



Railways Act 2005

2005 CHAPTER 14

PART 2

PUBLIC SECTOR FUNDING AUTHORITIES FOR RAILWAYS

Assisting and securing the provision of services

PROSPECTIVE

8 Franchising and financial assistance in relation to Scotland

- (1) For the purposes of being a party to a franchise agreement the Scottish Ministers shall have power to provide, or to agree to provide, financial assistance to the franchisee—
 - (a) for the purpose of securing the provision, improvement or development of the Scottish services to which the agreement relates; or
 - (b) for any other purpose relating to the provision of those services.
- (2) The Scottish Ministers shall also have power, where they do so wholly or primarily for Scottish purposes, to provide, or to agree to provide, financial assistance to persons otherwise than under franchise agreements—
 - (a) for the purpose of securing the provision, improvement or development of railway services or railway assets; or
 - (b) for any other purpose relating to a railway or to railway services.
- (3) In subsection (2) “Scottish purposes” means any of the following—
 - (a) any purposes connected with a Scottish service or proposed Scottish service;
 - (b) the provision, improvement or development of services for the carriage of goods by railway where the services are to be or are provided wholly or partly in Scotland;
 - (c) the provision, improvement or development of facilities for use for or in connection with—

Status: This version of this provision is prospective.

Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to Railways Act 2005. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)

- (i) the carriage of goods by railway using services that are to be or are provided wholly or partly in Scotland; or
 - (ii) the loading or unloading of goods so carried or intended to be so carried.
- (4) For the purposes of this section the provision of financial assistance includes each of the following—
 - (a) the making of grants or loans;
 - (b) the giving of guarantees; and
 - (c) investments in bodies corporate.
- (5) Agreements and other arrangements entered into by the Scottish Ministers under subsection (1) or (2) may be entered into on whatever terms, and subject to whatever conditions, they consider appropriate.
- (6) In exercising their powers under this section for any purpose mentioned in subsection (1) of section 7, the Scottish Ministers must have regard to the desirability of acting consistently with anything notified to them under that section.
- (7) The power of the Scottish Ministers under subsection (2) may be exercised by their entering into an agreement or other arrangement with a relevant person in respect of services provided under a franchise agreement only where the agreement or other arrangement is entered into in accordance with that franchise agreement.
- (8) For the purposes of subsection (7) a person is a relevant person in relation to a franchise agreement if he is—
 - (a) the franchise operator;
 - (b) the franchisee; or
 - (c) an employee, agent or independent contractor of the franchise operator or of the franchisee.
- (9) In this section—
 - “facilities” includes track, rolling stock, depots, access roads and equipment;
 - “railway” has its wider meaning;
 - “Scottish service” means any service which is a Scotland-only service or a cross-border service.

Status:

This version of this provision is prospective.

Changes to legislation:

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Changes and effects yet to be applied to :

- s. 8 coming into force by [S.I. 2005/2812 art. 2\(1\)Sch. 1](#)

Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

- Blanket amendment words substituted by [S.I. 2011/1043 art. 36](#)

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 12(3)(aa) inserted by [S.I. 2018/631 Sch. para. 40\(2\)\(a\)](#)
- s. 12(3)(da) inserted by [S.I. 2018/631 Sch. para. 40\(2\)\(c\)](#)
- s. 19A inserted by [2008 c. 26 s. 74](#)
- s. 19A words substituted by [S.I. 2010/439 Sch. para. 9\(4\)\(a\)](#)
- s. 19A heading words substituted by [S.I. 2010/439 Sch. para. 9\(4\)\(b\)](#)
- s. 22(11)(aa) inserted by [S.I. 2018/631 Sch. para. 42](#) (comes into force 2.00am on the 14/10/2018)
- s. 23(9)(aa) inserted by [S.I. 2018/631 Sch. para. 43](#) (comes into force 2.00am on the 14/10/2018)
- s. 24(11)(aa) inserted by [S.I. 2018/631 Sch. para. 44\(3\)](#) (comes into force 2.00am on the 14/10/2018)
- s. 25(7)(aa) inserted by [S.I. 2018/631 Sch. para. 45](#) (comes into force 2.00am on the 14/10/2018)
- s. 29(11)(12) inserted by [S.I. 2018/631 Sch. para. 46\(3\)](#) (comes into force 2.00am on the 14/10/2018)
- s. 30(9)(10) inserted by [S.I. 2018/631 Sch. para. 47\(3\)](#) (comes into force 2.00am on the 14/10/2018)
- s. 31(10)(11) inserted by [S.I. 2018/631 Sch. para. 48\(3\)](#) (comes into force 2.00am on the 14/10/2018)
- s. 33(2)(da) inserted by [2009 c. 20 Sch. 6 para. 119](#)
- s. 34(2A)(2B) inserted by [S.I. 2018/631 Sch. para. 50](#) (comes into force 2.00am on the 14/10/2018)
- s. 35(6A)-(6C) inserted by [S.I. 2018/631 Sch. para. 51\(3\)](#) (comes into force 2.00am on the 14/10/2018)
- s. 36(1)(ba) inserted by [S.I. 2018/631 Sch. para. 52\(a\)](#) (comes into force 2.00am on the 14/10/2018)
- s. 38(2)(ba)(bb) inserted by [S.I. 2018/631 Sch. para. 53\(2\)](#) (comes into force 2.00am on the 14/10/2018)
- s. 38(2A) inserted by [S.I. 2018/631 Sch. para. 53\(3\)](#) (comes into force 2.00am on the 14/10/2018)
- s. 40(4)(c)-(e) substituted for s. 40(c) by [S.I. 2018/631 Sch. para. 54\(4\)](#) (comes into force 2.00am on the 14/10/2018)
- s. 40(4)(aa)(ab) inserted by [S.I. 2018/631 Sch. para. 54\(3\)](#) (comes into force 2.00am on the 14/10/2018)
- s. 42(1A)(1B) inserted by [S.I. 2018/631 Sch. para. 55\(2\)](#) (comes into force 2.00am on the 14/10/2018)
- s. 43(2A) inserted by [S.I. 2018/631 Sch. para. 56\(2\)](#)
- s. 43(3A) inserted by [S.I. 2018/631 Sch. para. 56\(3\)](#)

- s. 45(5)(aa) inserted by [S.I. 2018/631 Sch. para. 58\(3\)](#) (comes into force 2.00am on the 14/10/2018)
- s. 45(5A) inserted by [S.I. 2018/631 Sch. para. 58\(4\)](#) (comes into force 2.00am on the 14/10/2018)
- s. 46(5A) inserted by [S.I. 2018/631 Sch. para. 59\(2\)](#) (comes into force 2.00am on the 14/10/2018)
- s. 46(7)(c) and word added by [S.I. 2005/3050 Sch. 1 para. 5\(b\)](#)
- s. 46(9) inserted by [S.I. 2018/631 Sch. para. 59\(3\)](#) (comes into force 2.00am on the 14/10/2018)
- s. 48A inserted by [S.I. 2018/631 Sch. para. 60](#) (comes into force 2.00am on the 14/10/2018)
- s. 56(3)(d)(e) word omitted by [S.I. 2018/631 Sch. para. 62\(4\)\(b\)](#)
- s. 57(1A) inserted by [S.I. 2018/631 Sch. para. 63\(3\)](#)
- s. 59(5A) added by [S.I. 2005/3050 Sch. 1 para. 6](#)
- Sch. 3 para. 7(4) inserted by [2006 c. 49 s. 51\(1\)](#)
- Sch. 3 para. 1(5)(ba) inserted by [2013 c. 32 Sch. 12 para. 83](#)
- Sch. 3 para. 4(4A) inserted by [2013 c. 32 Sch. 12 para. 85](#)
- Sch. 5 para. 16(2)(c) and word inserted by [S.I. 2010/439 art. 5\(2\)\(b\)](#)
- Sch. 9 para. 1(2A) inserted by [S.I. 2018/631 Sch. para. 67\(b\)](#) (comes into force 2.00am on the 14/10/2018)
- Sch. 10 para. 11(3) inserted by [2010 c. 4 Sch. 1 para. 478\(2\)\(b\)](#)

Commencement Orders yet to be applied to the Railways Act 2005

Commencement Orders bringing legislation that affects this Act into force:

- [S.I. 2008/113 art. 2](#) commences (2007 c. 24)
- [S.I. 2009/107 art. 2-5](#) Sch. 1-5 Commencement Order
- [S.I. 2009/3318 art. 2-4](#) commences (2009 c. 20)
- [S.I. 2011/2329 art. 23](#) commences (2011 c. 5)