
EXPLANATORY NOTE

(This note is not part of the Order)

This Order brings into force provisions of the Railways Act 2005 (“the Act”).

Provisions coming into force on 8th June 2005

Article 2(1) of the Order brings section 1 of the Act into force. This section provides the basis for the abolition of the Strategic Rail Authority (SRA), and enables the Secretary of State to transfer the property, rights and liabilities of the SRA to specified transferees pursuant to a transfer scheme. Section 1 also introduces Schedule 1, which provides for the transfer of the SRA’s statutory functions. Paragraph 37 of Schedule 1, which inserts various defined terms into the Railways Act 1993 (“the 1993 Act”), is brought into force. These terms are relevant to the interpretation of section 1(4) of the Act.

Article 2(1) also brings into force the duty of the Office of Rail Regulation (ORR) to assist and advise the Secretary of State and the National Assembly for Wales as well as certain related amendments to the general duties under section 4 of the 1993 Act. It brings into force the requirement for the Secretary of State to consult the National Assembly for Wales before giving any guidance to the ORR for the purposes of section 4(5)(a) of the 1993 Act and various supplemental provisions of the Act relating to expenses, interpretation and powers exercisable by statutory instrument.

It further brings into force powers for the Secretary of State to make schemes modifying the provisions of licences or licence exemptions granted under section 7(3) of the 1993 Act, in consequence of certain provisions of the Act.

By commencing sections 6, 7, 10 and 11, Article 2(1) brings into force the powers of the Secretary of State and the National Assembly for Wales to provide financial assistance for railway purposes and the provisions pursuant to which those bodies must notify each other when they make or modify schemes for the provision of financial assistance in respect of rail freight. The provision in the Ministry of Transport Act 1919, which currently provides power for the Secretary of State and National Assembly for Wales to provide financial assistance in respect of railways, is accordingly repealed.

Article 2(1) brings into force section 54(1) to (3), which amends sections 118 and 119 of the 1993 Act (powers in emergency and security powers etc) so that the Secretary of State’s powers under those sections to give directions and instructions are extended to cover tramways.

The provisions of Schedule 10 (taxation) are commenced in so far as they relate to transfer schemes made under section 1(2).

Provisions coming into force on 26th June 2005

Article 2(2) brings into force Schedule 1 paragraph 29, which transfers the function of maintaining a code of practice for the protection of disabled rail users from the SRA to the Secretary of State.

It also brings into force further changes to the general duties of the ORR and the Secretary of State under section 4 of the 1993 Act. These changes remove the duty under section 1 of the 1993 Act to facilitate the furtherance by the SRA of its strategies, to coincide with the repeal of section 206 of the Transport Act 2000. They also amend the duty on the Secretary of State to exercise his functions so as to promote the award of franchise agreements to companies in which qualifying railway employees have a substantial interest.

It also commences the repeal of section 206 of the Transport Act 2000, pursuant to which the SRA is under a duty to formulate strategies with respect to its statutory purposes.