
EXPLANATORY NOTE

(This note is not part of the Order)

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

Article 2 brings into force the provisions listed in the Schedule, subject to the transitional and saving provisions in articles 3 to 7.

Article 2 and the Schedule bring into force section 3(5) and (6) of the 2005 Act. Section 3(5) and (6) modify section 4(3A) of the Railways Act 1993 (the “1993 Act”) which applies the general duties (specified in section 4(1) to (3) of the 1993 Act) to certain functions undertaken by the Secretary of State. Section 3(5) provides that these duties apply to network modification functions undertaken by the Secretary of State. Section 3(6) applies these duties to functions undertaken by the Scottish Ministers in relation to improving, providing or developing railway facilities, or network modification. It also applies the duties to functions undertaken by the National Assembly for Wales in relation to network modification.

Article 2 and the Schedule also bring into force Part 4 of the 2005 Act which provides for network modification provisions. Network modifications are the discontinuance of services, the closure of passenger networks and the closure of stations.

Briefly, Part 4 provides that a proposal to close a network or station or discontinue a service is subject to a public consultation and an assessment by the person carrying out the consultation whether the proposal meets criteria set out in closures guidance. Such a proposal must be referred to the ORR who must issue a notice, a “closure ratification notice”, before the closure is allowed to proceed. If certain conditions are not met the ORR must issue a “closure non-ratification notice” and the closure will not be allowed to proceed. The Secretary of State or Scottish Ministers are generally under duties to ensure the continued operation of services, networks or stations if the operator ceases provision before the ORR has issued a notice or if the ORR issues a notice that does not allow a closure to proceed.

Article 2 and the Schedule also bring into force Schedules 7 and 8 which contain the procedures which must be followed for proposals to close or make minor modifications to certain railway services, networks or stations of specified descriptions and provisions in Schedules 11 and 12, which make minor and consequential amendments (including those consequential on the abolition of the Strategic Rail Authority (the “Authority”)) and in Schedule 13, the repeals Schedule.

Articles 3 to 7 contain transitional and saving provisions.

Article 3 provides that where a closure proposal has not been determined before 1st December 2006, sections 37 to 45 of the 1993 Act shall continue to have effect in relation to that proposal, subject to the modifications in article 3(4). A “closure proposal” means the giving of notice by an operator to the Authority of a closure proposal or the publication by the Authority of a notice of a proposal. The modifications in article 3(4) provide for the functions of the Authority to be treated as functions of the Secretary of State and for functions exercised by the Authority before 1st December 2006 to be treated as performed by him.

The modifications also provide for the functions of the Rail Passenger Committees to be treated as references to the London Transport Users’ Committee (LTUC) in the area where LTUC fell to be treated as the Rail Passengers’ Committee under section 2(4) of the 1993 Act immediately before it was repealed. The modifications also provide for the functions of the Rail Passenger Committees to be treated as references to the Rail Passengers’ Council in relation to other areas.

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

Article 4 provides that where the Authority has been considering whether a closure is a minor closure, before 1st December 2006 and the Authority has not made a determination, the Secretary of State shall make that determination. Article 4 also permits such closure (and any other minor closures agreed by the Authority but not yet effected) to take effect.

Article 5(1) provides that closure conditions imposed by the Secretary of State, before 1st December 2006 shall continue to have effect, and that the Secretary of State may vary those conditions.

Article 5(2) provides that where the Secretary of State has determined that a closure is a minor closure and has imposed conditions in relation to such minor closures, such conditions shall have effect and may be varied in accordance with section 46 of the 1993 Act.

Article 5(3) provides that where the Secretary of State permits a closure to take effect on or after 1st December 2006 in accordance with section 43(9) of the 1993 Act, any conditions which he imposes shall have effect despite the repeal of that section. Such conditions may be varied in accordance with section 46 of that Act.

Article 6 makes provision for making orders for securing compliance with closure restrictions arising before 1 December 2006 and closure conditions made before or after the coming into force of this Order.

Article 7 provides for the exclusion of liability for breach of statutory duty of the Secretary of State in relation to duties imposed on him by virtue of this Order. This is analogous to the provisions contained in section 50 of the 1993 Act.

A regulatory impact assessment has not been produced for this instrument as it has no impact on the costs of business, charities, voluntary bodies or the private sector.