



# Railways Act 1993

## 1993 CHAPTER 43

### PART II

#### RE-ORGANISATION OF THE RAILWAYS

##### *Finances of successor companies*

#### **102 Temporary restrictions on borrowings etc**

- (1) If articles of association of a successor company confer on the Secretary of State powers exercisable with the consent of the Treasury for, or in connection with, restricting the sums of money which may be borrowed or raised by the group during any period, those powers shall be exercisable in the national interest notwithstanding any rule of law and the provisions of any enactment.
- (2) For the purposes of this section an alteration of the articles of association of a successor company shall be disregarded if the alteration—
  - (a) has the effect of conferring or extending any such power as is mentioned in subsection (1) above; and
  - (b) is made at a time when that company is neither a wholly owned subsidiary of the Board nor wholly owned by the Crown.
- (3) In this section “group”, in relation to a company, means that company and all of its subsidiaries taken together.

#### **103 Government lending to certain successor companies**

- (1) The Secretary of State may, with the approval of the Treasury, make loans of such amounts as he thinks fit to any successor company which is for the time being wholly owned by the Crown.
- (2) Any loans which the Secretary of State makes under this section shall be repaid to him at such times and by such methods, and interest on any such loans shall be paid

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to him at such rates and at such times, as he may, with the approval of the Treasury, from time to time direct.

- (3) The Treasury may issue out of the National Loans Fund to the Secretary of State such sums as are required by him for making loans under this section.
- (4) Any sums received under subsection (2) above by the Secretary of State shall be paid into the National Loans Fund.
- (5) It shall be the duty of the Secretary of State as respects each financial year—
  - (a) to prepare, in such form as the Treasury may direct, an account of sums issued to him in pursuance of subsection (3) above and of sums received by him under subsection (2) above and of the disposal by him of the sums so issued or received; and
  - (b) to send the account to the Comptroller and Auditor General not later than the end of the month of August in the following financial year;and the Comptroller and Auditor General shall examine, certify and report on the account and shall lay copies of it and of his report before each House of Parliament.

#### **104 Treasury guarantees for loans made to certain successor companies**

- (1) The Treasury may guarantee, in such manner and on such terms as they may think fit, the repayment of the principal of, the payment of interest on, and the discharge of any other financial obligation in connection with, any sums which are borrowed from a person other than the Secretary of State by any successor company which is for the time being wholly owned by the Crown.
- (2) Immediately after a guarantee is given under this section, the Treasury shall lay a statement of the guarantee before each House of Parliament; and immediately after any sum is issued for fulfilling a guarantee so given, the Treasury shall so lay a statement relating to that sum.
- (3) Any sums required by the Treasury for fulfilling a guarantee under this section shall be charged on and issued out of the Consolidated Fund.
- (4) If any sums are issued in fulfilment of a guarantee given under this section, the company whose obligations are so fulfilled shall make to the Treasury, at such times and in such manner as the Treasury may from time to time direct—
  - (a) payments of such amounts as the Treasury may so direct in or towards repayment of the sums so issued; and
  - (b) payments of interest on what is outstanding for the time being in respect of sums so issued at such rate as the Treasury may so direct.
- (5) Any sums received under subsection (4) above by the Treasury shall be paid into the Consolidated Fund.

#### **105 Grants to certain successor companies**

- (1) The Secretary of State may, with the approval of the Treasury, make to any successor company which is for the time being wholly owned by the Crown grants of such amounts, at such times and in such manner, as he may with the approval of the Treasury determine, towards the expenditure of that company.

- (2) Grants under this section may be made subject to such conditions as the Secretary of State with the approval of the Treasury may determine.
- (3) Any sums required by the Secretary of State for making grants under this section shall be paid out of money provided by Parliament.

#### **106 Extinguishment of certain liabilities of successor companies**

- (1) The Secretary of State may by order extinguish all or any of the liabilities of a successor company which is for the time being—
  - (a) a wholly owned subsidiary of the Board, or
  - (b) wholly owned by the Crown,in respect of the principal of such relevant loans as may be specified in the order; and the assets of the National Loans Fund shall accordingly be reduced by amounts corresponding to any liabilities so extinguished.
- (2) Where the Secretary of State has made an order under subsection (1) above and he considers it appropriate to do so, he may from time to time give a direction under this subsection to the company whose liabilities are extinguished by the order, or to a company or companies wholly owning the company whose liabilities are so extinguished; and a company to which such a direction is given shall, as a consequence of the making of the order, issue such securities of the company as may be specified or described in the direction—
  - (a) to the Treasury or the Secretary of State; or
  - (b) if it is the company whose liabilities are extinguished by the order, to a company or companies wholly owning that company.
- (3) For the purposes of any statutory accounts of a company to whom securities are issued by virtue of subsection (2)(b) above, the value at the time of its issue of any such security shall be taken—
  - (a) in the case of a share, to have been equal to its nominal value; and
  - (b) in the case of a debenture, to have been equal to the principal sum payable under the debenture,and such nominal value or principal sum shall be taken in those accounts to be accumulated realised profits.
- (4) In subsection (3) above “statutory accounts of a company” means any accounts prepared by the company for the purpose of any provision of the Companies Act 1985 (including group accounts).
- (5) The Secretary of State—
  - (a) shall not give a direction under subsection (2) above for the issue of securities except at a time when the company whose liability is extinguished by the order or, as the case may be, the company which is directed to issue securities satisfies the condition in subsection (6) below; and
  - (b) shall not give a direction under paragraph (b) of subsection (2) above except at a time when the company, or each of the companies, to whom the securities are to be issued satisfies that condition.
- (6) The condition referred to in subsection (5) above is that the company is for the time being—
  - (a) a wholly owned subsidiary of the Board; or

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- (b) wholly owned by the Crown.
- (7) Unless the Secretary of State otherwise determines in any particular case, where a company is directed to issue debentures in pursuance of this section—
- (a) the aggregate of the principal sums payable under the debentures to which the direction relates shall be equal to the aggregate of the sums the liability to repay which is extinguished by the order; and
  - (b) the terms as to the payment of the principal sums payable on the debentures to which the direction relates, and as to the payment of interest on those principal sums, shall be the same as the corresponding terms of the loans specified in the order.
- (8) For the purposes of subsection (7) above, any express or implied terms of a loan shall be disregarded in so far as they relate to the early discharge of liabilities to make repayments of principal and payments of interest.
- (9) Subsections (5) to (7) of section 98 above shall apply for the purposes of this section as they apply for the purposes of that section.
- (10) The Secretary of State shall not exercise any power conferred on him by this section except with the consent of the Treasury.
- (11) In this section “relevant loan”, in relation to a successor company, means any loan made to the Board under section 20 of the Transport Act 1962, if and to the extent that the liability to repay that loan is transferred to and vested in that company by virtue of a transfer scheme.
- (12) For the purposes of this section the company or companies wholly owning another company are—
- (a) any company of which that other is a wholly owned subsidiary, or
  - (b) any two or more companies which between them hold all the issued securities of that other.