



# Railways Act 2005

## 2005 CHAPTER 14

### PART 2

#### PUBLIC SECTOR FUNDING AUTHORITIES FOR RAILWAYS

##### *Assisting and securing the provision of services*

### **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—
    - (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.

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*Status: This is the original version (as it was originally enacted).*

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- (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.