



# Railways Act 1993

## 1993 CHAPTER 43

### PART I

#### THE PROVISION OF RAILWAY SERVICES

##### *Licensing of operators of railway assets*

#### **6 Prohibition on unauthorised operators of railway assets.**

- (1) Any person who acts as the operator of a railway asset is guilty of an offence unless—
- he is authorised to be the operator of that railway asset by a licence; or
  - he is exempt, by virtue of section 7 below, from the requirement to be so authorised.

[<sup>F1</sup>(1A) This section does not apply to a person who acts as the operator of a railway asset to the extent that the asset is operated for the purpose of providing international services]

- (2) In this Part—

[<sup>F2</sup>'international licence' means a licence granted pursuant to a provision contained in subordinate legislation made for the purpose of implementing the Directive of the Council of the European Union dated 19th June 1995 on the licensing of railway undertakings or pursuant to any action taken by an EEA State for that purpose;

'international services' means services the provision of which requires an international licence;]

“operator”, in relation to any railway asset, means the person having the management of that railway asset for the time being;

“railway asset” means—

- any train being used on a network, whether for the purpose of carrying passengers or goods by railway or for any other purpose whatsoever;
- any network;
- any station; or
- any light maintenance depot.

*Status: Point in time view as at 05/07/2004.*

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- [<sup>F3</sup>(2A) In subsection (2) above “EEA State” means a State which is a Contracting Party to the Agreement on the European Economic Area signed at Oporto on 2nd May 1992 as adjusted by the Protocol signed at Brussels on 17th March 1993;]
- (3) Any person who is guilty of an offence under this section shall be liable—
- (a) on summary conviction, to a fine not exceeding the statutory maximum;
  - (b) on conviction on indictment, to a fine.
- (4) No proceedings shall be instituted in England and Wales in respect of an offence under this section except by or on behalf of the Secretary of State or [<sup>F4</sup>the Office of Rail Regulation] .

#### Textual Amendments

- F1** S. 6(1A) inserted (27.6.1998) by [S.I. 1998/1340, reg. 21\(2\)](#)
- F2** Definitions of 'international license' and "international services" in s. 6(2) inserted (27.6.1998) by [S.I. 1998/1340, reg. 21\(3\)](#)
- F3** [S. 6\(2A\)](#) inserted (27.6.1998) by [S.I. 1998/1340, reg. 21\(4\)](#)
- F4** Words in [s. 6\(4\)](#) substituted (5.7.2004) by [Railways and Transport Safety Act 2003 \(c. 20\), ss. 16, 120, {Sch. 2 para. 3\(a\) Table}; S.I. 2004/827, art. 4\(g\)](#)

#### Modifications etc. (not altering text)

- C1** S. 6(1) excluded (18.12.1996) by [1996 c. 61, s. 16\(1\)](#)

#### Commencement Information

- II** S. 6 wholly in force at 1.4.1994; s. 6 not in force at Royal Assent see s. 154(2); s. 6(2) in force at 6.1.1994 by [S.I. 1993/3237, art. 2\(2\)](#), s. 6 in force at 1.4.1994 insofar as not already in force by [S.I. 1994/571, art. 5](#)

## 7 Exemptions from section 6.

- (1) The Secretary of State may, after consultation with [<sup>F5</sup>the Office of Rail Regulation][<sup>F6</sup>and the Authority], by order grant exemption from the requirement to be authorised by licence to be the operator of such railway assets, or of railway assets of such a class or description, as may be specified in the order, but subject to compliance with such conditions (if any) as may be so specified.
- (2) A licence exemption under subsection (1) above may be granted either—
- (a) to persons of a particular class or description; or
  - (b) to a particular person;
- and a licence exemption granted to persons of a particular class or description shall be published in such manner as the Secretary of State considers appropriate for bringing it to the attention of persons of that class or description.
- (3) If any person makes an application under this subsection to [<sup>F5</sup>the Office of Rail Regulation] for the grant of an exemption from the requirement to be authorised by licence to be the operator of such railway assets, or of railway assets of such a class or description, as he may specify in the application, [<sup>F5</sup>the Office of Rail Regulation] , after consultation with the Secretary of State [<sup>F6</sup>and the Authority]—
- (a) may either grant or refuse the exemption, whether wholly or to such extent as [<sup>F7</sup>it] may specify in the exemption; and

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- (b) if and to the extent that [F7:it] grants [F8:the exemption] , may do so subject to compliance with such conditions (if any) as [F7:it] may so specify.
- (4) Before granting a licence exemption under subsection (3) above, [F5:the Office of Rail Regulation] shall give notice—
- (a) stating that [F7:it] proposes to grant the licence exemption,
  - (b) stating the reasons why [F7:it] proposes to grant the licence exemption; and
  - (c) specifying the time (not being less than 28 days from the date of publication of the notice) within which representations or objections with respect to the proposed licence exemption may be made,
- and shall consider any representations or objections which are duly made and not withdrawn.
- (5) A notice under subsection (4) above shall be given by publishing the notice in such manner as [F5:the Office of Rail Regulation] considers appropriate for bringing it to the attention of persons likely to be affected by the grant of the licence exemption.
- [F9:(5A) [F5:the Office of Rail Regulation] shall obtain the approval of the Authority to any condition of a licence exemption which relates to consumer protection; but a failure to comply with this subsection shall not affect the validity of the licence exemption.]
- (6) If any condition (the “broken condition”) of a licence exemption is not complied with—
- (a) the Secretary of State, in the case of a licence exemption under subsection (1) above, or
  - (b) [F5:the Office of Rail Regulation], in the case of a licence exemption under subsection (3) above,
- may give to any relevant person a direction declaring that the licence exemption is revoked, so far as relating to that person, to such extent and as from such date as may be specified in the direction.
- [F10:(6A) If the broken condition relates to consumer protection, the Authority may require [F5:the Office of Rail Regulation] to give to any relevant person specified by the Authority a direction declaring that the licence exemption is revoked, so far as relating to that person, to such extent and from such date as is specified by the Authority.]
- (7) For the purposes of [F11:this section]—
- “condition”, in relation to a licence exemption, means any condition subject to compliance with which the licence exemption was granted;
- “relevant person”, in the case of any licence exemption, means a person who has the benefit of the licence exemption and who—
- (a) is a person who failed to comply with the broken condition or with respect to whom the broken condition is not complied with; or
  - (b) is the operator of any of the railway assets in relation to which the broken condition is not complied with.
- (8) Where the Secretary of State or [F5:the Office of Rail Regulation] gives a direction under subsection (6) above to any person, he [F12:or it] may also direct that person to refrain from being the operator of any railway assets or of such railway assets, or railway assets of such a class or description, as may be specified in the direction by virtue of this subsection.

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<sup>F13</sup>(8A) The Authority may require <sup>F5</sup>[the Office of Rail Regulation] , when <sup>F7</sup>[it] gives a direction to any person in compliance with a requirement under subsection (6A) above, also to direct that person to refrain from being the operator of any railway assets, any railway assets specified by the Authority or any railway assets of a class or description so specified.]

(9) Subject to <sup>F14</sup>[subsections (6) and (6A)] above, a licence exemption, unless previously revoked in accordance with any term contained in the licence exemption, shall continue in force for such period as may be specified in, or determined by or under, the licence exemption.

<sup>F15</sup>(10) .....

(11) Any application for a licence exemption under subsection (3) above must be made in writing; and where any such application is made, <sup>F5</sup>[the Office of Rail Regulation] may require the applicant to furnish him with such information as <sup>F5</sup>[the Office of Rail Regulation] may consider necessary to enable <sup>F7</sup>[it] to decide whether to grant or refuse the licence exemption.

(12) Licence exemptions may make different provision, or be granted subject to compliance with different conditions, for different cases.

(13) In this Part “licence exemption” means an exemption, granted under any provision of this section in respect of a railway asset or in respect of railway assets of any class or description, from the requirement to be authorised by licence to be the operator of that railway asset or, as the case may be, railway assets of that class or description.

#### Textual Amendments

- F5** Words in s. 7 substituted (5.7.2004) by Railways and Transport Safety Act 2003 (c. 20), ss. 16, 120, {Sch. 2 para. 3(a) Table}; S.I. 2004/827, **art. 4(g)**
- F6** Words in s. 7(1)(3) inserted (1.2.2001) by 2000 c. 38, s. 216, **Sch. 17 para. 2(2)(3)** (with Sch. 28 paras. 2(5), 17); S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I** (subject to savings and transitional provisions in Sch. 2 Pt. II)
- F7** Words in s. 7 substituted (5.7.2004) by Railways and Transport Safety Act 2003 (c. 20), ss. 16, 120, {Sch. 2 para. 3(b) Table}; S.I. 2004/827, **art. 4(g)**
- F8** Words in s. 7(3)(b) substituted (5.7.2004) by Railways and Transport Safety Act 2003 (c. 20), ss. 16, 120, **Sch. 2 para. 4(a)**; S.I. 2004/827, **art. 4(g)**
- F9** S. 7(5A) inserted (1.2.2001) by 2000 c. 38, s. 216, **Sch. 17 para. 2(4)** (with Sch. 28 paras. 2(5), 17); S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I** (subject to savings and transitional provisions in Sch. 2 Pt. II)
- F10** S. 7(6A) inserted (1.2.2001) by 2000 c. 38, s. 216, **Sch. 17 para. 2(5)** (with Sch. 28 paras. 2(5), 17); S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I** (subject to savings and transitional provisions in Sch. 2 Pt. II)
- F11** Words in s. 7(7) substituted (1.2.2001) by 2000 c. 38, s. 216, **Sch. 17 para. 2(6)** (with Sch. 28 paras. 2(5), 17); S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I** (subject to savings and transitional provisions in Sch. 2 Pt. II)
- F12** Words in s. 7(8) inserted (5.7.2004) by Railways and Transport Safety Act 2003 (c. 20), ss. 16, 120, **Sch. 2 para. 4(b)**; S.I. 2004/827, **art. 4(g)**
- F13** S. 7(8A) inserted (1.2.2001) by 2000 c. 38, s. 216, **Sch. 17 para. 2(7)** (with Sch. 28 paras. 2(5), 17); S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I** (subject to savings and transitional provisions in Sch. 2 Pt. II)
- F14** Words in s. 7(9) substituted (1.2.2001) by 2000 c. 38, s. 216, **Sch. 17 para. 2(8)** (with Sch. 28 paras. 2(5), 17); S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I** (subject to savings and transitional provisions in Sch. 2 Pt. II)

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**F15** S. 7(10) repealed (15.1.2001) by 2000 c. 38, s. 274, **Sch. 31 Pt. IV** and omitted (1.2.2001) by virtue of 2000 c. 38, s. 252, **Sch. 27 para. 18**; S.I. 2000/3376, **art. 2**; S.I. 2001/57, **art. 3**, **Sch. 2** (subject to savings and transitional provisions in **Sch. 2 Pt. II**)

**Modifications etc. (not altering text)**

**C2** S. 7(1) restricted (*prosp.*) by 1999 c. 29, ss. 199(1)(a)(2)(3), 425(2) (with **Sch. 12 para. 9(1)**)

[<sup>F16</sup>7A **Consumer protection conditions.**

- (1) For the purposes of this Part conditions of a licence or licence exemption relate to consumer protection if they are—
  - (a) conditions about fares, other than conditions about predatory fare pricing;
  - (b) conditions about complaints against the operator by members of the public or liabilities of the operator to members of the public;
  - (c) conditions about insurance;
  - (d) conditions about policing or security;
  - (e) conditions for facilitating the use of railway services by members of the public (for instance, conditions about timetable information, enquiries, sale of tickets, through ticketing and conditions of carriage);
  - (f) conditions about liaison with the Rail Passengers' Council or Rail Passengers' Committees; or
  - (g) conditions for protecting the interests of persons who are disabled.
- (2) The Secretary of State may make regulations providing that for the purposes of this Part—
  - (a) further prescribed descriptions of conditions of licences or licence exemptions are conditions which relate to consumer protection; or
  - (b) conditions of any description within subsection (1) above are not conditions which so relate.
- (3) Only conditions for protecting the interests of the public may be prescribed under subsection (2)(a) above and conditions of the following descriptions may not be so prescribed—
  - (a) conditions about technical standards or procedures (including safety standards or procedures);
  - (b) conditions about the protection of the environment;
  - (c) conditions about responsibility for, or access to, the railway assets to which the licence or licence exemption relates;
  - (d) conditions relating to the development, improvement or maintenance of the network; and
  - (e) conditions about anti-competitive practices (including predatory fare pricing and cross-subsidy), investment, financial standards or auditing (including efficiency audits).
- (4) The Secretary of State may make in relation to any licence or licence exemption granted before the coming into force of regulations under subsection (2) above a scheme making such provision as appears to him to be appropriate in consequence of the provision made by the regulations.
- (5) A scheme under subsection (4) above may include modifications of—
  - (a) the licence or licence exemption, and

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- (b) any agreements or other arrangements or other documents relating to the person (or any of the persons) to whom it was granted,  
(in particular so that references to <sup>F17</sup>the Office of Rail Regulation] have effect as references to the Authority or that references to the Authority have effect as references to <sup>F17</sup>the Office of Rail Regulation]).
- (6) The scheme may include provision—
- (a) for things done by <sup>F17</sup>the Office of Rail Regulation] before the time when the scheme comes into force to be treated after that time as if done by the Authority; or
- (b) for things done by the Authority before the time when the scheme comes into force to be treated after that time as if done by <sup>F17</sup>the Office of Rail Regulation] .
- (7) Before making a scheme under subsection (4) above the Secretary of State must consult—
- (a) the Authority;
- (b) <sup>F17</sup>the Office of Rail Regulation];
- (c) the person or persons to whom the licence or licence exemption was granted; and
- (d) any such other persons as the Secretary of State considers appropriate.
- (8) The provision made by regulations under subsection (2) above applies in relation to any licence or licence exemption granted before the coming into force of the regulations only from the coming into force of a scheme made under subsection (4) above in relation to the licence or licence exemption.
- (9) In the case of the exercise by the Authority of any function in relation to conditions of a licence or licence exemption which relate to consumer protection—
- (a) section 207 of the Transport Act 2000 shall not apply; but
- (b) section 4 above shall apply (as if the Authority were <sup>F17</sup>the Office of Rail Regulation] ).]

#### Textual Amendments

- F16** S. 7A inserted (1.2.2001) by 2000 c. 38, s. 216, **Sch. 17 para. 3** (with **Sch. 28 paras. 2(5), 17**); S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I** (subject to savings and transitional provisions in **Sch. 2 Pt. II**)
- F17** Words in s. 7A substituted (5.7.2004) by **Railways and Transport Safety Act 2003 (c. 20)**, 22. 16, 120, {Sch. 2 para. 3(a) Table}; S.I. 2004/827, **art. 4(g)**

## 8 Licences.

- (1) Subject to the following provisions of this section—
- (a) the Secretary of State after consultation with <sup>F18</sup>the Office of Rail Regulation][<sup>F19</sup>and the Authority], or
- (b) <sup>F18</sup>the Office of Rail Regulation] with the consent <sup>F20</sup>, or in accordance with a general authority, of the Secretary of State given after consultation with the Authority,]

may grant to any person a licence authorising the person to be the operator of such railway assets, or of railway assets of such a class or description, as may be specified in the licence.

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- (2) Any general authority given to [F18the Office of Rail Regulation] under subsection (1) (b) above
- [F21(a) shall include a requirement for [F18the Office of Rail Regulation] before granting a licence to consult the Authority about, or a requirement for [F22it] before doing so to obtain the approval of the Authority to, any conditions to be included in the licence which relate to consumer protection; and
- (b) may include a requirement for [F18the Office of Rail Regulation] either to consult the Secretary of State, or a requirement to obtain his approval before granting a licence;
- but a failure to comply with such a requirement shall not affect the validity of the licence.]
- (3) Any application for a licence—
- (a) shall be made in the prescribed manner;
- (b) shall be accompanied by such fee (if any) as may be prescribed in the case of a licence of the description in question; and
- (c) shall, if the Secretary of State so requires, be published by the applicant in the prescribed manner and within such period as may be notified to the applicant by the Secretary of State;
- and, on any such application, the Secretary of State or, as the case may be, [F18the Office of Rail Regulation] may either grant or refuse the licence.
- (4) Before granting a licence, the Secretary of State or [F18the Office of Rail Regulation] shall give notice—
- (a) stating that he [F23or it] proposes to grant the licence,
- (b) stating the reasons why he [F23or it] proposes to grant the licence, and
- (c) specifying the time (not being less than 28 days from the date of publication of the notice) within which representations or objections with respect to the proposed licence may be made,
- and shall consider any representations or objections which are duly made and not withdrawn.
- (5) A notice under subsection (4) above shall be given by publishing the notice in such manner as the Secretary of State or [F18the Office of Rail Regulation] considers appropriate for bringing it to the attention of persons likely to be affected by the grant of the licence.
- (6) A licence shall be in writing and, unless previously revoked or surrendered in accordance with any terms contained in the licence, shall continue in force for such period as may be specified in or determined by or under the licence; and a licence shall not be capable of being surrendered [F24unless [F18the Office of Rail Regulation] and the Authority consent to the surrender] if it is—
- (a) a passenger licence;
- (b) a network licence;
- (c) a station licence; or
- (d) a light maintenance depot licence.
- (7) As soon as practicable after the granting of a licence, the grantor shall send a copy—
- (a) in the case of a licence granted by the Secretary of State, to [F18the Office of Rail Regulation][F25, to the Authority] and to the Health and Safety Executive;
- or

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- (b) in the case of a licence granted by the [<sup>F18</sup>the Office of Rail Regulation] , [<sup>F25</sup>to the Authority and] to the Health and Safety Executive.
- (8) Any power to make regulations by virtue of subsection (3) above shall only be exercisable by the Secretary of State after consultation with [<sup>F18</sup>the Office of Rail Regulation] and the [<sup>F26</sup>Authority].
- (9) Different fees may be prescribed under subsection (3) above in respect of licences authorising a person to be the operator of railway assets of different classes or descriptions.
- <sup>F27</sup>(10) . . . . .
- (11) Any sums received by the Secretary of State or [<sup>F18</sup>the Office of Rail Regulation] under this section shall be paid into the Consolidated Fund.

#### Textual Amendments

- F18** Words in s. 8 substituted (5.7.2004) by Railways and Transport Safety Act 2003 (c. 20), ss. 16, 120, {Sch. 2 para. 3(a) Table}; S.I. 2004/827, art. 4(g)
- F19** Words in s. 8(1)(a) inserted (1.2.2001) by 2000 c. 38, s. 216, Sch. 17 para. 4(2)(a) (with Sch. 28 paras. 2(5), 17); S.I. 2001/57, art. 3(1), Sch. 2 Pt. I (subject to savings and transitional provisions in Sch. 2 Pt. II)
- F20** Words in s. 8(1)(b) substituted (1.2.2001) by 2000 c. 38, s. 216, Sch. 17 para. 4(2)(b) (with Sch. 28 paras. 2(5), 17); S.I. 2001/57, art. 3(1), Sch. 2 Pt. I (subject to savings and transitional provisions in Sch. 2 Pt. II)
- F21** S. 8(2)(a)(b) and words substituted for words (1.2.2001) by 2000 c. 38, s. 216, Sch. 17 para. 4(3) (with Sch. 28 paras. 2(5), 17); S.I. 2001/57, art. 3(1), Sch. 2 Pt. I (subject to savings and transitional provisions in Sch. 2 Pt. II)
- F22** Word in s. 8 substituted (5.7.2004) by Railways and Transport Safety Act 2003 (c. 20), ss. 16, 120, {Sch. 2 para. 3(b) Table}; S.I. 2004/827, art. 4(g)
- F23** Words in s. 8(4)(a)(b) inserted (5.7.2004) by Railways and Transport Safety Act 2003 (c. 20), ss. 16, 120, Sch. 2 para. 5; S.I. 2004/827, art. 4(g)
- F24** Words in s. 8(6) substituted (1.2.2001) by 2000 c. 38, s. 216, Sch. 17 para. 4(4) (with Sch. 28 paras. 2(5), 17); S.I. 2001/57, art. 3(1), Sch. 2 Pt. I (subject to savings and transitional provisions in Sch. 2 Pt. II)
- F25** Words in s. 8(7) inserted (1.2.2001) by 2000 c. 38, s. 216, Sch. 17 para. 4(5) (with Sch. 28 paras. 2(5), 17); S.I. 2001/57, art. 3(1), Sch. 2 Pt. I (subject to savings and transitional provisions in Sch. 2 Pt. II)
- F26** Words in s. 8(8) substituted (1.2.2001) by 2000 c. 38, s. 215, Sch. 16, para. 10; S.I. 2001/57, art. 3(1), Sch. 2 Pt. I (subject to savings and transitional provisions in Sch. 2 Pt. II) (which S.I. was amended by S.I. 2001/115, art. 2(2))
- F27** S. 8(10) repealed (1.2.2001) by 2000 c. 38, s. 274, Sch. 31 Pt. IV; S.I. 2001/57, art. 3(1), Sch. 2 Pt. I (subject to savings and transitional provisions in Sch. 2 Pt. II)

#### Modifications etc. (not altering text)

- C3** S. 8 restricted (18.12.1996) by 1996 c. 61, s. 16(3)

## 9 Conditions of licences: general.

- (1) A licence may include—
- (a) such conditions (whether or not relating to the licence holder's being the operator of railway assets under the authorisation of the licence) as appear to



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the grantor to be requisite or expedient having regard to the duties imposed by section 4 above; and

- (b) conditions requiring the rendering to—
- (i) the Secretary of State,
  - (ii) <sup>F28</sup>the Office of Rail Regulation], or
  - (iii) any other person, or any other person of a class or description, specified in the licence, except a Minister of the Crown or Government department,

of a payment on the grant of the licence, or payments during the currency of the licence, or both, of such amount or amounts as may be determined by or under the licence.

- (2) Conditions included in a licence by virtue of subsection (1)(a) above—
- (a) may require the licence holder to enter into any agreement with any person for such purposes as may be specified in the conditions; and
  - (b) may include provision for determining the terms on which such agreements are to be entered into.
- (3) Conditions included in a licence by virtue of subsection (1)(a) above may require the licence holder—
- (a) to comply with any requirements from time to time imposed by a qualified person with respect to such matters as are specified in the licence or are of a description so specified;
  - (b) except in so far as a qualified person consents to his doing or not doing them, not to do or to do such things as are specified in the licence or are of a description so specified;
  - (c) to refer for determination by a qualified person such questions arising under the licence as are specified in the licence or are of a description so specified;
  - (d) to refer for approval by a qualified person such things falling to be done under the licence as are specified in the licence or are of a description so specified;
  - (e) to furnish to a qualified person such documents or other information as he may require for the purpose of exercising any functions conferred or imposed on him under or by virtue of the licence;
  - (f) to furnish to the Secretary of State or <sup>F28</sup>the Office of Rail Regulation] such documents or other information as he <sup>F29</sup>or it] may require for the purpose of exercising the functions assigned or transferred to him <sup>F29</sup>or it] under or by virtue of this Part.

<sup>F30</sup>(3A) Conditions included in a licence by virtue of subsection (1)(a) above may include provision about any matter which is dealt with (whether in the same or a different manner) by an access agreement.]

- (4) Conditions included in a licence may contain provision for the conditions to cease to have effect or be modified at such times, in such manner and in such circumstances as may be specified in or determined by or under the conditions; and any provision included by virtue of this subsection in a licence shall have effect in addition to the provision made by this Part with respect to the modification of the conditions of a licence.
- (5) Subsections (2) to (4) above are without prejudice to the generality of subsection (1) (a) above.
- (6) Any reference in subsection (3) above to a “qualified person” is a reference to—

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- (a) a person specified in the licence in question for the purpose in question, or
  - (b) a person of a description so specified,
- and includes a reference to a person nominated for that purpose by such a person pursuant to the licence.
- (7) Any sums received by the Secretary of State or the [<sup>F28</sup>the Office of Rail Regulation] in consequence of the provisions of any condition of a licence shall be paid into the Consolidated Fund.

#### Textual Amendments

- F28** Words in s. 9 substituted (5.7.2004) by Railways and Transport Safety Act 2003 (c. 20), ss. 16, 120, {Sch. 2 para. 3(a) Table}; S.I. 2004/827, art. 4(g)
- F29** Words in s. 9 inserted (5.7.2004) by Railways and Transport Safety Act 2003 (c. 20), ss. 16, 120, Sch. 2 para. 6; S.I. 2004/827, art. 4(g)
- F30** S. 9(3A) inserted (1.2.2001) by 2000 c. 38, s. 252, Sch. 27 para. 19; S.I. 2001/57, art. 3(1), Sch. 2 Pt. I (subject to savings and transitional provisions in Sch. 2 Pt. II)

## 10 Conditions of licences: activities carried on by virtue of a licence exemption.

- (1) If and so long as a person is a licence exempt operator—
- (a) there shall not be included in any licence granted to him any condition which relates to his licence exempt activities, except to the extent permitted by virtue of subsection (2) below; and
  - (b) any such condition which is included in a licence which has been granted to him shall, except to that extent, be of no effect so far as so relating.
- (2) A condition which relates to both—
- (a) a licensed activity carried on by a person (“the licensee”), and
  - (b) a licence exempt activity carried on by him,
- may be included in a licence, but only if and to the extent that, in the opinion of the person granting the licence, the condition must, in consequence of the licensee’s carrying on of a mixed activity, necessarily have effect in relation to the whole, or some part, of so much of the mixed activity as consists of the licence exempt activity if the condition is to have full effect in relation to so much of the mixed activity as consists of the licensed activity.
- (3) There shall not be included in a licence any condition relating to the fares that may be charged in respect of train journeys involving licence exempt travel, other than train journeys which also involve—
- (a) licensed travel; and
  - (b) at least two consecutive scheduled calls at stations during any one continuous spell of licensed operation.
- (4) For the purposes of subsection (3) above and this subsection—
- “call” means any stop at a station for the purpose of allowing passengers to board or leave the train (including the stops at the stations at the beginning and end of the train journey in question);
- “licence exempt travel” means travel by means of a train whose operator is, by virtue of a licence exemption, exempt from the requirement to be

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authorised by licence to be the operator of that train for the whole, or for some part, of the train journey in question;

“licensed travel” means travel by means of a train whose operator is authorised by licence to be the operator of that train for some part of the train journey in question;

“spell of licensed operation”, in the case of any train journey, means any part of the journey throughout which the operator of the train in question lawfully acts as such by virtue only of holding one or more licences;

“train journey” means a journey between any two stations which is scheduled to be made by means of one train (irrespective of where the train in question begins or ends its journey).

(5) Subsection (3) above has effect notwithstanding anything in subsection (1) or (2) above; and section 9 above is subject to the provisions of this section.

(6) In this section—

“licence exempt activity” means any activity which a person carries on in his capacity as a licence exempt operator;

“licence exempt operator” means an operator of railway assets, or railway assets of a class or description, who is, by virtue of a licence exemption, exempt from the requirement to be authorised by licence to be the operator of those railway assets or of railway assets of that class or description;

“licensed activity” means any activity which a person carries on in his capacity as a licence holder;

“mixed activity” means any activity which is carried on by a person who is both a licence holder and a licence exempt operator and which is carried on by him in part as a licensed activity and in part as a licence exempt activity.

## 11 Assignment of licences.

(1) A licence shall be capable of being assigned, but only if it includes a condition authorising assignment.

(2) A licence shall not be capable of being assigned except with the consent of—

- [<sup>F31</sup>(a) the Secretary of State, if he is specified for the purpose in the licence; or
- (b) [<sup>F32</sup>the Office of Rail Regulation] and the Authority, in any other case.]

<sup>F33</sup>(3) .....

(4) Any consent under subsection (2) above may be given subject to compliance with such conditions as [<sup>F34</sup>are imposed by the person or persons giving the consent], which may include conditions modifying, or requiring or otherwise providing for the making of modifications to, the conditions of the licence.

(5) A licence may include conditions which must be complied with before the licence can be assigned.

(6) An assignment, or purported assignment, of a licence shall be void—

- (a) if the licence is not capable of assignment;
- (b) if the assignment, or purported assignment, is in breach of a condition of the licence; or

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- (c) if there has, before the assignment or purported assignment, been a contravention of a condition subject to compliance with which the consent required by subsection (2) above is given.
- (7) A licence shall not be capable of being assigned under or by virtue of any other provision of this Act, other than paragraph 4 of Schedule 7 to this Act.
- (8) In this section “assignment” includes any form of transfer and cognate expressions shall be construed accordingly.
- (9) Any reference in this section to “assignment” shall be construed in Scotland as a reference to assignment.

#### Textual Amendments

- F31** S. 11(2)(a)(b) substituted for words (1.2.2001) by 2000 c. 38, s. 216, **Sch. 17 para. 5(2)** (with **Sch. 28 paras. 2(5), 17**); S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I** (subject to savings and transitional provisions in **Sch. 2 Pt. II**)
- F32** Words in s. 11 substituted (5.7.2004) by **Railways and Transport Safety Act 2003 (c. 20)**, ss. 16, 120, {Sch. 2 para. 3(a) Table}; S.I. 2004/827, **art. 4(g)**
- F33** S. 11(3) repealed (1.2.2001) by 2000 c. 38, ss. 216, 274, **Sch. 17 para. 5(3)**, **Sch. 31 Pt. IV** (with **Sch. 28 paras. 2(5), 17**); S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I** (subject to savings and transitional provisions in **Sch. 2 Pt. II**)
- F34** Words in s. 11(4) substituted (1.2.2001) by 2000 c. 38, s. 216, **Sch. 17 para. 5(4)** (with **Sch. 28 paras. 2(5), 17**); S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I** (subject to savings and transitional provisions in **Sch. 2 Pt. II**)

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