

SCHEDULES

SCHEDULE 8

PROVISION OF PASSENGER RAIL SERVICES

Franchise exemptions granted by Secretary of State: protection of railway assets etc

8 After section 24 of the Railways Act 1993 insert—

“24A Secretary of State franchise exemptions: operator agreements

- (1) Conditions specified in an order under section 24 made by the Secretary of State may, in particular, include conditions which are to apply to any person providing services under an operator agreement.
- (2) An order under section 24 made by the Secretary of State may include provision which, subject to any modifications that the Secretary of State considers appropriate, has an effect in connection with operator agreements which corresponds or is similar to the effect of the following provisions in connection with franchise agreements—
 - (a) section 27(3) of this Act (restrictions on transfer or creation of security over assets);
 - (b) section 27(5) of this Act (transactions entered into in breach of restrictions to be void);
 - (c) section 27(6) and (7) of this Act (no execution or other legal process etc in respect of assets);
 - (d) section 31 of this Act (disapplication of legislation: security of tenure of business premises);
 - (e) sections 55 to 58 of this Act (enforcement);
 - (f) section 12 of, and Schedule 2 to, the Railways Act 2005 (transfer schemes), subject to subsection (4) below.
- (3) Provision included in an order by virtue of subsection (2) may be made by applying the provision in question, subject to any modifications that the Secretary of State considers appropriate.
- (4) The provision which may be included in an order by virtue of subsection (2) (f) is subject to the following restrictions—
 - (a) it is to be provision which applies only where an operator agreement is or has been in force to which one of the following is or was party—
 - (i) a Passenger Transport Executive,
 - (ii) a local transport authority, or
 - (iii) a relevant company;
 - (b) the person entitled under the provision to make a transfer scheme is to be a Passenger Transport Executive or local transport authority which—

Status: This is the original version (as it was originally enacted).

- (i) is or was party to the operator agreement, or
- (ii) is the owner, or one of the owners, of a relevant company which is or was party to the operator agreement;
- (c) the persons to whom assets may be transferred under a scheme made under the provision are to be—
 - (i) the Passenger Transport Executive or local transport authority which makes the scheme;
 - (ii) any other Passenger Transport Executive or local transport authority which—
 - (a) is or was party to the operator agreement, or
 - (b) is the owner, or one of the owners, of a relevant company which is or was party to the operator agreement;
 - (iii) a relevant company;
 - (iv) a person who is, or is to be, the operator under an operator agreement.

(5) In this section—

“local transport authority” has the same meaning as in Part 2 of the Transport Act 2000 (see section 108(4) of that Act);

“operator agreement” means any agreement which a person who has the benefit of a franchise exemption may enter into for another person (“the operator”) to provide the services (or any part of the services) in respect of which the exemption is granted;

“Passenger Transport Executive” means a body which is such an Executive for the purposes of Part 2 of the Transport Act 1968;

“relevant company” means—

- (a) a company that is wholly owned by a Passenger Transport Executive or a local transport authority, or
- (b) a company of which each owner is a Passenger Transport Executive or a local transport authority.”