

1999 No. 1998

TRANSPORT

RAILWAYS

**The Railways Act 1993 (Consequential Modifications)
(No. 2) Order 1999**

<i>Made - - - -</i>	<i>15th July 1999</i>
<i>Laid before Parliament</i>	<i>23rd July 1999</i>
<i>Coming into force</i>	<i>13th August 1999</i>

Whereas it appears to the Secretary of State to be necessary or expedient in consequence of the provisions of the Railways Act 1993**(a)** and instruments made under or by virtue of that Act to make such modifications of existing provisions as are set out in the following Order;

Now therefore the Secretary of State, in exercise of powers conferred by sections 143 and 153 of the Railways Act 1993**(b)**, hereby makes the following Order:—

Title and commencement

1. This Order may be cited as the Railways Act 1993 (Consequential Modifications) (No. 2) Order 1999 and shall come into force on 13th August 1999.

Interpretation

2.—(1) In this Order—

“general railway services” means any service which consists of, or is comprised in, maintaining, modifying, repairing or hiring out rolling stock;

“goods”, “light maintenance depot”, “light maintenance services”, “network”, “railway passenger service”, “rolling stock” and “station” have the same meaning as in Part I of the Railways Act 1993**(c)**

“relevant undertaking” means an undertaking which consists of or includes—

- (a) the management or maintenance of a transferred network,
- (b) the management of a station which is used in connection with the provision of services for the carriage of passengers on a transferred network,
- (c) the management of a light maintenance depot which is used to provide light maintenance services for rolling stock used on a transferred network,

(a) 1993 c. 43.

(b) See section 151(1) for the definition of “modifications” and section 153(2) for the definition of “existing provision”.

(c) See sections 82(2) and 83(1).

- (d) the management of premises which are used to provide facilities for or in connection with the carriage of goods by railway on a transferred network or the unloading of goods carried or intended to be carried by railway on a transferred network, or
- (e) the management of premises which are used to provide general railway services where the rolling stock concerned is used or intended for use on a transferred network;

“successor of the British Railways Board” means any person who carries on a relevant undertaking;

“transferred network” means a network which was transferred by virtue of a transfer scheme made under section 85 of the Railways Act 1993 from the British Railways Board and vested in the company formed and registered under the Companies Act 1985 and known, at the date of the vesting, as Railtrack PLC.

(2) A transferred network shall not cease to be such a network where it is modified by virtue of having any network or part of a network added to or removed from it.

Amendment of the British Transport Commission Act 1949

3.—(1) In the provisions of the British Transport Commission Act 1949(a) mentioned in paragraph (2), references to any of the Boards and to any wholly owned subsidiary of any of the Boards shall include references to any successor of the British Railways Board (but not to a subsidiary of such a successor unless it is itself such a successor).

- (2) The provisions referred to in paragraph (1) are—
- section 54 (powers of police as to search and arrest);
 - section 55 (trespass on railways etc);
 - section 56 (stone throwing on railway); and
 - section 57 (rights of way over roads, footpaths etc.).

4. In section 54(1) of the British Transport Commission Act 1949, the reference to persons in the employment or employed upon the property of any successor of the British Railways Board (or a subsidiary of such a successor if it is itself a successor) shall have effect as a reference to persons so employed in connection with a relevant undertaking.

Amendment of the Police and Criminal Evidence Act 1984

5.—(1) In section 6 of the Police and Criminal Evidence Act 1984 (stop and search powers:statutory undertakers etc.), after subsection (1) there shall be inserted the following subsection—

“(1A) Without prejudice to any powers under subsection (1) above, a constable employed by the British Railways Board may stop, detain and search any vehicle before it leaves a goods area which is included in the premises of any successor of the British Railways Board and is used wholly or mainly for the purposes of a relevant undertaking.”.

(2) In subsection (2) of that section at the end there shall be inserted “; and “successor of the British Railways Board” and “relevant undertaking” have the same meaning as in the Railways Act 1993 (Consequential Modifications) Order 1999.”.

Signed by the authority of the
Secretary of State for the Environment,
Transport and the Regions

Glenda Jackson
Parliamentary Under Secretary of State
Department of the Environment,
Transport and the Regions

15th July 1999

(a) 1949 c. xxix: sections 54 to 57 were modified by the Transport Act 1962 (1962 c. 46), section 32(1) and Schedule 2, Part III and the Transport Act 1968 (1968 c. 73), section 156 and Schedule 16. Section 54(3) was repealed by section 7(2)(b) of the Police and Criminal Evidence Act 1984 (1984 c. 60).

EXPLANATORY NOTE

(This note is not part of the Order)

This Order modifies certain statutory provisions in the British Transport Commission Act 1949 (“the 1949 Act”) and the Police and Criminal Evidence Act 1984 (“the 1984 Act”) in consequence of the provisions of the Railways Act 1993 and instruments made under or by virtue of that Act.

The modifications to sections 54 to 57 of the 1949 Act confirm the powers of police constables to search and arrest persons employed by, or upon the property of successors of the British Railways Board (“the Board”) in certain circumstances and confirm–

- (a) that it is an offence for a person to trespass on, or in dangerous proximity to, railways owned, leased or worked by a successor of the Board.
- (b) that it is an offence for a person to throw stones at trains on any railway or siding which is owned, leased or worked by a successor of the Board, and
- (c) that no right of way can be acquired by user over an access or approach to any station, goods-yard or depot of a successor of the Board.

Successors of the Board are essentially, operators of the Board’s former rail network and operators of railway stations and maintenance and goods and service depots used in connection with that network.

The amendment to the 1984 Act provides that a constable employed by the British Railways Board may stop, detain and search any vehicle before it leaves a goods area included in the premises of any successor of the British Railways Board which is used wholly or mainly for its railway operations.

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£1.50

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WO 5101 7/99 ON (MFK)