

(e) a statement that any representations about the proposal may be sent to the person carrying out the consultation within such period as may be specified in the notice.

(3) In the case of a consultation carried out about a proposal to which section 23, 24, 27, 28, 30 or 31 applies, the proposal date must be not less than six months after the notice is last published in a local newspaper for the purposes of sub-paragraph (1).

(4) The period specified under sub-paragraph (2)(e) must be a period ending no less than 12 weeks after the notice is last published in a local newspaper for the purposes of sub-paragraph (1).

Specific notification to particular persons

3 (1) The person carrying out the consultation must—

(a) send to every person specified in sub-paragraph (2) (apart from himself) both a copy of every notice published under paragraph 2 and a summary of the results of the initial assessment; and

(b) in such manner as he considers appropriate, consult such other persons (if any) as he thinks fit.

(2) Those persons are—

(a) in the case of a consultation for the purposes of section 22(7)(a), 25(6)(a), 26(7)(a) or 29(7)(a), the person making the proposal in question;

(b) in the case of a consultation for the purposes of—

(i) subsection (4)(b) of section 24,

(ii) subsection (3)(b) of section 27,

(iii) subsection (3)(b) of section 28,

(iv) subsection (3)(b) of section 30, or

(v) subsection (3)(b) of section 31,

the national authority for the purposes of that section;

(c) if the proposal affects Wales, the National Assembly for Wales;

(d) if the proposal affects Greater London, the Mayor of London;

(e) every Passenger Transport Executive whose area is affected by the proposal;

(f) every local authority in whose area there are persons living, working or studying who appear to the person carrying out the consultation to be persons affected by the proposal;

(g) the Rail Passengers' Council;

(h) if the proposal affects its area, the London Transport Users' Committee;

(i) every person designated by order made by the Secretary of State for the purposes of this Schedule as a body representing interests of railway passengers;

(j) every railway funding authority appearing to the person carrying out the consultation to be a party to financial arrangements that are or may be affected by the proposal;

(k) every person providing railway services who appears to the person carrying out the consultation to be affected by the proposal;

(l) every person providing station services in relation to a station affected by the proposal.

(3) The person carrying out the consultation must require every operator of a station in the area affected by the proposal to whom he sends a copy of a notice under sub-paragraph (1) to secure that a copy of it is published by being displayed at that station until the end of the interim period.

(4) An order under sub-paragraph (2)(i) is subject to the negative resolution procedure.

(5) In the case of a consultation carried out for the purposes of section 25, sub-paragraph (2) has effect with the omission of paragraph (j).

(6) In this paragraph "local authority"—

(a) in relation to England and Wales, means a county council or county borough council, a community council or a council for a district in an area for which there is no county council; and

(b) in relation to Scotland, has the same meaning as in the Local Government (Scotland) Act 1973 (c. 65).

Interpretation of Schedule

4 In this Schedule "the initial assessment" means the assessment relating to the proposal that has been carried out under section 22(5), 23(5), 24(6), 25(4), 26(5), 27(5), 28(5), 29(5), 30(5) or 31(5).

5 In this Schedule "the area affected", in relation to a proposal, means—

(a) in the case of a proposal for the discontinuance of railway passenger services on a particular line or from a particular station, the area in which the line or station is situated;

(b) in the case of a proposal relating to a network, or part of a network, the area in which the network, or part of a network, is situated;

(c) in the case of a proposal relating to a station, or part of a station, the area served by the station, or that part.

6 (1) A newspaper is to be regarded as a national newspaper for the purposes of paragraph 2(1)(b) as it applies in relation to a proposal if—

(a) it is a newspaper circulating generally in the United Kingdom; or

(b) the proposal relates to services operating, or a network or station, or part of a network or station that is—

(i) entirely in England,
(ii) entirely in Wales, or
(iii) entirely in Scotland,

and it is a newspaper circulating generally in England, Wales or (as the case may be) Scotland.

(2) For the purposes of this paragraph, a service operates entirely in England, entirely in Wales or entirely in Scotland if it begins and ends in, and does not make any other scheduled call outside, England, Wales or (as the case may be) Scotland.

SCHEDULE 8

Section 25

PROPOSALS TO DISCONTINUE EXCLUDED LONDON SERVICES

Introductory

1 (1) This Schedule applies, where a proposal for the discontinuance of all the excluded London services provided on a particular line, or from a particular station, is made by the person providing them ("the service operator"), to so much of the proposal as relates to excluded London services which are special procedure excluded services.

(2) In this Schedule "excluded London service" and "special procedure excluded service" have the same meanings as in section 25.

Notice of proposal

2 (1) The service operator—
(a) must give notice in the required manner of his proposal; and
(b) must not give effect to the closure before the end of the period specified in the notice for the making of objections to the London Transport Users' Committee.

(2) The notice must set out—
(a) the proposal date;
(b) the other particulars of the proposal;
(c) particulars of alternative services which it appears to the service operator will be available;
(d) any proposal of the service operator for providing or augmenting the alternative services;
(e) a statement that any objections about the proposal may be sent to the London Transport Users' Committee on or before the proposal date.

(3) The proposal date must be not less than six weeks after the notice is last published in a local newspaper for the purposes of sub-paragraph (4).

(4) A notice under this paragraph 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 newspapers circulating generally in England (or in England and any other part of the United Kingdom); and

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

(5) The service operator must send a copy of every notice published under this paragraph—

(a) to the London Transport Users' Committee; and

(b) to every person who is the operator of a station within the area affected by the proposal;

and must require every such operator to publish the notice by displaying it at the stations he operates in that area.

(6) In this paragraph a reference to the area affected by the proposal is a reference to the area in which is situated the line or station referred to in paragraph 1(1).

Objections etc.

3 (1) Where a notice has been published under paragraph 2 objections about the proposal may be made to the London Transport Users' Committee—

(a) by any user of a service to which the proposal relates; or

(b) by any person representing such users.

(2) Objections may only be made within the period specified in the notice.

Consideration of objections and report to Mayor of London

4 (1) This paragraph applies where any objection is made under paragraph 3.

(2) The London Transport Users' Committee must immediately inform—

(a) the Mayor of London, and

(b) the service operator,

about the objection.

(3) The service operator may give effect to the proposed closure only if the Mayor of London consents to it.

(4) As soon as possible after the end of the period for the making of objections to the London Transport Users' Committee, the Committee must—

(a) consider the objections made during that period;

(b) consider any representations made by the service operator; and

(c) report to the Mayor of London on the hardship the Committee considers will be caused by the proposed closure.

(5) If the London Transport Users' Committee decides—

(a) to hear an objector orally, or

(b) to hear oral representations from the service operator,

the hearing must be in public.

(6) The report to the Mayor of London under this paragraph may contain proposals for alleviating any hardship to which it refers.

(7) After receiving that report the Mayor of London may require further reports from the London Transport Users' Committee relating to the proposed closure.

(8) The London Transport Users' Committee must send to the service operator a copy of every report or further report it makes under this paragraph.

Consent of Mayor to closure

5 (1) After—

(a) receiving—

(i) the report from the London Transport Users' Committee required by sub-paragraph (4) of paragraph 4, and

(ii) any further reports required by him under that paragraph, and

(b) carrying out any consultation required by sub-paragraph (2),

the Mayor of London must decide whether or not to consent to the proposed closure.

(2) If any of the services to which the proposed closure relates operates in any area outside Greater London, the Mayor of London must, before deciding whether to consent to the proposed closure, consult the local authority for each such area.

(3) At any time after the period for making objections the Mayor of London may make that decision without receiving a report or further report if—

(a) he has made such enquiries as he thinks fit, and

(b) he considers that the report or further report has been unreasonably delayed.

(4) The Mayor of London may give his consent subject to such conditions as he thinks fit.

(5) The Mayor of London may at any time vary or revoke conditions that are for the time being required to be complied with.

(6) Where the Mayor of London gives his consent to a proposed closure, he must—

(a) send a copy of his decision to every person who is the operator of a station in the area affected by the closure; and

(b) require that person to publish it by displaying it at the station.

(7) In this paragraph a reference to the area affected by the closure is a reference to the area in which is situated the line or station referred to in paragraph 1(1).

(8) In this paragraph "local authority" means a county council, a community council or council for a district in an area for which there is no county council.

SCHEDULE 9

Section 46

BYE-LAWS BY RAILWAY OPERATORS

Introductory

1 (1) In this Schedule—

"appropriate national authority", in relation to any bye-laws, means—

(a) where the relevant assets by reference to which the bye-laws are or were made are all Scottish assets, the Scottish Ministers;

(b) where some but not all of those assets are Scottish assets or include assets that are used partly in Scotland and partly elsewhere, the Secretary of State and the Scottish Ministers; and

(c) in any other case, the Secretary of State;

"bye-laws" means bye-laws under section 46; and

"railway operator" has the same meaning as in that section.

(2) In sub-paragraph (1) "Scottish asset" means—

(a) an asset that is permanently situated in Scotland; or

(b) an asset that is used only in Scotland.

(3) In the case of bye-laws in relation to which both the Secretary of State and the Scottish Ministers are the appropriate national authority —

(a) anything that must be done under this Schedule in relation to those bye-laws by the appropriate national authority must be done by them both, acting jointly;

(b) anything that may be done under this Schedule in relation to those bye-laws by the appropriate national authority may be done only by them both, acting jointly; and

(c) any requirement of this Schedule in relation to those bye-laws to send something to the appropriate national authority is complied with only if that thing is sent both to the Secretary of State and to the Scottish Ministers.

Penalties

2 Bye-laws may provide that a person contravening them is guilty of an offence and liable, on summary conviction, to a fine not exceeding—

(a) level 3 on the standard scale; or

(b) such lower amount as is specified in the bye-laws.

Confirmation

3 Bye-laws do not come into force until they have been confirmed by the appropriate national authority.

4 (1) A railway operator who proposes to make bye-laws must publish a notice stating—

(a) that he proposes to make bye-laws;

(b) the manner in which a copy of the proposed bye-laws will be open to public inspection; and

(c) that any person affected by the proposed bye-laws may make representations about them to the appropriate national authority within the period specified in the notice.

(2) The publication of the notice must be in the manner approved by the appropriate national authority.

(3) The period specified for the purposes of sub-paragraph (1)(c) must be the period of 28 days beginning with the day after that on which the railway operator's notice is published, or a longer period.

(4) At the end of the period so specified the appropriate national authority must forward any representations that have been made to it to the railway operator.

(5) The railway operator must not submit the bye-laws for confirmation unless he has considered the representations forwarded by the appropriate national authority.

5 (1) The appropriate national authority may—

(a) confirm (with or without modifications) any bye-laws submitted to it for confirmation; or

(b) refuse to confirm them.

(2) The appropriate national authority may fix the date of the coming into force of any bye-laws confirmed by it.

(3) If the appropriate national authority confirms bye-laws without fixing the date on which they come into force, they come into force at the end of the period of 28 days beginning with the day after that on which they are confirmed.

Publicity for confirmed bye-laws

6 If the appropriate national authority has confirmed bye-laws—

(a) copies of the bye-laws must be printed;

(b) at least one copy must be kept at the principal offices of the railway operator who made them;

(c) the railway operator must send one copy to the appropriate national authority; and

(d) the railway operator must supply one copy (free of charge) to every person who applies for a copy or for more than one copy.

Evidence

7 (1) The production of a printed copy of bye-laws which is indorsed with a certificate—

(a) stating one or more matters specified in sub-paragraph (2), and

(b) purporting to be signed by an officer of the railway operator by whom the bye-laws purport to have been made,

is evidence of what is stated.

(2) Those matters are—

(a) that the bye-laws were made by the railway operator in question;

(b) that the copy is a true copy of the bye-laws;

(c) that the bye-laws were confirmed by the appropriate national authority on the date specified in the certificate;

(d) the date of the coming into force of the bye-laws.

Power to amend or vary

8 (1) The power to make bye-laws includes the power to make bye-laws amending or revoking bye-laws.

(2) The appropriate national authority may by order revoke bye-laws.

SCHEDULE 10

Section 53

TAXATION PROVISIONS RELATING TO TRANSFER SCHEMES

PART 1

TRANSFERS TO A NATIONAL AUTHORITY UNDER SECTION 1(2) SCHEMES

Meaning of "relevant transfer" in Part 1 of Schedule

1 In this Part of this Schedule, "relevant transfer" means a transfer in accordance with a scheme made under section 1(2) to a national authority.

Capital allowances: determination of disposal value of plant or machinery

2 (1) This paragraph applies to a relevant transfer of plant or machinery which is a disposal event for the purposes of Part 2 of the 2001 Act (capital allowances for plant and machinery).

(2) For the purposes of the application of section 61 of that Act in relation to the transferor, the disposal value of the plant or machinery is to be treated—

(a) if a capital sum is received by the transferor by way of consideration or compensation in respect of the transfer, as an amount equal to that sum; or

(b) if no such sum is received, as nil.

(3) For the purposes of this paragraph a sum received by a person connected with the transferor is to be treated as received by the transferor.

(4) Section 88 of the 2001 Act (sales at an undervalue) is to be disregarded.

(5) This paragraph is subject to sections 63(5) and 68 of the 2001 Act.

Capital allowances: determination of disposal value of fixtures

3 (1) This paragraph applies to a relevant transfer if—

(a) it is a disposal event for the purposes of Part 2 of the 2001 Act; and

(b) by virtue of the transfer a person is treated by section 188 of that Act as ceasing to own a fixture.

(2) For the purposes of the application of section 196 of that Act in relation to the transferor, the disposal value of the fixture is to be treated—

(a) if a capital sum is received by the transferor by way of consideration or compensation in respect of the transfer, as an amount equal to that portion of that sum which, if the person to whom the disposal is made were entitled to an allowance, would fall to be treated for the purposes of Part 2 of that Act as expenditure incurred by that person on the provision of the fixture; or

(b) if no such sum is received, as nil.

(3) For the purposes of this paragraph a sum received by a person connected with the transferor is to be treated as received by the transferor.

(4) This paragraph is subject to section 63(5) of the 2001 Act.

Capital allowances: determination of capital value of industrial buildings etc.

4 (1) This paragraph applies for the purposes of Part 3 of the 2001 Act, and the other provisions of that Act which are relevant to that Part, in relation to a relevant transfer of the relevant interest in an industrial building or structure.

(2) The transfer is to be treated as a sale of that relevant interest.

(3) The net proceeds of that sale are to be treated—

(a) if a capital sum is received by the transferor by way of consideration or compensation in respect of the transfer, as an amount equal to that sum; or

(b) if no such sum is received, as nil.

(4) Sections 567 to 570 of the 2001 Act (sales treated as being for alternative amount) are not to have effect in relation to that sale.

(5) For the purposes of this paragraph a sum received by a person connected with the transferor is to be treated as received by the transferor.

Chargeable gains: assets to be treated as disposed without a gain or a loss

5 For the purposes of the 1992 Act, a relevant transfer of an asset is to be treated as a disposal of that asset to the transferee for a consideration of such amount as would secure that, on the disposal, neither a gain nor a loss accrues to the transferor.

Continuity in relation to transfer of intangible assets

6 (1) For the purposes of Schedule 29 to the Finance Act 2002 (c. 23), a relevant transfer of a chargeable intangible asset of the transferor is to be treated as a tax-neutral transfer.

(2) Expressions used in this paragraph and in that Schedule have the same meanings in this paragraph as in that Schedule.

Neutral effect of transfer for loan relationships and derivative contracts

7 No credit or debit shall be required or allowed, in respect of a relevant transfer, to be brought into account in the transferor's case—

(a) for the purposes of Chapter 2 of Part 4 of the Finance Act 1996 (c. 8) (loan relationships); or

(b) for the purposes of Schedule 26 to the Finance Act 2002 (derivative contracts).

Leased assets

8 (1) This paragraph applies for the purposes of section 781 of the Taxes Act (assets leased to traders and others) where—

(a) the interest of the lessor or the lessee under a lease, or any other interest in an asset, is transferred under a relevant transfer; or

(b) a lease, or any other interest in a lease, is granted to a national authority in accordance with provision contained by virtue of paragraph 3 or 4 of Schedule 2 in a scheme made under section 1(2).

(2) Section 783(4) of that Act is to be disregarded and the transfer or grant is to be treated as made without any capital sum having been obtained in respect of the interest or lease by the transferor or grantor.

(3) Expressions used in this paragraph and in sections 781 to 785 of that Act have the same meanings in this paragraph as in those sections.

PART 2

OTHER TRANSFERS UNDER SECTION 1(2) SCHEMES

Meaning of "relevant transfer" in Part 2 of Schedule

9 In this Part of this Schedule, "relevant transfer" means a transfer in accordance with a scheme made under section 1(2) to a person other than a national authority.

Computation of profits and losses in respect of transfer of trade

10 (1) This paragraph applies where a person ("the predecessor") is carrying on a trade or a part of a trade and, in consequence of a scheme made under section 1(2)—

(a) the predecessor ceases to carry on that trade or that part of that trade; and

(b) a person who is not a national authority ("the successor") begins to carry on that trade or that part of it.

(2) For the purpose of computing, in relation to the time when the scheme comes into force and subsequent times, the relevant trading profits or losses of the predecessor and the successor—

(a) the trade or part is to be treated as having been a separate trade at the time of its commencement and as having been carried on by the successor at all times since its commencement as a separate trade; and

(b) the trade carried on by the successor after the time when the scheme comes into force is to be treated as the same trade as that which it is treated, by virtue of paragraph (a), as having carried on as a separate trade before that time.

(3) Where a trade or a part of a trade falls to be treated under this paragraph as a separate trade, such apportionments of receipts, expenses, assets and liabilities shall be made for the purpose of computing relevant trading profits and losses as may be just and reasonable.

(4) This paragraph is subject to paragraphs 12 and 18.

(5) In this paragraph, "relevant trading profits and losses" means profits or losses under Case I of Schedule D in respect of the trade or part of a trade in question.

Trading losses: change in ownership

11 (1) This paragraph applies to a relevant transfer of all the issued share capital of a company (the "transferred company").

(2) For the purposes of sections 768 and 768D of the Taxes Act, the transfer is not to be taken to result in a change in the ownership of—

(a) the transferred company; or

(b) a company which is a wholly-owned subsidiary of the transferred company when the transfer takes effect.

Capital allowances: transfer of whole trade

12 (1) This paragraph applies where a person ("the predecessor") is carrying on a trade and, in consequence of a scheme made under section 1(2)—

(a) the predecessor ceases to carry on that trade; and

(b) a person who is not a national authority ("the successor") begins to carry on that trade.

(2) For the purposes of the allowances and charges provided for by the 2001 Act, the trade is not to be treated as permanently discontinued, nor a new trade as set up; but sub-paragraphs (3) and (4) of this paragraph are to apply.

(3) There are to be made to or on the successor, in accordance with the 2001 Act, all such allowances and charges as would, if the predecessor had continued to carry on the trade, have fallen to be made to or on the predecessor.

(4) The amounts of those allowances and charges are to be computed as if—

(a) the successor had been carrying on the trade since the predecessor began to do so; and

(b) everything done to or by the predecessor had been done to or by the successor;

but so that transfers in accordance with the scheme, so far as they relate to assets in use for the purposes of the trade, shall not be treated as giving rise to an allowance or charge.

Capital allowances: transfer of part of a trade

13 (1) Where a person ("the predecessor") is carrying on a trade and, in consequence of a scheme made under section 1(2)—

(a) the predecessor ceases to carry on a trade, and

(b) a person who is not a national authority ("the successor") begins to carry on activities of that trade as part of a trade carried on by the successor,

then that part of the trade carried on by the successor shall be treated for the purposes of paragraph 12 as a separate trade.

(2) Where a person ("the predecessor") is carrying on a trade and, in consequence of a scheme made under section 1(2)—

(a) the predecessor ceases to carry on a part of a trade, and

(b) a person who is not a national authority begins to carry on activities of that part of that trade,

then the predecessor shall be treated for the purposes of paragraph 12 and sub-paragraph (1) of this paragraph as having carried on that part of its trade as a separate trade.

(3) Where activities fall to be treated for the purposes of this paragraph as a separate trade, such apportionments of receipts, expenses, assets and liabilities shall be made for the purposes of the 2001 Act as may be just and reasonable.

Capital allowances: transfer of plant or machinery

14 (1) This paragraph applies where—

(a) there is a relevant transfer of plant or machinery;

(b) paragraph 12 does not apply in relation to that transfer;

(c) the plant or machinery would be treated for the purposes of the 2001 Act as disposed of by the transferor to the transferee on the transfer taking effect; and

(d) the scheme in accordance with which the transfer is made contains provision for the disposal value of the plant or machinery to be treated for the purposes of that Act as an amount specified in or determined in accordance with the scheme.

(2) For the purposes of the 2001 Act—

(a) the provision mentioned in sub-paragraph (1)(d) is to have effect (instead of section 61(2) to (4), 72(3) to (5), 88, 171, 196 or 423 of that Act) for determining an amount as the disposal value of the plant or machinery or the price at which a fixture is to be treated as sold;

(b) the transferee is to be treated as having incurred capital expenditure of that amount on the provision of the plant or machinery for the purposes for which it is used by the transferee on and after the taking effect of the transfer;

(c) the property is to be treated as belonging to the transferee in consequence of the transferee having incurred that expenditure; and

(d) in the case of a fixture, the expenditure which falls to be treated as incurred by the transferee is to be treated for the purposes of sections 181(1) and 182(1) of that Act to be incurred by the giving of a consideration consisting in a capital sum of that amount.

(3) The provision mentioned in sub-paragraph (1)(d) for the determination of an amount may include provision for a determination—

(a) to be made by the Secretary of State in a manner described in the scheme;

(b) to be made by reference to factors so described or to the opinion of a person so described; and

(c) to be capable of being modified (on one or more occasions) in a manner and in circumstances so described.

(4) The consent of the Treasury is required for the making or modification of a determination under the provision mentioned in sub-paragraph (1)(d).

(5) The consent of the transferee is required for the modification of a determination under the provision mentioned in sub-paragraph (1)(d).

(6) If there is a determination or a modification of a determination under the provision mentioned in sub-paragraph (1)(d), all necessary adjustments—

(a) must be made by making assessments or by repayment or discharge of tax; and

(b) must be made despite any limitation on the time within which assessments may be made.

(7) Expressions used in this paragraph and in Part 2 of the 2001 Act have the same meanings in this paragraph as in that Part.

Capital allowances: determination of capital value of industrial buildings etc.

15 (1) This paragraph applies for the purposes of Part 3 of the 2001 Act, and the other provisions of that Act which are relevant to that Part, to a relevant transfer of the relevant interest in an industrial building or structure.

(2) Section 573 of that Act is not to have effect in relation to that transfer.

Chargeable gains: assets to be treated as disposed of without a gain or a loss

16 For the purposes of the 1992 Act, a relevant transfer of an asset is to be treated as a disposal of that asset to the transferee for a consideration of such amount as would secure that, on the disposal, neither a gain nor a loss accrues to the transferor.

Continuity in relation to transfer of intangible assets

17 (1) For the purposes of Schedule 29 to the Finance Act 2002 (c. 23)—

(a) a relevant transfer of a chargeable intangible asset of the transferor is to be treated as a tax-neutral transfer; and

(b) an intangible fixed asset which is an existing asset of the transferor at the time of the transfer is to be treated, on and after the transfer, as an existing asset in the hands of the transferee.

(2) Expressions used in this paragraph and in that Schedule have the same meanings in this paragraph as in that Schedule.

Continuity in relation to loan relationships

18 (1) For the purposes of the application of Chapter 2 of Part 4 of the Finance Act 1996 (c. 8) (loan relationships) in relation to a relevant transfer, the transferee and the transferor are to be treated as if, at the time of the transfer, they were members of the same group.

(2) In sub-paragraph (1), the reference to being members of the same group must be construed in accordance with paragraph 12(8) of Schedule 9 to that Act.

Continuity in relation to derivative contracts

19 (1) For the purposes of the application of Schedule 26 to the Finance Act 2002 (derivative contracts) in relation to a relevant transfer, the transferee and the transferor are to be treated as if, at the time of the transfer, they were members of the same group.

(2) In sub-paragraph (1), the reference to being members of the same group must be construed in accordance with paragraph 28(6) of that Schedule.

Leased assets

20 (1) This paragraph applies for the purposes of section 781 of the Taxes Act (assets leased to traders and others) where—

(a) the interest of the lessor or the lessee under a lease, or any other interest in an asset, is transferred under a relevant transfer; or

(b) a lease, or any other interest in a lease, is granted to a person who is not a national authority in accordance with provision contained by virtue of paragraph 3 or 4 of Schedule 2 in a scheme made under section 1(2).

(2) Section 783(4) of that Act is to be disregarded and the transfer or grant is to be treated as made without any capital sum having been obtained in respect of the interest or lease by the transferor or grantor.

(3) In the case of the transfer of an interest under a lease, payments made by the transferor under the lease before the transfer takes effect are to be treated as if they had been made under that lease by the transferee.

(4) Expressions used in this paragraph and in sections 781 to 785 of that Act have the same meanings in this paragraph as in those sections.

PART 3

TRANSFERS UNDER SECTION 12 SCHEMES

Meaning of "relevant transfer" in Part 3 of Schedule

21 In this Part of this Schedule, "relevant transfer" means a transfer in accordance with a scheme made under section 12.

Capital allowances: determination of disposal value of plant or machinery

22 (1) This paragraph applies to a relevant transfer of plant or machinery which is a disposal event for the purposes of Part 2 of the 2001 Act (capital allowances for plant and machinery).

(2) For the purposes of the application of section 61 of that Act in relation to the transferor, the disposal value of the plant or machinery is to be treated—

(a) if a capital sum is received by the transferor by way of consideration or compensation in respect of the transfer, as an amount equal to that sum; or

(b) if no such sum is received, as nil.

(3) For the purposes of this paragraph a sum received by a person connected with the transferor is to be treated as received by the transferor.

(4) Section 88 of the 2001 Act (sales at an undervalue) is to be disregarded.

(5) This paragraph is subject to sections 63(5) and 68 of the 2001 Act.

Capital allowances: determination of disposal value of fixtures

23 (1) This paragraph applies to a relevant transfer if—

(a) it is a disposal event for the purposes of Part 2 of the 2001 Act; and

(b) by virtue of the transfer a person is treated by section 188 of that Act as ceasing to own a fixture.

(2) For the purposes of the application of section 196 of that Act in relation to the transferor, the disposal value of the fixture is to be treated—

(a) if a capital sum is received by the transferor by way of consideration or compensation in respect of the transfer, as an amount equal to that portion of that sum which falls (or, if the person to whom the disposal is made were entitled to an allowance, would fall) to be treated for the purposes of Part 2 of that Act as expenditure incurred by that person on the provision of the fixture; or

(b) if no such sum is received, as nil.

(3) For the purposes of this paragraph a sum received by a person connected with the transferor is to be treated as received by the transferor.

(4) This paragraph is subject to section 63(5) of the 2001 Act.

Capital allowances: determination of capital value of industrial buildings etc.

24 (1) This paragraph applies for the purposes of Part 3 of the 2001 Act, and the other provisions of that Act which are relevant to that Part, in relation to a relevant transfer of the relevant interest in an industrial building or structure.

(2) The transfer is to be treated as a sale of that relevant interest.

(3) The net proceeds of that sale, in relation to the transferor, are to be treated—

(a) if a capital sum is received by the transferor by way of consideration or compensation in respect of the transfer, as an amount equal to that sum; or

(b) if no such sum is received, as nil.

(4) Sections 567 to 570 of the 2001 Act (sales treated as being for alternative amount) are not to have effect in relation to that sale.

(5) For the purposes of this paragraph a sum received by a person connected with the transferor is to be treated as received by the transferor.

Chargeable gains: disposals not be treated as made at market value

25 (1) Section 17 of the 1992 Act (disposals and acquisitions treated as made at market value) is not to have effect in relation to—

(a) a disposal constituted by a relevant transfer or a disposal in accordance with provision contained by virtue of paragraph 3 or 4 of Schedule 2 to this Act in a scheme made under section 12 of this Act; or

(b) the acquisition made by the person to whom the disposal is made.

(2) But sub-paragraph (1) does not apply—

(a) if the person making the disposal is connected with the person making the acquisition; or

(b) in the case of a disposal in accordance with provision contained in a scheme by virtue of paragraph 3 or 4 of Schedule 2, if the disposal is made by or to a person other than the transferor or transferee.

(3) If sub-paragraph (1) applies to the disposal of an asset, the disposal is to be taken (in relation to the person making the acquisition as well as the person making the disposal) to be—

(a) in a case where consideration in money or money's worth is given by the person making the acquisition or on his behalf in respect of the vesting of

the asset in him, for a consideration equal to the amount or value of that consideration; or

(b) in a case where no such consideration is given, for a consideration of nil.

Chargeable gains: degrouping charges

26 (1) This paragraph applies if a company ("the degrouped company")—

(a) acquired an asset from another company at a time when both were members of the same group of companies ("the old group"); and

(b) ceases by virtue of a relevant transfer to be a member of the old group.

(2) Section 179 of the 1992 Act (company ceasing to be member of group) is not to treat the degrouped company as having by virtue of the transfer sold and immediately reacquired the asset.

(3) Where sub-paragraph (2) has applied to an asset, section 179 of the 1992 Act is to have effect on and after the first subsequent occasion on which the degrouped company ceases to be a member of a group of companies ("the new group") otherwise than by virtue of a relevant transfer as if—

(a) the degrouped company, and

(b) the company from which it acquired the asset,

had been members of the new group at the time of acquisition.

(4) If, disregarding any preparatory transactions, a company would be regarded for the purposes of section 179 of the 1992 Act (and, accordingly, of this paragraph) as ceasing to be a member of a group of companies by virtue of a relevant transfer, it is to be regarded for those purposes as so doing by virtue of the relevant transfer and not by virtue of any preparatory transactions.

(5) In this paragraph, "preparatory transactions" means anything done under or by virtue of the 1993 Act or this Act for the purpose of initiating, advancing or facilitating the relevant transfer in question.

(6) Expressions used in this paragraph and in section 179 of the 1992 Act have the same meanings in this paragraph as in that section.

Chargeable gains: disposal of debts

27 (1) This paragraph applies to a relevant transfer of a debt owed to the transferor if the transferor would (apart from this paragraph) be the original creditor in relation to that debt for the purposes of section 251 of the 1992 Act (disposal of debts).

(2) The 1992 Act is to have effect as if the transferee (and not the transferor) were the original creditor for those purposes.

Loan relationships

28 (1) Paragraph 11 of Schedule 9 to the Finance Act 1996 (c. 8) is not to have effect where, as a result of a relevant transfer, the transferee replaces the transferor as a party to a loan relationship.

(2) Expressions used in this paragraph and in Chapter 2 of Part 4 of the Finance Act 1996 have the same meanings in this paragraph as in that Chapter.

PART 4

OTHER PROVISIONS CONCERNING TRANSFERS

Stamp duty

29 (1) Stamp duty is not to be chargeable—

(a) on a scheme made under section 1(2); or

(b) on an instrument certified by the Secretary of State to the Commissioners of Inland Revenue as made for the purposes of such a scheme, or as made for purposes connected with such a scheme.

(2) But where, by virtue of sub-paragraph (1), stamp duty is not chargeable on a scheme or instrument, the scheme or instrument is to be treated as duly stamped only if—

(a) in accordance with section 12 of the Stamp Act 1891 (c. 39) it has been stamped with a stamp denoting either that it is not chargeable to duty or that it has been duly stamped; or

(b) it is stamped with the duty to which it would be chargeable apart from sub-paragraph (1).

(3) In this paragraph, "instrument" has the same meaning as in the Stamp Act 1891.

Stamp duty land tax

30 (1) No transfer in accordance with a scheme made under section 1(2) is to give rise to any liability to stamp duty land tax.

(2) Relief under this paragraph must be claimed in a land transaction return or in an amendment of a land transaction return.

(3) In sub-paragraph (2) "land transaction return" has the meaning given by section 76(1) of the Finance Act 2003 (c. 14).

Chargeable gains: value shifting

31 No scheme made under section 1(2) or 12 is to be regarded as a scheme or arrangement for the purposes of section 30 of the 1992 Act.

Group relief

32 Neither the power of the Secretary of State to make a scheme under section 1(2) nor the power of the Secretary of State or the Scottish Ministers to make a scheme under section 12 is to be regarded as constituting—

(a) arrangements falling within section 410(1) or (2) of the Taxes Act (arrangements for transfer of company to another group or consortium); or

(b) option arrangements for the purposes of paragraph 5B of Schedule 18 to that Act.

Consequential amendment

33 In section 35(3)(d) of the 1992 Act (no gain no loss disposals), after sub-paragraph (xv) insert—

"(xvi) paragraph 5 or 16 of Schedule 10 to the Railways Act 2005."

PART 5

INTERPRETATION OF SCHEDULE

34 (1) In this Schedule—

"the 1992 Act" means the Taxation of Chargeable Gains Act 1992 (c. 12);

"the 2001 Act" means the Capital Allowances Act 2001 (c. 2);

"national authority" means—

(a) the Secretary of State;

(b) the Scottish Ministers;

(c) the National Assembly for Wales; or

(d) the Office of Rail Regulation;

"the Taxes Act" means the Income and Corporation Taxes Act 1988 (c. 1);

"transferee", in relation to a transfer in accordance with a scheme made under section 1(2) or 12, means the person to whom the transfer is made;

"transferor", in relation to a transfer in accordance with a scheme made under section 1(2) or 12, means the person from whom the transfer is made.

(2) So far as it relates to corporation tax this Schedule is to be construed as one with the Corporation Tax Acts.

(3) So far as it relates to capital allowances this Schedule is to be construed as one with the 2001 Act.

SCHEDULE 11

Section 54

MISCELLANEOUS AMENDMENTS OF 1993 ACT

Introductory provision

1 The 1993 Act is amended as follows.

Licence conditions

2 In section 9(3)(f) (conditions requiring the provision of information), after "this Part" insert "or Part 4 of the Railways Act 2005".

Access agreements

3 In—

(a) section 17(4) (access agreements: directions requiring facility owners to enter into contracts for the use of their railway facilities), and

(b) section 19(7) (access agreements: contracts for the use of installations comprised in a network),

after "this Part" insert "or Part 4 of the Railways Act 2005 (network modifications etc.)".

Duties of provider of last resort

4 In paragraph (b) of section 30(3) (duty of Authority in absence of franchise)—

(a) for "giving notice under subsection (5) of section 38 below" substitute "making a proposal to which section 24 of the Railways Act 2005 (proposals to discontinue franchised or secured services) applies"; and

(b) for the words from "subsections (5) and (6)" to the end of the paragraph substitute "subsections (7) and (8) of that section) terminate on the proposal date specified for the purposes of subsection (5)(a)(ii) of that section; or".

Exclusion for liability for breach of statutory duty

5 In section 50(1) (exclusion of liability for breach of statutory duty), for "Authority," substitute "Secretary of State and of the Scottish Ministers, so far as".

Purposes for which franchising functions may be exercised

6 (1) In section 54 (purposes for which franchising functions may be exercised), in subsection (1)—

(a) for "Authority or a Passenger Transport Authority or Passenger Transport Executive" substitute "Secretary of State or the Scottish Ministers"; and

(b) in paragraph (a), after "any of" insert "his or".

(2) For subsection (2) of that section substitute—

"(2) The Secretary of State and the Scottish Ministers shall each have power to enter into agreements under which an undertaking is given by him or them—

(a) to exercise his or their franchising functions;

(b) to refrain from exercising them; or

(c) to exercise them in a particular manner."

(3) In subsection (3) of that section, in the first definition of "franchising functions"—

(a) for "Authority", wherever occurring, substitute "Secretary of State or the Scottish Ministers";

(b) in paragraph (a), for "of the Authority's functions" substitute "of the functions of the Secretary of State or of the Scottish Ministers";

(c) in that paragraph, for "35" substitute "31"; and

(d) in paragraph (b), for "Schedule 21 to the Transport Act 2000" substitute "section 1(2) of the Railways Act 2005";

and omit the definition of "franchising functions" in relation to a Passenger Transport Authority or Passenger Transport Executive.

Orders for securing compliance

7 (1) In subsection (9) of section 55 (interpretation of provision relating to orders for securing compliance), for "section 50 above" substitute "section 44 of the Railways Act 2005 (exclusion of liability for breach of statutory duty)".

(2) In subsection (10) of that section, in the definition of "final order", after "provisional order" insert "or an order under subsection (7B)".

(3) In that subsection, in the definition of "relevant condition or requirement", for paragraphs (c) and (d) substitute—

"(c) in the case of a person under closure restrictions, any duty mentioned in subsection (11) to which he is subject;".

(4) For the definition of "relevant operator" in that subsection substitute—

""relevant operator" means—

(a) a licence holder;

(b) a franchisee;

(c) a franchise operator who is a party to the franchise agreement;

(d) a person under closure restrictions."

(5) In subsection (11) of that section, for paragraphs (a) and (b) substitute "who is under—

(a) a duty under section 22(8), 26(8), 29(8) or 37(2) of the Railways Act 2005 not to discontinue a railway passenger service or an experimental passenger service or not to discontinue the operation or use of a network or station, or part of a network or station;

(b) a duty to comply with any requirement imposed under section 33(2)(i) of that Act (closure requirements imposed on operators); or

(c) a duty to comply with conditions to which he has agreed under section 34(5) of that Act (conditions of minor modification determination)."

(6) After that subsection insert—

"(11A) In the definition of "the appropriate authority" in subsection (10) above the reference to a relevant condition or requirement in the case of a person under Scottish closure restrictions is a reference to a relevant condition or requirement which—

(a) falls within paragraph (c) of the definition in that subsection;

(b) is imposed or arises in the case of a closure; and

(c) is so imposed or so arises in a Scottish case;

and the reference to a relevant condition or requirement in the case of a person under closure restrictions that are not Scottish closure restrictions is a reference to any relevant condition or requirement in relation to which paragraphs (a) and (b) are satisfied, but not paragraph (c).

(11B) In subsection (11A), "a Scottish case", in relation to a closure, means—

(a) a case in which the Scottish Ministers are the national authority for the purposes of provisions of Part 4 of the Railways Act 2005 relating to the proposal for the closure;

(b) a case in which it is the Scottish Ministers who make a determination under section 34 of that Act (minor modifications) in relation to the closure; or

(c) a case in which the closure is a closure notice of which is given under section 37 of that Act (experimental passenger services) and the proposal relates to a Scotland-only service."

8 In section 57F(1) (validity and effect of penalties), for "penalty order" substitute "penalty notice".

Financial assistance from the Secretary of State to companies in railway administration

9 (1) In section 63 (financial assistance for companies in railway administration), for subsection (1)(b) substitute—

"(b) agree to indemnify a relevant person in respect of—

(i) liabilities incurred by that person in connection with the carrying out by the railway administrator of his functions under the order; and

(ii) loss or damage incurred by that person in that connection."

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

"(2A) A grant, loan, indemnity or guarantee under this section may be made or given in whatever manner, and on whatever terms and subject to whatever conditions, the Secretary of State considers appropriate."

(3) After subsection (3) insert—

"(3A) The power of the Secretary of State under this section to agree to indemnify a relevant person—

(a) is confined to a power to agree to indemnify that person in respect of liabilities, loss and damage incurred or sustained by him as a relevant person; but

(b) includes power to agree to indemnify persons (whether or not they are identified or identifiable at the time of the agreement) who subsequently become relevant persons.

(3B) A person is a relevant person for the purposes of this section if he is—

(a) the railway administrator;

(b) an employee of the railway administrator;

(c) a member or employee of a firm of which the railway administrator is a member;

(d) a member or employee of a firm of which the railway administrator is an employee;

(e) a member of a firm of which the railway administrator was an employee or member at a time when the order was in force;

(f) a body corporate which is the employer of the railway administrator; or

(g) an officer, employee or member of such a body corporate.

(3C) For the purposes of this section—

(a) the references in this section to the railway administrator, in relation to a railway administration order, are references to the person appointed to achieve the purposes of the order and, where two or more persons are so appointed, are to be construed as references to any one or more of them; and

(b) the references to a firm of which a person was a member or employee at a particular time include references to a firm which holds itself out to be the successor of a firm of which he was a member or employee at that time."

(4) After subsection (4) of that section insert—

"(4A) If sums are paid by the Secretary of State in consequence of an indemnity agreed to under this section in the case of a company in relation to which a railway administration order is in force, the company must pay him—

(a) such amounts in or towards the repayment to him of those sums as he may direct; and

(b) interest, at such rates as he may direct, on amounts outstanding under this subsection.

(4B) Payments to the Secretary of State under subsection (4A) must be made at such times and in such manner as he may determine.

(4C) Subsection (4A) does not apply in the case of a sum paid by the Secretary of State for indemnifying a person in respect of a liability to the company in relation to which the railway administration order in question was made.

(4D) The consent of the Treasury is required for the giving of a direction under subsection (4A) and for the making of a determination under subsection (4B).”

Register kept by ORR

10 (1) In section 72(2) (matters to be entered in register)—

(a) in paragraph (d) (notices with respect to experimental passenger services), for “section 48 above” substitute “Part 4 of the Railways Act 2005”;

(b) for sub-paragraphs (i) to (iii) of that paragraph substitute—

“(i) every designation under section 36 of that Act of a service as experimental;

(ii) every notice under section 37(1) or (2) of that Act of the proposed discontinuance of a service designated as experimental;”

(c) after that paragraph insert—

“(da) in relation to closures, the provisions of—

(i) every closure ratification notice or closure non-ratification notice (within the meaning of Part 4 of the Railways Act 2005) issued by it;

(ii) every closure requirement imposed by it;”.

(2) Nothing in this paragraph requires the removal of anything from the register maintained under section 72.

Register kept by Secretary of State

11 (1) In section 73(2) (matters to be entered in the register)—

(a) for paragraph (da) (closure notices etc.) substitute—

“(da) every determination made by him under section 34 of the Railways Act 2005 that a closure is a minor modification or that closures of a particular description are minor modifications;

(db) every revocation of a determination made by him under that section in relation to a description of closures;

(dc) every condition agreed to under subsection (5) of that section in connection with a determination made by him;”

(b) in paragraph (e) (final or provisional orders), for “or to any closure or proposed closure or to any closure consent or closure condition” substitute “or to any closure or proposed closure or to any closure requirement”.

(2) Neither this paragraph nor any repeal made by this Act requires the removal of anything from the register maintained under section 73.

Purposes for which the Secretary of State may require information from licence holders

12 In section 80(1) (duty of licence holders to provide information to the Secretary of State or the Scottish Ministers on request), for "or the Transport Act 2000" substitute ", the Transport Act 2000 or the Railways Act 2005 or any other function or activity of his, theirs or its in relation to railway services".

General interpretation

13 In section 83(1) (interpretation of Part 1)—

(a) after the definition of "appropriate authority" insert—

""appropriate designating authority" has the meaning given by section 23(3) above;

"appropriate franchising authority" has the meaning given by section 23(3) above;

"appropriate national authority" has the meaning given by section 59(6)(za) above;"

(b) for the definition of "bus substitution service" substitute—

""bus substitution service" means a service for the carriage of passengers by road that is provided as an alternative to the whole or a part of a railway passenger service that has been discontinued, reduced or modified (whether temporarily or permanently);"

(c) for the definitions of "closure" and "closure conditions" substitute—

""closure" has the same meaning as in Part 4 of the Railways Act 2005 (see section 45 of that Act);

"closure requirement" means a requirement imposed under section 33 of that Act;".

Competent authority status for the purposes of grants and loans under EU regulations

14 (1) In subsection (1) of section 136 (competent authorities in relation to railways financial status regulations), for "shall continue to" substitute "and the Scottish Ministers shall each".

(2) In subsection (2) of that section (competent authority in respect of freight services for the purposes of the public service obligation regulations), for "shall be" substitute ", the Scottish Ministers and, to the extent specified in subsection (2A) below, the National Assembly for Wales shall each be".

(3) After that subsection insert—

"(2A) For the purposes of subsection (2) above the National Assembly for Wales shall only be the competent authority in relation to services for the carriage of goods by railway which are operated within Wales."

(4) In subsection (3) of that section (competent authority in respect of passenger services for the purposes of the public service obligation regulations), after paragraph (a) insert—

"(aa) the Scottish Ministers,

(ab) to the extent specified in subsection (3A) below, the National Assembly for Wales,".

(5) After that subsection insert—

"(3A) For the purposes of subsection (3) above the National Assembly for Wales shall only be the competent authority in relation to services for the carriage of passengers by railway which—

(a) are Welsh services (within the meaning of the Railways Act 2005); or

(b) are provided under a franchise agreement to which the Assembly is a party."

(6) In subsection (4) of that subsection (extent to which a PTE are a competent authority), for paragraphs (a) and (b) substitute "which the Executive provide, or secure are provided, in exercise of their powers under section 10(1) of the Transport Act 1968 or section 13 of the Railways Act 2005".

(7) Sub-paragraph (6) shall not affect the extent to which the competent authorities for the purposes of the public service obligations regulations include a Passenger Transport Executive in relation to railway passenger services provided under a franchise agreement to which the Executive continues to be a party by virtue of section 14(2) of this Act.

Powers to make statutory instruments

15 In section 143 (powers to make statutory instruments)—

(a) in subsection (1), for "under this Act to make orders" substitute "or the Scottish Ministers under this Act to make orders (except the power to make provisional or final orders under section 55)";

(b) in subsection (3), for "to make an order" substitute "or the Scottish Ministers to make an order (other than a provisional or final order under section 55)"; and

(c) in subsection (4), for "under this Act to make an order" substitute "or the Scottish Ministers under this Act to make an order (other than a provisional or final order under section 55)".

Restrictions on disclosure of information

16 (1) In subsection (2) of section 145 (purposes for which information obtained under the 1993 Act may be disclosed)—

(a) in paragraph (a)—

(i) after "the Secretary of State," insert "the Scottish Ministers,"; and

(ii) for "or the Transport Act 2000" substitute ", the Transport Act 2000 or the Railways Act 2005";

(b) after that paragraph insert—

"(aa) for the purpose of facilitating the carrying out or carrying on by the Secretary of State or the Scottish Ministers of any other functions or activities of his or theirs in relation to railways or railway services;".

(2) In subsection (5) of that section, for "the Rail Passengers' Council or a Rail Passengers' Committee" substitute "or the Rail Passengers' Council".

SCHEDULE 12

Section 59

OTHER MINOR AND CONSEQUENTIAL AMENDMENTS

Transport Act 1962 (c. 46)

1 (1) The Transport Act 1962 is amended as follows.

(2) In section 43 (general provisions about services and facilities provided and charges imposed by the British Waterways Board and the SRA)—

(a) in subsections (1), (2) and (5), omit "or the Strategic Rail Authority";

(b) in subsection (3), omit "and the Strategic Rail Authority"; and

(c) in subsections (4) and (6), for the words from "Neither" to "shall" substitute "The British Waterways Board shall not".

(3) In section 56 (transport consultative committees)—

(a) in subsection (4)—

(i) for "each Rail Passengers' Committee" substitute "the London Transport Users' Committee";

(ii) in paragraphs (a), (b) and (c), for "Rail Passengers' Committee", in each place, substitute "the London Transport Users' Committee";

(iii) omit the words from "and copies" to the end;

(b) subsection (5) shall cease to have effect;

(c) in subsection (6ZA)—

(i) omit "in the case of any Rail Passengers' Committee" and "that Rail Passengers' Committee and";

(ii) after "Rail Passengers' Council" insert "and the London Transport Users' Committee";

(d) in subsection (6A), for "A Rail Passengers' Committee" substitute "Each of the Rail Passengers' Council and the London Transport Users' Committee"; and

(e) subsection (20) shall cease to have effect.

Transport Act 1968 (c. 73)

2 (1) The Transport Act 1968 is amended as follows.

(2) In section 55 (transport consultative committees), for "Rail Passengers' Committees" substitute "London Transport Users' Committee".

(3) In subsection (2A) of section 56 (financial assistance for capital expenditure incurred in connection with public passenger transport facilities), for the words from "the

Strategic" to "franchising functions" substitute "a national authority under which the national authority undertakes to exercise any of its functions in relation to railways or railway services".

(4) In subsection (2B) of that section—

(a) omit the definition of "franchising functions";

(b) before the definition of "relevant local authority" insert—

""national authority" means the Secretary of State, the Scottish Ministers or the National Assembly for Wales;".

Chronically Sick and Disabled Persons Act 1970 (c. 44)

3 In section 14(1) of the Chronically Sick and Disabled Persons Act 1970 (miscellaneous advisory committees), for "Rail Passengers' Committees," substitute "or".

Fire Precautions Act 1971 (c. 40)

4 In section 18 of the Fire Precautions Act 1971, for subsection (2) (power of fire and rescue authorities to make arrangements with the HSC) substitute—

"(2) A fire and rescue authority may arrange in relation to any work premises—

(a) where an appropriate enforcement body is the Office of Rail Regulation, with that Office, and

(b) where that Office is not an appropriate enforcement body or is not the only such body, with the Health and Safety Commission,

for such of the authority's functions under this Act as may be specified in the arrangements to be performed in relation to those premises, on behalf of the authority by that Office or (as the case may be) by the Health and Safety Executive.

(2A) Those arrangements may include arrangements for payments to be made by the fire and rescue authority in respect of the performance of the functions in question by the Office of Rail Regulation or by the Health and Safety Executive.

(2B) In subsection (2)—

"appropriate enforcement body", in relation to any premises, means a person responsible under Part 1 of the Health and Safety at Work etc. Act 1974 (c. 37) for the enforcement of relevant statutory provisions (within the meaning of Part 1 of that Act) in relation to those premises; and

"work premises" means premises which are used as a place of work (within the meaning of Part 1 of that Act)."

Superannuation Act 1972 (c. 11)

5 In Schedule 1 to the Superannuation Act 1972 (types of employment in relation to which schemes may be made), at the appropriate place in the list of "Other Bodies" insert—

"The Rail Passengers' Council."

Level Crossings Act 1983 (c. 16)

6 (1) Section 1 of the Level Crossings Act 1983 is amended as follows.

(2) In subsection (6A) of that section (duty of the operator of a level crossing to make a request to the Secretary of State for an order where the HSE gives written notice to the operator that a request should be made), for "Health and Safety Executive" substitute "Office of Rail Regulation".

(3) In subsection (10B) of that section (duty of the Secretary of State to take account of advice given by or on behalf of the HSC), for "Health and Safety Commission" substitute "Office of Rail Regulation".

Telecommunications Act 1984 (c. 12)

7 In section 101 of the Telecommunications Act 1984 (general restrictions on disclosure of information), in subsection (3), at the end insert—

"(r) the Railways Act 2005."

Transport Act 1985 (c. 67)

8 In section 6(1) of the Transport Act 1985 (local bus services), for the words from "with" onwards substitute "entered into, where a railway service has been temporarily interrupted, with the Secretary of State, the Scottish Ministers or the National Assembly for Wales under section 40 of the Railways Act 2005 (substitution services provided for interrupted or discontinued railway services)".

Airports Act 1986 (c. 31)

9 In section 74 of the Airports Act 1986 (restriction on disclosure of information), in subsection (3), at the end insert—

"(s) the Railways Act 2005."

Water Industry Act 1991 (c. 56)

10 In Schedule 15 to the Water Industry Act 1991 (disclosure of information), in Part 2 (enactments etc. in respect of which disclosure may be made), at the end insert—

"The Railways Act 2005."

Water Resources Act 1991 (c. 57)

11 In Schedule 24 to the Water Resources Act 1991 (disclosure of information), in Part 2 (enactments etc. in respect of which disclosure may be made), at the end insert—

"The Railways Act 2005."

Deregulation and Contracting Out Act 1994 (c. 40)

12 (1) Section 37 of the Deregulation and Contracting Out Act 1994 (power to repeal certain health and safety provisions) is amended as follows.

(2) In subsection (2) of that section—

(a) for paragraph (a) substitute—

"(a) in the case of regulations under paragraph (a) of that subsection repealing or revoking a provision specified in section 117(4) of the Railways Act 1993, the Office of Rail Regulation,

(aa) in the case of regulations under paragraph (a) of that subsection not falling within paragraph (a) of this subsection, the Health and Safety Commission,

(ab) in the case of regulations under paragraph (b) of that subsection revoking a provision of regulations which make provision exclusively in relation to transport systems falling within paragraph 1(3) of Schedule 3 to the Railways Act 2005, the Office of Rail Regulation,

(ac) in the case of regulations under paragraph (b) of that subsection not falling within paragraph (ab) of this subsection, the Health and Safety Commission,"; and

(b) in the words after paragraph (b), for "either" substitute "any".

(3) In subsections (3) and (4) of that section, for the words from "the Health", in the first place where they occur in each subsection, to "Ireland" substitute "the required consultee".

(4) After subsection (4) of that section, insert—

"(4A) In subsections (3) and (4), "the required consultee" means the body which the appropriate authority is required to consult by virtue of subsection (2)(a) to (b)."

Railway Heritage Act 1996 (c. 42)

13 (1) The Railway Heritage Act 1996 is amended as follows.

(2) Section 1 (bodies to which the Act applies) is to become subsection (1) of that section and is amended as follows—

(a) in paragraph (f), for the words from "Strategic" to the end substitute "Secretary of State";

(b) in paragraph (g), for "Authority" substitute "Secretary of State".

(3) In that section, after that subsection insert—

"(2) The Secretary of State may, by order made by statutory instrument, modify subsection (1) by adding a body or a description of body to the list of bodies to which this Act applies.

(3) Before making an order under subsection (2), the Secretary of State must consult the bodies that appear to him to be the ones that will become bodies to which this Act applies on the coming into force of the order.

(4) A statutory instrument containing an order under subsection (2) shall be subject to annulment in pursuance of a resolution of either House of Parliament."

(4) In section 2 (establishment of statutory committee)—

(a) in paragraph (a) of subsection (2), omit "the Authority with the approval of";

(b) in paragraph (c) of that subsection, for "requiring the Authority" substitute "for the Secretary of State";

(c) in subsection (3), for "the Authority and with such other" substitute "such".

(5) In section 4(6)(b) (exclusion of a disposal made in accordance with a transfer scheme under the 2000 Act from the application of sections 4 and 5), after "Transport Act 2000" insert "or the Railways Act 2005".

Greater London Authority Act 1999 (c. 29)

14 (1) The Greater London Authority Act 1999 is amended as follows.

(2) In section 175 (co-operation between Transport for London and the Secretary of State)—

(a) in subsection (1)(a)(ii), for the words from "whose provision" to "Railways Act 1993" substitute "are secured services (within the meaning of Part 4 of the Railways Act 2005) provided by or on behalf of the Secretary of State"; and

(b) in subsection (3)(b), for "sections 37 and 38 of that Act" substitute "sections 22 to 24 of the Railways Act 2005".

(3) In section 177(1)(b) and (2) (provision of extra passenger transport services and facilities), for "Strategic Rail Authority" substitute "Secretary of State".

(4) In section 179(3) (London local bus services), for the words from "Strategic Rail Authority" to "railway service)" substitute "Secretary of State entered into under section 40 of the Railways Act 2005 (substitution services provided for interrupted or discontinued railway services)".

(5) In section 235(2)(b) (exception to the restriction on disclosure of information for a disclosure made for the purpose of facilitating the carrying out of certain statutory functions)—

(a) omit "the Strategic Rail Authority,"; and

(b) at the end insert "or the Railways Act 2005".

(6) In section 240(2) and (7) (arrangements with London authorities for travel concessions), for "Strategic Rail Authority", wherever occurring, substitute "Secretary of State".

(7) In section 247(2) (consultation with the SRA about appointments to the LTUC), for "Strategic Rail Authority" substitute "Secretary of State".

(8) In section 250(2) (persons to whom LTUC annual report is to be made), for "Strategic Rail Authority" substitute "Secretary of State".

(9) In paragraphs 9, 11 and 15 of Schedule 18 (consultation by LTUC with SRA and information provided to SRA by LTUC), for "Strategic Rail Authority", in each place, substitute "Secretary of State".

Postal Services Act 2000 (c. 26)

15 In paragraph 3 of Schedule 7 to the Postal Services Act 2000 (disclosure of information), in sub-paragraph (3), after paragraph (gj) insert—

"(gk) the Railways Act 2005,".

Utilities Act 2000 (c. 27)

16 In section 105 of the Utilities Act 2000 (general restrictions on disclosure of information), in subsection (6), at the end insert—

"(u) the Railways Act 2005."

Transport Act 2000 (c. 38)

17 (1) The 2000 Act is amended as follows.

(2) In section 137(4)(d) (required notice in connection with the making of a ticketing scheme), for "Strategic Rail Authority" substitute "Secretary of State".

(3) In subsection (1) of section 228 (extension of functions of Rail Passengers' Council and Rail Passengers' Committees), for "Sections 76 and 77" substitute "Section 76" and for "are amended" substitute "is amended".

(4) In subsection (1) of section 248 (substitute services to be suitable for disabled persons), for paragraph (b) substitute—

"(b) the provision of such services is secured by the Secretary of State, the Scottish Ministers or the National Assembly for Wales."

(5) In subsection (2) of that section, for "In doing so the person or Authority" substitute "In providing or securing the provision of the services, the person providing them, the Secretary of State, the Scottish Ministers or the National Assembly for Wales".

(6) In subsection (3) of that section—

(a) for "the person or Authority" substitute "a person"; and

(b) omit the words "or it".

(7) In paragraph 3(3) of Schedule 9 (air traffic: information), after paragraph (rc) insert—

"(rd) the Railways Act 2005;".

(8) In Schedule 25 (transfer of BR's property etc. to Secretary of State), after paragraph 12 insert—

"Duties in relation to foreign property

12A (1) Where there is a transfer in accordance with a transfer scheme of—

(a) foreign property, or

(b) a foreign right or liability,

the Board and the Secretary of State must take all requisite steps to secure that the vesting of the foreign property, right or liability in the Secretary of State by this Act is effective under the relevant foreign law.

(2) Until the vesting of the foreign property, right or liability in the Secretary of State in accordance with the transfer scheme is effective under the relevant foreign law, the Board must—

(a) hold the property or right for the benefit of the Secretary of State; or

(b) discharge the liability on behalf of the Secretary of State.

(3) Nothing in sub-paragraph (1) or (2) prejudices the effect under the law of a part of the United Kingdom of the vesting of any foreign property,

right or liability in the Secretary of State in accordance with a transfer scheme.

(4) References in this paragraph to foreign property, or to a foreign right or liability, are references to any property, right or liability as respects which an issue arising in any proceedings would be determined (in accordance with the rules of private international law) by reference to the law of a country or territory outside the United Kingdom.

(5) An obligation imposed under this paragraph in relation to property, rights or liabilities shall be enforceable as if contained in a contract between the Board and the Secretary of State."

(9) In paragraph 10 of Schedule 28 (transitional provision in relation to section 56 of the Transport Act 1962 (c. 46))—

(a) for "Rail Passengers' Committees" substitute "London Transport Users' Committee";

(b) in paragraph (a), for "sections 76 and 77" substitute "section 76";

(c) in paragraph (b), for "those subsections" substitute "that subsection".

Enterprise Act 2002 (c. 40)

18 (1) The Enterprise Act 2002 is amended as follows.

(2) In subsection (4) of section 168 (duty of Competition Commission and the Secretary of State in relation to regulated markets)—

(a) in paragraph (h), omit "where none of the conditions of the licence relate to consumer protection";

(b) paragraph (i) shall cease to have effect; and

(c) in paragraph (k), for the words from "Strategic" to the end substitute "Secretary of State, the Scottish Ministers and the National Assembly for Wales under section 4 of the Act of 1993".

(3) In subsection (5) of that section, for paragraph (j) substitute—

"(j) the Secretary of State;

(k) the Scottish Ministers; or

(l) the National Assembly for Wales."

(4) In Schedule 15 (enactments for the purposes of which disclosures of information are allowed), at the end insert—

"Railways Act 2005 (c. 14)".

SCHEDULE 13

Section 59

REPEALS

PART 1

REPEALED ENACTMENTS

Short title and chapter	*Extent of repeal*
Ministry of Transport Act 1919 (c. 50)	Section 17(1)(a).
Transport Act 1962 (c. 46)	In section 43— (a) in subsections (1), (2) and (5), the words "or the Strategic Rail Authority"; (b) in subsection (3), the words "and the Strategic Rail Authority".
	In section 56— (a) in subsection (4), the words from "and copies" to the end; (b) subsection (5); (c) in subsection (6ZA), the words "in the case of any Rail Passengers' Committee" and the words "that Rail Passengers' Committee and"; (d) subsection (20).
Parliamentary Commissioner Act 1967 (c. 13)	In Schedule 2, the entries relating to Rail Passengers' Committees and to the Strategic Rail Authority.
Transport Act 1968 (c. 73)	In section 10(1), paragraphs (vi) and (viza).
	In section 15(1)(d), the words from "otherwise" onwards.
	In section 20— (a) in subsection (2), the words from the beginning to "9A(3) of this Act" and paragraph (b) and the word "and" immediately preceding it; (b) subsections (3) to (7).
	In section 56(2B), the definition of "franchising functions".
Superannuation Act 1972 (c. 11)	In Schedule 1, in the list of "Other Bodies", the entry relating to the Strategic Rail Authority.
Health and Safety at Work etc. Act 1974 (c. 37)	In section 18(5), the words "or by regulations under subsection (2) above".
	Section 78(7)(c).
House of Commons Disqualification Act 1975 (c. 24)	In Schedule 1—

Short title and chapter	*Extent of repeal*
	(a) in Part 2, the entry relating to the Strategic Rail Authority; (b) in Part 3, the entry relating to a member of a Rail Passengers' Committee in receipt of remuneration.
Northern Ireland Assembly Disqualification Act 1975 (c. 25)	In Part 2 of Schedule 1, the entry relating to the Strategic Rail Authority.
Race Relations Act 1976 (c. 74)	In Part 2 of Schedule 1A, the entry relating to the Strategic Rail Authority.
Transport Act 1985 (c. 67)	In Schedule 3, paragraph 13.
Channel Tunnel Act 1987 (c. 53)	In section 41(1)(a), the words “and each of the Rail Passengers' Committees”.
Railways Act 1993 (c. 43)	Section 2.
	Section 3.
	In section 4— (a) in subsection (3)(a), the words from “taking into account” to “Executive”; (b) in subsection (3A), paragraph (a) and, in paragraph (b), the words “and 37 to 50”; (c) in subsection (5)(d), the words “London Regional Transport”.
	In section 7— (a) in subsections (1) and (3), the words “and the Authority”, in each place; (b) subsections (5A), (6A) and (8A).
	Section 7A.
	In section 8— (a) in subsection (1)(a), the words “and the Authority”; (b) in subsection (1)(b), the words “given after consultation with the Authority”; (c) in subsection (2), paragraph (a); (d) in subsection (7)(a), the words “, to the Authority and to the Health and Safety Executive”; (e) in subsection (7)(b), the words “and to the Health and Safety Executive; (f) in subsection (8), the words “and the Authority”.
	In section 10(4), the definition of “call”.
	In section 11— (a) in subsection (2)(b), the words “and the Authority”;

Short title and chapter	*Extent of repeal*
	(b) in subsection (4), the words "or persons".
	In section 12— (a) subsections (1A) to (1C); (b) in subsection (3), the words "(1B) or" and "the Authority or"; (c) subsection (4).
	Section 13(1A) to (1C).
	Section 14(5A).
	In section 15— (a) subsections (1B) and (3A); (b) in subsections (2), (4A), (4B), (4C) and (4D), the words "or Authority", wherever occurring; (c) in subsection (4) the words "or (3A)" and "or the Authority"; (d) subsection (5).
	In section 15A(1), the words "or Authority".
	In section 15B— (a) in subsection (1)(b), the words "or required to be made by the Authority"; (b) in subsection (5), the words "the Authority and the Health and Safety Executive".
	In section 15C(3), the words "and the Authority", and "each".
	In section 16(3), the words "to the Authority and to the Health and Safety Executive".
	Section 23(2B).
	In section 24(3), the words "and the Authority".
	Section 26(4).
	In section 30(1)— (a) paragraph (a); and (b) in paragraph (b), the words "(otherwise than because of such a direction)".
	Sections 34 and 35.
	Sections 37 to 49.
	Section 50(1)(a) and (2).
	In section 54(3), the definition of "franchising functions" in relation to a Passenger Transport Authority or Passenger Transport Executive.

Short title and chapter	*Extent of repeal*
	In section 55— (a) in subsection (5), the words "or, as the case may be, section 207 of the Transport Act 2000"; (b) in subsection (10), in paragraph (a) of the definition of "the appropriate authority", the words "apart from a condition which relates to consumer protection,"; (c) in that subsection, in paragraph (d) of the definition of "relevant condition or requirement", the words "(other than the Authority)". In section 59(6)(a), the "and" at the end of sub-paragraph (ii). In section 61— (a) in subsection (1), sub-paragraph (ii) of paragraph (a); (b) in subsection (2), paragraph (b) and the word "or" immediately preceding it. In section 62— (a) in subsection (2), sub-paragraph (ii) of paragraph (a); (b) in subsection (3), paragraph (b) and the word "or" immediately preceding it; (c) in subsection (5), sub-paragraph (ii) of paragraph (a); (d) in subsection (6), paragraph (b) and the word "or" immediately preceding it; (e) in subsection (7), paragraph (b) and the word "and" immediately preceding it. In section 63(2), the words "in such manner and on such conditions as he may think fit". In section 67(6), sub-paragraph (i) of paragraph (b). In section 68(1)(a), the words "which does not relate to consumer protection". Section 69(4). Section 71A. In section 72(1), the words "for the purposes of this Part". In section 73— (a) in subsection (1), the words "for the purposes of this Part";

Short title and chapter	*Extent of repeal*
	(b) in subsection (2), in paragraph (e), the words “a licence or”, and paragraphs (h) to (m); (c) subsections (5) and (6).
	Section 75.
	In section 76— (a) subsection (3); (b) in subsection (6)(a), the words “and the Authority”; (c) subsection (8).
	Section 77.
	Section 79.
	In section 83— (a) in subsection (1), the definitions of “closure consent” and “notice period”; (b) subsection (3).
	In section 118— (a) subsection (1) (b); (b) in subsection (3), the words “or the Authority”; (c) in subsection (5), the words “and the Authority” and “each”; (d) in subsection (9), the words “and the Authority”.
	Section 130(5), (6) and (10).
	In section 136— (a) subsection (3)(b); (b) in subsection (6), the words “and the Authority” and “each”; (c) in subsections (7) and (10), the words “or the Authority”, wherever occurring.
	In section 144(1), the words from “and a Passenger Transport Executive” onwards.
	In section 145— (a) the words “the Authority”, wherever occurring; (b) subsection (7).
	In section 151— (a) the definition of “the Authority”; (b) the words “the Authority”, wherever occurring; (c) subsection (3).
	Schedule 2.
	Schedule 3.

Short title and chapter	*Extent of repeal*
	In Schedule 4A— (a) paragraph 3; (b) in paragraph 7(4)(b), the words "the Authority and the Health and Safety Executive"; (c) paragraph 10.
	Schedule 5.
	In Schedule 6— (a) in paragraph 3, in the substituted section 13(3), paragraph (b); (b) in paragraph 7(2), in the substituted section 18(1)(b), the words from "or, if" to "consent of the Secretary of State"; (c) in paragraph 9, in each of subsections (1) and (2A) of the substituted section 23, paragraph (c); (d) in paragraph 10(2), in the substituted section 27(1A), the words from "or, if" to "consent of the Secretary of State".
	In Schedule 11, in paragraph 1(1), in the definition of "eligible persons", paragraph (a)(ia).
Railway Heritage Act 1996 (c. 42)	Section 1(a) and (b).
	In section 2(2)(a), the words "the Authority with the approval of".
Channel Tunnel Rail Link Act 1996 (c. 61)	Section 19(2), (5) and (6).
	Section 42A.
Greater London Authority Act 1999 (c. 29)	In section 175(1), the words after paragraph (b).
	Sections 196 and 197.
	In section 199(1), the words "and the Strategic Rail Authority".
	Section 201.
	Sections 203 and 204.
	In section 235(2)(b), the words "the Strategic Rail Authority,".
	Section 252(1).
	In Schedule 19, paragraph 5.
Freedom of Information Act 2000 (c. 36)	In Part 6 of Schedule 1, the entries relating to any Rail Passengers' Committee established under section 2(2) of the Railways Act 1993 and to the Strategic Rail Authority.

Short title and chapter	*Extent of repeal*
Transport Act 2000 (c. 38)	Sections 201 to 211. Section 212(4). Sections 213 and 214. Section 217(2). Sections 218 to 222. Section 224(2)(b). Section 226(1)(c) and the word "and" immediately preceding it. In section 227— (a) subsection (1); (b) in subsection (3), the words from "and such references" to the end. In section 228— (a) in subsection (2), the words "of each of those sections"; (b) in subsection (3), paragraph (b) and the word "and" immediately preceding it; (c) subsection (5). Sections 234 to 239. Section 246. In section 248(3), the words "or it". Section 249. Section 251. In section 278— (a) in subsection (2), paragraph (b) and the word "or" immediately preceding it; (b) in subsection (3), paragraph (b) and the word "or" immediately preceding it. Schedules 14 and 15. In Schedule 16— (a) paragraphs 2 to 7; (b) paragraphs 9 to 13; (c) paragraph 14(2), (3)(a) and (4); (d) paragraph 15; (e) paragraph 16(2) and (3)(a); (f) paragraph 17(2)(a), (3), (4)(a) and (5)(a); (g) paragraph 18(2)(a) and (3); (h) paragraphs 19 to 33; (i) paragraph 34(2)(a), (3) and (4)(a), (b) and (c); (j) paragraph 35(3)(b), (4) and (5); (k) paragraphs 39 to 42;

Short title and chapter	*Extent of repeal*
	(l) paragraphs 44 to 48; (m) paragraph 49(2), (3)(a), (4) and (5); (n) paragraph 50; (o) paragraph 51(2), (4) and (5); (p) paragraphs 52 and 53; (q) paragraph 59; (r) paragraphs 61 and 62. (s) paragraph 64; (t) paragraph 66. In Schedule 17— (a) paragraph 2(2) to (5), (7) and (8); (b) paragraph 3; (c) paragraph 4(2)(a) and (5)(a); (d) paragraph 6(2), (3)(a), (4) and (5); (e) paragraph 7(2) to (4), (5)(a), (6)(a), (7) and (8)(a); (f) paragraph 8(2), (3)(a), (4) and (5); (g) paragraph 9(4)(b) and (6) to (8); (h) paragraph 10; (i) paragraph 11(3); (j) paragraphs 13 and 14; (k) paragraph 16(b) and the word “and” immediately preceding it; (l) paragraphs 18 and 19; (m) paragraph 20(2) and (5); (n) paragraphs 21 to 27; (o) paragraphs 29 and 30; (p) Part 3. In Schedule 18— (a) paragraphs 1 to 3; (b) paragraph 6(2) and (3)(a); (c) Part 2. Schedules 19 to 21. In Schedule 22— (a) paragraphs 2 to 7; (b) in paragraph 8, sub-paragraph (4)(b) and, in sub-paragraph (10), the words “and Rail Passengers' Committees”; (c) paragraphs 9 to 14; (d) paragraph 15(2)(c) to (e), (3), (4)(a), (5) and (6); (e) paragraph 18; (f) paragraph 22; (g) paragraph 23(a). In Schedule 23, paragraphs 1 to 9. In Schedule 25, in paragraph 15, the words “and the Authority”. In Schedule 27—

Short title and chapter	*Extent of repeal*
	(a) paragraph 1(4) to (6); (b) paragraphs 2 to 5; (c) paragraph 14; (d) paragraph 24(3); (e) paragraphs 25 to 29; (f) paragraph 30(2); (g) paragraph 35; (h) paragraph 39(3) and (5); (i) paragraph 41(2); (j) paragraph 43; (k) paragraphs 46 and 47; (l) paragraph 55; (m) paragraph 58; (n) paragraphs 60 and 61; (o) paragraph 62(5) and (6).
	In Schedule 28— (a) paragraph 1; (b) paragraph 4; (c) in paragraph 5(2), the words from "; but the Authority" to the end. (d) paragraph 6; (e) in paragraph 7, in sub-paragraph (1), the words ", as inserted by section 225(1),", and in sub-paragraph (2), the words ", as inserted by section 225(2),"; (f) paragraphs 8 and 9; (g) paragraphs 11 to 16.
	In Schedule 31, the entry relating to the Railway Heritage Act 1996.
Enterprise Act 2002 (c. 40)	In section 168— (a) in subsection (4), in paragraph (h), the words "where none of the conditions of the licence relate to consumer protection", and paragraph (i); (b) in subsection (5), the word "or" at the end of paragraph (i).
Scottish Public Services Ombudsman Act 2002 (asp 11)	In Part 2 of Schedule 2, paragraph 82.
Railways and Transport Safety Act 2003 (c. 20)	Section 62(1)(j), (m) and (n).
	In section 73(3)— (a) paragraph (a); (b) in paragraph (b), the words "(whether by the Strategic Rail Authority or by another person)".
	Section 104.
	In Schedule 2—

Short title and chapter	*Extent of repeal*
	(a) in the table in paragraph 3, the entries relating to sections 7A, 43, 46, 46A, 46B, 75, 77 and 79 and Schedules 2 and 3; (b) paragraph 11; (c) paragraph 16. In Schedule 4— (a) paragraph 2(1)(d); (b) paragraph 6(b) and the word "or" immediately preceding it.

PART 2

SAVINGS

1 The repeal of the entry relating to the Strategic Rail Authority in the list of "Other Bodies" in Schedule 1 to the Superannuation Act 1972 (c. 11) does not affect—

(a) any pension, allowance or gratuity granted before the coming into force of the repeal to or in respect of a person by virtue of his employment with the Strategic Rail Authority; or

(b) any right or entitlement to the grant of a pension, allowance or gratuity accruing before that coming into force to or in respect of a person by virtue of that employment.

2 The repeal of section 219 of the 2000 Act has effect subject to section 46(4).

3 The repeal of Part 3 of Schedule 17 to that Act does not affect the provisions of that Part in their application in relation to any transfer scheme made before the coming into force of the repeal.

4 The repeal of Schedule 19 to that Act does not affect the provisions of that Schedule in their application in relation to any transfer scheme made before the coming into force of the repeal.