RAILWAYS ACT 2005

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EXPLANATORY NOTES

COMMENTARY ON SECTIONS AND SCHEDULES

Part 2: Public Sector Funding Authorities for Railways

Assisting and securing the provision of services

Section 6: Financial assistance etc. from the Secretary of State

47. *Section* 6 provides a power for the Secretary of State to give financial assistance for any railway purpose. The assistance may take the form of grants, loans, guarantees or investments, and may be subject to such terms and conditions as the Secretary of State thinks fit. For the purposes of section 6 the term railway is deemed to have its "wider meaning". This term is defined by section 81(2) of the 1993 Act and covers a railway, tramway or transport system which uses another mode of guided transport but which is not a trolley vehicle system. The terms "guided transport", "railway", "tramway" and "trolley vehicle system" are defined by section 67(1) of the Transport and Works Act 1992.

48. This section is similar to section 211 of the Transport Act 2000 (which is repealed by section 58 of and Schedule 13 to the Act) which enables the Strategic Rail Authority to provide financial assistance for railway purposes. It is intended that the Secretary of State's power will be used in particular:

- to provide financial support to train operators under franchise agreements; and

- to provide financial support to Network Rail for the provision of rail infrastructure.

Where the support is in respect of services operated under a franchise agreement, it may only be given in accordance with the terms of that franchise agreement. The purpose of this provision is to ensure transparency, so that the provisions of a franchise agreement, which have to be published on a public register, under section 73 of the 1993 Act, cannot be amended by a private side agreement.

49. The section also replaces a power in section 17 of the Ministry of Transport Act 1919 which covers some of the same subject matter as this section and is superseded by it.