



# Railways Act 2005

## 2005 CHAPTER 14

### PART 5

#### FURTHER MISCELLANEOUS PROVISIONS

##### *Railway administration orders for companies providing Scottish services*

#### **49 Functions of Scottish Ministers in relation to railway administration**

- (1) In subsection (6) of section 59 of the 1993 Act (interpretation of expressions used in connection with railway administration)—
- (a) after “Part—” insert—
    - “(za) “appropriate national authority”—
      - (i) in relation to a Scottish protected railway company or a company subject to a railway administration order that was such a company when the order was made, means the Scottish Ministers; and
      - (ii) in relation to any other protected railway company or company subject to a railway administration order, means the Secretary of State;”
  - (b) after paragraph (b) insert—
    - “(c) “Scottish protected railway company” means a protected railway company that is such a company only in respect of activities carried on by it as franchise operator in relation to a Scottish franchise agreement.”
- (2) In subsection (1) of section 60 (petition for railway administration order), for the words from the beginning to the end of paragraph (b) substitute—
- “(1) If, on an application relating to a protected railway company”.
- (3) After that subsection insert—

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*Changes to legislation: There are currently no known outstanding effects  
for the Railways Act 2005, Section 49. (See end of Document for details)*

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- “(1A) An application under subsection (1) for the making of a railway administration order may be made—
- (a) in the case of an application on the ground specified in paragraph (a) of subsection (2), only by the appropriate national authority; and
  - (b) in the case of an application on the ground specified in paragraph (b) of that subsection, only by the Secretary of State.”
- (4) In each of the following provisions of the 1993 Act, for “Secretary of State”, wherever occurring, substitute “ appropriate national authority ”, namely—
- (a) section 61(1)(a)(i) and (2)(a) (notice and power to petition for railway administration order in the case of a winding-up petition);
  - (b) section 62(2)(a)(i), (3)(a), (5)(a)(i), (6)(a) and (7)(a) (notice and power to petition for railway administration order in the case of voluntary winding-up and other insolvency proceedings); and
  - (c) paragraphs 3, 7, 9 and 10 of Schedule 6 (modifications of the Insolvency Act 1986 (c. 45)).
- (5) In paragraph 1 of Schedule 6 to the 1993 Act, before the “and” at the end of paragraph (a) insert—
- “(aa) as if references in those sections to the appropriate national authority were to be construed in accordance with section 59(6)(za) of this Act;”.
- (6) In paragraphs 7(4), 8, and 10(5) of Schedule 6 to the 1993 Act, for “the Strategic Rail Authority” substitute “ the appropriate national authority ”.
- (7) In paragraph 2 of Schedule 7 to the 1993 Act (making and modification of transfer schemes in connection with railway administration orders), for each of the following substitute “ the appropriate national authority ”, namely—
- (a) in sub-paragraph (2), the words from “the Secretary of State” onwards;
  - (b) in sub-paragraphs (4) and (5), “the Secretary of State”, wherever occurring;
  - (c) in sub-paragraph (6), “the Secretary of State or Authority”, in each place, and “the Secretary of State or the Authority”; and
  - (d) in sub-paragraph (7), the words from “the Secretary of State or, in” to “the Authority” and “the Secretary of State or Authority”.
- (8) In that paragraph—
- (a) in sub-paragraph (3), for the words from “the Secretary of State”, where first occurring, to “or Authority” substitute “ “the appropriate national authority, it ”; and
  - (b) in sub-paragraph (6), for “his” substitute “ the appropriate national authority's ”.
- (9) After sub-paragraph (8) of that paragraph insert—
- “(9) A statutory instrument containing an order under this paragraph by the Scottish Ministers is subject to annulment in pursuance of a resolution of the Scottish Parliament.”
- (10) Where a railway administration order is in force immediately before the commencement of this section in relation to a Scottish protected railway company, things done by or in relation to the Secretary of State for the purposes of or in connection with that order and by virtue of —

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- (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 Scottish Ministers.

- (11) The power to amend Schedule 6 to the 1993 Act under section 249 of the Enterprise Act 2002 (c. 40) applies to the modifications of that Schedule by this Act, as it applies to that Schedule.

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**Commencement Information**

- II** S. 49 in force at 16.10.2005 by [S.I. 2005/2812](#), art. 2(1), [Sch. 1](#)

**Changes to legislation:**

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