
STATUTORY INSTRUMENTS

2006 No. 2911

**The Railways Act 2005 (Commencement No. 7,
Transitional and Saving Provisions) Order 2006**

Citation and interpretation

1.—(1) This Order may be cited as the Railways Act 2005 (Commencement No. 7, Transitional and Saving Provisions) Order 2006.

(2) In this Order—

- (a) the “1993 Act” means the Railways Act 1993⁽¹⁾;
- (b) the “2005 Act” means the Railways Act 2005; and
- (c) the “Authority” means the Strategic Rail Authority.

(3) Expressions used in this Order and in the 1993 Act have the same meaning as in the 1993 Act.

Commencement of certain provisions of 2005 Act

2. The provisions of the 2005 Act specified in the Schedule shall come into force on 1st December 2006, subject to the transitional and saving provisions in articles 3 to 7.

Closures other than minor closures

3.—(1) This article applies to a closure proposal which—

- (a) is made before 1st December 2006, and
- (b) is not determined before that date.

(2) Despite the repeal of sections 37 to 45 of the 1993 Act⁽²⁾ (closures), those provisions have effect in relation to that proposal subject to the modifications in paragraph (4).

(3) In paragraph (1), “closure proposal” means—

- (a) the giving of a notice to the Authority under section 37(1), 39(1) or 41(1) of the 1993 Act, or
- (b) the publication by the Authority of a notice in accordance with section 38(5), 40(5) or 42(4) of that Act.

(4) The modifications of sections 37 to 45 of the 1993 Act for the purposes of paragraph (1) are that—

- (a) any function of the Authority is to be treated as a function of the Secretary of State, and anything done by the Authority before that date in relation to the function is to be treated as having been done by the Secretary of State; and

(1) 1993 c.43.

(2) Sections 37 to 46 were amended by the Transport Act 2000 (c.38) sections 234 to 236 and 239, Schedule 16, paragraphs 8 and 22 to 30, Schedule 17, paragraphs 17 and 25, Schedule 22, Part 1 paragraphs 1 and 4 to 6 and Schedule 31, Part IV. Sections 43 and 46 were amended by the Railways and Transport Safety Act 2003 (c. 20) Schedule 2, Part 1 paragraphs 1 and 3. Section 43 was amended by the Greater London Authority Act 1999 (c. 29) section 203. Section 46B was inserted by the Transport Act 2000, Schedule 17, paragraph 25 and amended by the Railways and Transport Safety Act 2003, Schedule 2 Part 1, paragraph 3.

- (b) each reference to a Rail Passengers' Committee in section 43 of the 1993 Act shall have effect—
- (i) in relation to the area for which the London Transport Users' Committee fell to be treated as the Rail Passengers' Committee for the purposes set out in section 2(4) of that Act (Rail Passengers' Committees) immediately before the repeal of that section, as a reference to the London Transport Users' Committee.
 - (ii) in relation to any other area, as a reference to the Rail Passengers' Council established by section 19(1) of the 2005 Act.

Minor closures

4.—(1) Where, before 1st December 2006 the Authority—

- (a) has been considering whether a closure is a minor closure as mentioned in section 37(1), 39(1) or 41(1) of the 1993 Act, and
- (b) has not determined that question by that date,

the Secretary of State shall determine that question and the definition of “minor closure” in that section shall continue to have effect for the purposes of that determination.

(2) Where—

- (a) the Authority has, before 1st December 2006, made a determination under section 37(1), 38(2), 39(1), 40(2), 41(1) or 42(2) of the 1993 Act that a closure is a minor closure but such closure has not taken effect before that date, or
- (b) the Secretary of State has made a determination under paragraph (1) that a closure is a minor closure,

the closure may take effect at any time as a minor closure and Part 4 of the 2005 Act does not apply in such a case.

(3) Section 46B of the 1993 Act (notification of minor closures to the Office of Rail Regulation) shall have effect in relation to a determination made under paragraph (1) as if for “the Authority” there were substituted “the Secretary of State”.

Conditions

5.—(1) Where, before 1st December 2006 the Secretary of State has imposed conditions pursuant to section 43(9) of that Act, those conditions shall continue to have effect on and after that date and section 46 of that Act shall continue to have effect in relation to those conditions.

(2) Where the Secretary of State—

- (a) has made a determination under article 4(1) that a closure is a minor closure; and
- (b) has imposed conditions as mentioned in section 37(1), 39(1) or 41(1) of the 1993 Act (as applied by article 4(1)),

the conditions shall have effect despite the repeal of that section and such conditions shall have effect as if agreed to for the purposes of section 34(5) of the 2005 Act.

(3) Where, on or after 1 December 2006, the Secretary of State allows a closure to take effect in accordance with section 43(9) of the 1993 Act subject to compliance with conditions, the conditions shall have effect despite the repeal of that section and section 46 of that Act shall have effect in relation to the conditions.

(4) In paragraph (1), the references to conditions imposed before 1 December 2006 includes a reference to any such conditions which have been varied before that date under section 46 of that Act.

(5) For the purposes of this article, the reference to a Rail Passengers' Committee in section 46 of the 1993 Act shall have effect—

- (a) in relation to the area for which the London Transport Users' Committee fell to be treated as the Rail Passengers' Committee for the purposes set out in section 2(4) of that Act (Rail Passenger' Committees) immediately before the repeal of that section, as a reference to the London Transport Users' Committee;
- (b) in relation to any other area, as a reference to the Rail Passengers' Council established by section 19(1) of the 2005 Act.

Orders for securing compliance

6.—(1) Section 55 of the 1993 Act⁽³⁾ shall continue to have effect as it had effect immediately before 1 December 2006 for the purpose of ensuring that—

- (a) a person who is required to comply with closure conditions; or
- (b) a person under closure restrictions,

complies with those closure conditions or closure restrictions as the case may be but subject to the modifications specified in paragraph (2).

(2) The modifications of section 55 of the 1993 Act referred to in paragraph (1) are that—

- (a) in subsection (9), for “section 44 of the Railways Act 2005” there is substituted “article 7 of the Railways Act 2005 (Commencement No. 7, Transitional and Saving Provisions) Order 2006”; and
- (b) in subsection (10), for the definition of “the appropriate authority” there is substituted—
““the appropriate authority” means the Secretary of State;”.

(3) In this article “a person under closure restrictions” means—

- (a) a person who is under the duty under section 37(1), 39(1) or 41(1) of the 1993 Act not to discontinue a railway passenger service or the operation of the whole or part of a network or not to terminate the use of the whole or part of a station or light maintenance depot, or
- (b) a person who is under the duty under section 48(3) of that Act not to discontinue an experimental passenger service before the expiry of the notice period.

Liability for breach of statutory duty

7. The obligations of the Secretary of State imposed by or by virtue of this Order—

- (a) to comply with any closures conditions,
- (b) to secure the provision of any railway services, or
- (c) to secure the provision of any additional railway asset,

shall not give rise to any form of duty or liability enforceable by civil proceedings for breach of statutory duty.

(3) Section 55 was amended by the Competition Act 1998 (c. 41) Schedule 10, paragraph 15, by the Transport Act 2000 (c. 38) sections 225, 226, 236 and 239, Schedule 16, paragraphs 8 and 35, Schedule 17 Part 1, paragraphs 1 and 11, Part II, paragraphs 17 and 26, Schedule 27, paragraph 17 and 30 and Schedule 31 Part IV, by the Railways and Transport and Safety Act 2003 (c. 20) Schedule 2, Part 1 paragraphs 1 and 3 and by the Railways Act 2005 (c.14) Schedule 1, Part 1, paragraph 21, Schedule 11, paragraphs 1 and 7 and Schedule 13 Part 1.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

Signed by authority of the Secretary of State for Transport

6th November 2006

Tom Harris
Parliamentary Under Secretary of State
Department for Transport