



Railways Act 2005

2005 CHAPTER 14

PART 6

GENERAL AND SUPPLEMENTAL

General

53 Taxation

Schedule 10 (which makes taxation provision in relation to transfer schemes under sections 1(2) and 12) has effect.

54 Further amendments of the 1993 Act

(1) In sections 118 and 119 of the 1993 Act (powers in emergency and security powers etc.), at the end of subsection (11), in each case, insert “with “railway” having its wider meaning for the purposes of this section.”

(2) After section 119(5) of that Act insert—

“(5A) The Secretary of State may give an instruction under this section for the protection of a relevant asset that is wholly in Scotland, or of persons or property on or in such an asset, only if—

- (a) the asset would be a relevant asset even if railway did not have its wider meaning for the purposes of this section; or
- (b) the instruction is given in the interests of national security.

(5B) In subsection (5A) the reference to an instruction given in the interests of national security includes a reference to any instruction given for the purpose of ensuring that protection against terrorism is provided to the asset, persons or property in question.”

(3) In section 119(11) of that Act, after the definition of “specified” insert—

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““terrorism” has the same meaning as in the Terrorism Act 2000 (c. 11)
(see section 1 of that Act);”.

- (4) Schedule 11 (which makes further miscellaneous minor and consequential amendments of the 1993 Act) has effect.

Supplemental

55 Expenses etc.

- (1) There shall be paid out of money provided by Parliament—
- (a) any expenditure incurred by the Secretary of State for or in connection with the carrying out of any of his functions under this Act; and
 - (b) any increase attributable to this Act in the sums which are payable out of money so provided under any other Act.
- (2) Sums received by the Secretary of State by virtue of any of the following provisions of this Act must be paid into the Consolidated Fund—
- (a) section 6;
 - (b) section 10(6);
 - (c) section 13(3);
 - (d) paragraph 7 of Schedule 5.

56 Powers exercisable by statutory instrument

- (1) Every power conferred by this Act on the Secretary of State or the Scottish Ministers to make an order or regulations is a power exercisable by statutory instrument.
- (2) Where—
- (a) this Act provides for an order or regulations to be subject to the negative resolution procedure, and
 - (b) a draft of the order or regulations is not required, in accordance with subsection (4) or any other enactment, to have been laid before Parliament and approved by a resolution of each House, or by a resolution of the House of Commons or of the Scottish Parliament,
- the statutory instrument containing the order or regulations shall be subject to annulment in pursuance of a relevant resolution.
- (3) In subsection (2) “a relevant resolution”—
- (a) in relation to an order or regulations made by the Secretary of State, means a resolution of either House of Parliament;
 - (b) in relation to an order or regulations made by the Scottish Ministers, means a resolution of the Scottish Parliament; and
 - (c) in relation to an order made by the Secretary of State and the Scottish Ministers jointly, means a resolution of either House of Parliament or of the Scottish Parliament.
- (4) Where this Act specifies that a power to make provision of a particular description by order is subject to the affirmative resolution procedure, no order may be made containing provision of that description (with or without other provision) unless a draft of the order has been—

- (a) laid before Parliament; and
 - (b) approved by a resolution of each House.
- (5) Subject to subsection (6), every power under this Act of the Secretary of State or Scottish Ministers to make an order or regulations includes power—
- (a) to make different provision for different cases (including different provision in respect of different areas);
 - (b) to make provision subject to such exemptions and exceptions as the person exercising the power thinks fit; and
 - (c) to make such incidental, supplemental, consequential and transitional provision as that person thinks fit.
- (6) Subsection (5) does not apply to the power of the Secretary of State to make an order under section 60(2).

57 Meaning of “Wales-only service” and “Welsh service”

- (1) In this Act—
- “Wales-only service” means a railway passenger service which—
 - (a) starts and ends in Wales and does not make any other scheduled calls outside Wales; and
 - (b) has not been excluded from this definition by an order made by the Secretary of State;
 - “Welsh service” means a railway passenger service which starts in Wales, ends in Wales or otherwise makes at least one scheduled call in Wales.
- (2) Before making an order for the purposes of paragraph (b) of the definition of “Wales-only service”, the Secretary of State must consult the National Assembly for Wales.
- (3) An order for those purposes is subject to the negative resolution procedure.

58 General interpretation

- (1) In this Act—
- “the 1993 Act” means the Railways Act 1993 (c. 43);
 - “the 2000 Act” means the Transport Act 2000 (c. 38);
 - “contravention” includes a failure to comply and cognate expressions are to be construed accordingly;
 - “Wales-only service” and “Welsh service” have the meanings given by section 57.
- (2) An expression which is given a meaning by any provision of the 1993 Act for the purpose either of that Act or of Part 1 of it has the same meaning in this Act as in that Act or (as the case may be) that Part.
- (3) In this Act a reference to a Passenger Transport Authority, to a Passenger Transport Executive or to a passenger transport area is a reference to the authority, executive or area which is such an Authority, Executive or area for the purposes of Part 2 of the Transport Act 1968 (c. 73).
- (4) For the purposes of this Act a company is wholly owned by a person at any time when it has no members other than one or more persons falling within the following paragraphs—

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- (a) that person;
 - (b) a company which is wholly owned by that person;
 - (c) a person acting on behalf of that person or of such a company.
- (5) For the purposes of this Act a company is jointly owned by two or more persons (“the relevant persons”) at any time when (without being wholly owned by a person) it has no members other than two or more persons falling within the following paragraphs—
- (a) the relevant persons;
 - (b) a company which is jointly owned by two or more of the relevant persons or which is wholly owned by one of them;
 - (c) a person acting on behalf of one or more of the relevant persons or of such a company.

59 Consequential amendments, transitional provisions and repeals

- (1) Schedule 12 (which contains consequential and minor amendments) has effect.
- (2) The Secretary of State may make a scheme making such modifications of the provisions of any licence or licence exemption granted under section 7(3) of the 1993 Act as appear to him to be necessary or expedient in consequence of any provision falling within subsection (3) by virtue of which—
- (a) functions are transferred (with or without modifications) from one person to another; or
 - (b) functions corresponding (with or without modifications) to functions previously conferred on one person become functions of another.
- (3) Those provisions are—
- (a) section 1 and Schedule 1;
 - (b) section 2 and Schedule 3;
 - (c) section 21 and Schedule 6; and
 - (d) section 48.
- (4) A scheme under subsection (2) may include provision for things done by or in relation to a person who previously had a function to be treated as done by or in relation to the person on whom that function, or the corresponding function, is conferred by virtue of this Act.
- (5) Where a scheme under subsection (2) makes a modification of the provisions of a licence or licence exemption, the Secretary of State must—
- (a) in the case of a modification of the provisions of a licence, notify the licence holder; and
 - (b) in the case of a modification of the provisions of a licence exemption granted under section 7(3) of the 1993 Act, give such notice as he considers appropriate for bringing the modification to the attention of persons likely to be affected by it.
- (6) The provisions in Part 1 of Schedule 13 (which include some that are spent) are repealed to the extent shown in the second column of that Part.
- (7) Those repeals have effect subject to the savings in Part 2 of that Schedule.

60 Short title, commencement and extent

- (1) This Act may be cited as the Railways Act 2005.
- (2) This Act (apart from this section and section 56(1)) shall come into force on such day as the Secretary of State by order appoints; and different days may be appointed for different purposes.
- (3) The Secretary of State may by order make such transitional provisions and savings in connection with the bringing into force of—
 - (a) section 21,
 - (b) Part 4 of this Act, or
 - (c) the repeal of sections 37 to 49 of the 1993 Act or of Schedule 5 to that Act (closures),as he thinks fit.
- (4) An order containing provision made by virtue of subsection (3) is subject to the negative resolution procedure.
- (5) The following provisions of this Act extend to England and Wales only—
 - (a) section 13;
 - (b) section 39; and
 - (c) section 52.
- (6) This Act does not extend to Northern Ireland.