

RAILWAYS ACT 2005

EXPLANATORY NOTES

COMMENTARY ON SECTIONS AND SCHEDULES

Part 6: General and Supplemental

General

Section 53: Taxation

174. *Section 53*, together with *Schedule 10*, makes provision for the consequences for taxation of the various transfers under the transfer schemes for which the Act provides.

Section 54: Further amendments of the 1993 Act

175. *Section 54(1)* extends the scope of the Secretary of State's powers under sections 118 and 119 of the 1993 Act. It amends the 1993 Act so that for the purposes of those sections, 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. Section 118 provides a power for the Secretary of State to give directions in relation to the control of railways in times of hostilities, severe international tension or great national emergency. Section 119 provides a power to the Secretary of State to give instructions to owners and operators of railway assets and providers of railway services for the purposes of ensuring that relevant assets, or persons or property on or in such assets, are protected against acts of violence.
176. *Section 54(2)* and (3) limit this power in relation to Scotland. In respect of an asset wholly in Scotland, the "wider meaning" of railways does not apply except where the Secretary of State's instruction is given in the interests of national security (including protection against terrorism).

Supplemental

Section 55: Expenses etc.

177. *Section 55* makes provision for money to be provided by Parliament to meet costs attributable to the Act. It also provides that sums received by the Secretary of State in relation to:
- section 6, which provides for financial assistance from the Secretary of State in relation to securing railway services or assets,
 - section 10(5), which allows the NAW to make payments to the Secretary of State in relation to the provision of services by operator of last resort;

*These notes refer to the Railways Act 2005 (c.14)
which received Royal Assent on 7 April 2005*

- section 13(2), which allows Passenger Transport Executives and the Secretary of State to enter into arrangements, including arrangements under which payments will be made by the Executive to the Secretary of State, and
- paragraph 7 of Schedule 5, which allows the Secretary of State to give a direction to the RPC requiring it to pay him a specified sum, will be paid into the Consolidated Fund.

Section 56: Powers exercisable by statutory instrument

178. *Section 56* governs the manner in which the Secretary of State and the Scottish Ministers must exercise their powers under the Act to make orders and regulations. Where a section in the Act creates a power to make orders and regulations, the section may also provide that the statutory instrument containing the order or regulation in question is subject to the negative resolution procedure or to the affirmative resolution procedure. Section 56(2) and (3) explain what these procedures involve. The different procedures involve different levels of Parliamentary scrutiny for the statutory instrument.
179. Subsection (5) provides that most of the powers to make statutory instruments can be exercised flexibly, so that (for example) powers can make provision for different approaches to be taken in relation to different cases or different areas. This flexibility does not apply to the power to make commencement orders under section 60(2).

Section 57: Meaning of "Wales-only service" and "Welsh service"

180. *Section 57* defines the meaning of "Wales-only service" and "Welsh service" for the purposes of the Act.
181. *Section 57(1)(a)* provides the geographical description of what constitutes a "Wales-only service".
182. *Section 57(1)(b)* enables the Secretary of State to make an order to exclude any services that would otherwise fall within the definition of "Wales-only service". This will enable the Secretary of State to decide whether or not any franchises that begin to provide Wales-only services should be let jointly with the NAW in accordance with Section 10(2). For example, First Great Western currently provides services between England and Wales, but does not provide any services that are Wales-only. If the franchisee began to provide Wales-only services the Secretary of State would decide whether or not it was appropriate for the NAW to be a party to the franchise and, if not, make an order to exclude the Great Western services from the definition of Wales-only.
183. *Section 57(2)* requires the Secretary of State to consult the NAW before making an order under section 56(1) (b).
184. *Section 57(3)* specifies the Parliamentary procedure that the Secretary of State must use to make an order under section 57(1) (b) - namely the negative resolution procedure.

Section 58: General Interpretation

185. This section defines certain terms which are used in the Act. Section 58(2) provides that terms which are defined in the 1993 Act (either for the purposes of Part 1 of that Act or for the whole of the Act) have the same meaning in this Act as in that Act.

Section 60: Short title, commencement and extent

186. *Section 60(2)* provides for the Secretary of State to make commencement orders which will bring the provisions in the Act into force. The Secretary of State may make more than one such order, and may bring into force different provisions on different dates.
187. *Section 60(3)* enables the Secretary of State to make such an order as he thinks fit which would make additional legislation to deal with the way in which in the parts of

*These notes refer to the Railways Act 2005 (c.14)
which received Royal Assent on 7 April 2005*

the Act dealing with Network Modifications, or the repeal of sections of the 1993 Act relating to closures, are brought into force. It also enables the Secretary of State to make transitional provisions via an order in connection with the bringing into force of Section 21 which relates to the abolition of the Rail Passengers' Committees.

188. *Section 60(5)* provides that section 13 on the Railway functions of Passenger Transport Executives, and section 39 on Quality contracts schemes in connections with closures, extend only to England and Wales.
189. *Section 60(6)* provides that the Act will not apply in Northern Ireland.
190. *Section 60Subsections (2) to (5)* enable the Secretary of State to make a scheme to modify existing railway licences and licence exemptions, granted under sections 8 and 7(3) of the Railways Act 1993, where necessary in consequence of certain provisions in the Act. The relevant provisions are set out in subsection (3) and include, for example, provisions that transfer consumer protection licensing functions from the SRA to the ORR.