

**2005 No. 1909 (C.82)**

**TRANSPORT**

**RAILWAYS**

**The Railways Act 2005 (Commencement No. 2) Order 2005**

*Made* - - - -

*12th July 2005*

The Secretary of State for Transport, in exercise of the powers conferred upon him by section 60(2) of the Railways Act 2005<sup>(a)</sup>, hereby makes the following Order:

**Citation and interpretation**

- 1.—(1) This Order may be cited as the Railways Act 2005 (Commencement No. 2) Order 2005.
- (2) In this Order “the Act” means the Railways Act 2005.

**Commencement**

2. The provisions of the Act specified in the Schedule to this Order shall come into force on 24th July 2005.

Signed by authority of the Secretary of State for Transport

12th July 2005

*Derek Twigg*  
Parliamentary Under Secretary of State  
Department for Transport

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<sup>(a)</sup> 2005 c.14.

## SCHEDULE

Article 2

### PROVISIONS COMING INTO FORCE ON 24th JULY 2005

Section 1(1), in so far as it relates to the provisions of Schedule 1 brought into force by this Schedule.

Section 1(3), to the extent that it has not already come into force.

Section 3(8)(d) and (11)(a).

Section 10(6), except the words “or the Scottish Ministers” and “or their”.

Section 12(1) to (7).

Section 12(8), except paragraph (b) in the definition of “appropriate national authority” and the word “and” immediately preceding it.

Section 13.

Section 14, as regards England and Wales.

Sections 15 and 16.

Section 18.

Sections 19 to 21.

Section 40(1) to (3).

Section 40(4), except paragraph (b).

Section 40(6) and (7).

Section 46(1), (2), (7) and (8).

Section 46(3), in so far as it relates to the provisions of Schedule 9 brought into force by this Schedule.

Section 52.

Section 53, in so far as it relates to the provisions of Schedule 10 brought into force by this Schedule.

Section 54(4), in so far as it relates to the provisions of Schedule 11 brought into force by this Schedule.

Section 59(1), in so far as it relates to the provisions of Schedule 12 brought into force by this Schedule.

Section 59(6), in so far as it relates to the provisions of Schedule 13 Part 1 brought into force by this Schedule.

Schedule 1, paragraphs 1 to 10.

Schedule 1, paragraph 13(1) and (3).

Schedule 1, paragraph 13(4)(a), in so far as it relates to the Secretary of State.

Schedule 1, paragraph 13(4)(b), in so far as it relates to an agreement to which either the Secretary of State is party or the Secretary of State and the National Assembly for Wales are jointly party.

Schedule 1, paragraph 13(5), in so far as it relates to a designation which is to have effect as a designation by the Secretary of State.

Schedule 1, paragraphs 15 to 19, in so far as they relate to the Secretary of State.

Schedule 1, paragraph 20(1), in so far as it relates to services for which the Secretary of State is the relevant franchising authority.

Schedule 1, paragraph 20(2) and (3).

Schedule 1, paragraph 20(4), except in so far as the inserted subsection (3A) of section 30 of the Railways Act 1993 relates to the Scottish Ministers.

Schedule 1, paragraph 20(5), in so far as it relates to services for which the Secretary of State is to be treated as the relevant franchising authority.

Schedule 1, paragraph 21(1), in so far as it relates to the other provisions of paragraph 21 brought into force by this Schedule.

Schedule 1, paragraph 21(2).

Schedule 1, paragraph 21(4) to (8), except in so far as it (1) relates to the transfer of functions relating to the enforcement of relevant conditions or requirements which are closure restrictions or closure conditions from the Strategic Rail Authority to the Secretary of State and to the Scottish Ministers, and (2) relates to the transfer of functions relating to the enforcement of relevant conditions or requirements which are terms of franchise agreements from the Strategic Rail Authority to the Scottish Ministers.

Schedule 1, paragraph 22, except in so far as it (1) relates to the transfer of functions relating to the enforcement of relevant conditions or requirements which are closure restrictions or closure conditions from the Strategic Rail Authority to the Secretary of State and to the Scottish Ministers, and (2) relates to the transfer of functions relating to the enforcement of relevant conditions or requirements which are terms of franchise agreements from the Strategic Rail Authority to the Scottish Ministers.

Schedule 1, paragraph 23(1), in so far as it relates to the other provisions of paragraph 23 brought into force by this Schedule.

Schedule 1, paragraphs 23(2) and (3) and 24(1), except in so far as they (1) relate to the transfer of functions relating to the enforcement of relevant conditions or requirements which are closure restrictions or closure conditions from the Strategic Rail Authority to the Secretary of State and to the Scottish Ministers, and (2) relate to the transfer of functions relating to the enforcement of relevant conditions or requirements which are terms of franchise agreements from the Strategic Rail Authority to the Scottish Ministers.

Schedule 1, paragraph 24(2), except the words “, by the Scottish Ministers”.

Schedule 1, paragraphs 25 and 26, except in so far as they (1) relate to the transfer of functions relating to the enforcement of relevant conditions or requirements which are closure restrictions or closure conditions from the Strategic Rail Authority to the Secretary of State and to the Scottish Ministers, and (2) relate to the transfer of functions relating to the enforcement of relevant conditions or requirements which are terms of franchise agreements from the Strategic Rail Authority to the Scottish Ministers.

Schedule 1, paragraphs 27 and 28.

Schedule 1, paragraph 30(1) and (2).

Schedule 1, paragraph 30(3), except sub-paragraph (b).

Schedule 1, paragraph 30(4) to (7).

Schedule 1, paragraph 32(1).

Schedule 1, paragraph 32(3) to (5).

Schedule 1, paragraph 33.

Schedule 1, paragraph 35, except in so far as it relates to a transfer of functions from the Strategic Rail Authority to the Scottish Ministers.

Schedule 1, paragraph 36(a).

Schedule 2, to the extent it has not already come into force.

Schedules 5 and 6.

Schedule 9, in so far as it relates to bye-laws in relation to which the Secretary of State acting alone is the appropriate national authority by virtue of paragraph 1(1).

Schedule 10, to the extent it has not already come into force.

Schedule 11, paragraph 1, in so far as it relates to the other provisions of Schedule 11 brought into force by this Schedule.

Schedule 11, paragraph 6, except in so far as it relates to (1) the transfer of functions from the Strategic Rail Authority to the Scottish Ministers and (2) the repeal of functions of Passenger Transport Authorities and Executives in Scotland.

Schedule 11, paragraphs 7(2), 8, 9 and 12.

Schedule 11, paragraph 14(6) and (7), as regards England and Wales.

Schedule 11, paragraph 15, except in so far as each of sub-paragraphs (a) to (c) insert the words “or the Scottish Ministers”.

Schedule 11, paragraph 16(2).

Schedule 12, paragraph 1(1), in so far as it relates to the other provisions of paragraph 1 brought into force by this Schedule.

Schedule 12, paragraph 1(3).

Schedule 12, paragraph 2(1), in so far as it relates to the other provisions of paragraph 2 brought into force by this Schedule.

Schedule 12, paragraph 2(2).

Schedule 12, paragraph 2(3) and (4), except the words “, the Scottish Ministers” in sub-paragraph (4)(b).

Schedule 12, paragraphs 3 and 5.

Schedule 12, paragraph 8, except in so far as it relates to the transfer of functions from the Strategic Rail Authority to the Scottish Ministers.

Schedule 12, paragraph 14(1), in so far as it relates to the other provisions of paragraph 14 brought into force by this Schedule.

Schedule 12, paragraph 14(3), (4) and (6) to (9).

Schedule 12, paragraph 17(1), in so far as it relates to the other provisions of paragraph 17 brought into force by this Schedule.

Schedule 12, paragraph 17(2), (3), (8) and (9).

Schedule 12, paragraph 18(1), in so far as it relates to the other provisions of paragraph 18 brought into force by this Schedule.

Schedule 12, paragraph 18(2)(a) and (b).

Schedule 12, paragraph 18(2)(c) and (3), except in so far as it relates to the transfer of functions from the Strategic Rail Authority to the Scottish Ministers.

The following entries in Part 1 of Schedule 13:

The entry relating to section 56(4), (5), (6ZA) and (20) of the Transport Act 1962(a).

The entry relating to Schedule 2 of the Parliamentary Commissioner Act 1967(b), in so far as it relates to Rail Passengers' Committees.

The entry relating to the Transport Act 1968(c), as regards England and Wales.

The entry relating to Schedule 1 of the House of Commons Disqualification Act 1975(d), in so far as it relates to a member of a Rail Passengers' Committee in receipt of remuneration.

The entry relating to the Transport Act 1985(e), as regards England and Wales.

The entry relating to the Channel Tunnel Act 1987(f).

The entries relating to sections 2, 3, 7, 7A, 10(4), 11, 12, 13(1A) to (1C), 14(5A), 15, 15A(1), 15C(3), 30(1), 43(4), 47(6), 61, 62, 63(2), 68(1)(a), 71A, 72(1), 73, 76(3), (6)(a) and (8), 77, 79, 83(3) and 145(7) of the Railways Act 1993(g).

The entries relating to sections 8 and 16(3) of the Railways Act 1993, except in so far as they repeal the words "and to the Health and Safety Executive" in sections 8(7)(a) and (b) and 16(3).

The entry relating to section 15B of the Railways Act 1993, except in so far as it repeals the words "and the Health and Safety Executive" in subsection (5).

The entry relating to sections 34 and 35 of the Railways Act 1993, as regards England and Wales.

The entry relating to section 54(3) of the Railways Act 1993, as regards England and Wales.

The entry relating to section 55 of the Railways Act 1993, in so far as it relates to subsection (10)(a).

The entry relating to section 144(1) of the Railways Act 1993, as regards England and Wales.

The entries relating to Schedule 2, Schedule 3 and Schedule 6 of the Railways Act 1993.

The entry relating to section 19(2), (5) and (6) of the Channel Tunnel Rail Link Act 1996(h).

The entries relating to sections 175(1), 197, 199(1), 201 and 252(1) and Schedule 19, paragraph 5 of the Greater London Authority Act 1999(i).

The entry relating to Schedule 1, Part 6 of the Freedom of Information Act 2000(j), in so far as it relates to any Rail Passengers' Committee established under section 2(2) of the Railways Act 1993.

The entries relating to sections 212(4), 213, 224(2)(b), 226(1)(c) (and the word "and" immediately preceding it), 227(1) and (3), 228(2), (3)(b) (and the word "and" immediately preceding it) and (5), and 251 of the Transport Act 2000(k).

The entries relating to Schedule 16, paragraphs 2 to 7, 9, 10, 40, 41, 44, 47, 48, 59, 62 and 64 of the Transport Act 2000.

The entries relating to Schedule 17, paragraphs 2(2) to (5), (7) and (8), 3, 4(2)(a) and (5)(a), 6(2), (3)(a), (4) and (5), 7(2) to (4), (5)(a), (6)(a), (7) and (8)(a), 8(2), (3)(a), (4) and (5),

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(a) 1962 c.46.

(b) 1967 c.13.

(c) 1968 c.73.

(d) 1975 c.24.

(e) 1985 c.67.

(f) 1987 c.53.

(g) 1993 c.43.

(h) 1996 c.61.

(i) 1999 c.29.

(j) 2000 c.36.

(k) 2000 c.38.

9(4)(b) and (6) to (8), 10, 11(3), 13, 14, 16(b) (and the word “and” immediately preceding it), 18, 19, 20(2) and (5), and 21 to 24 of the Transport Act 2000.

The entries relating to Schedule 22, paragraphs 2, 3, 7, 8(4)(b) and (10), 9 to 13, 15(2)(c) to (e), (3), (4)(a), (5) and (6), 18, 22 and 23(a) of the Transport Act 2000.

The entry relating to Schedule 23, paragraphs 1 to 9 of the Transport Act 2000.

The entries relating to Schedule 27, paragraphs 30(2) and 39(5) of the Transport Act 2000.

The entries relating to Schedule 28, paragraphs 5(2) and 14 of the Transport Act 2000.

The entry relating to section 168(4)(h) and (i) of the Enterprise Act 2002(a).

The entry relating to Schedule 2, Part 2, paragraph 82 of the Scottish Public Services Ombudsman Act 2002(b).

The entry relating to section 104 of the Railways and Transport Safety Act 2003(c).

The entry relating to Schedule 2, paragraph 3 of the Railways and Transport Safety Act 2003, in so far as the entries in the table in paragraph 3 relate to sections 7A, 77 and 79 and Schedules 2 and 3.

The entry relating to Schedule 2, paragraph 16 of the Railways and Transport Safety Act 2003.

### **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 24th July 2005*

Article 2 of the Order brings into force the provisions in Schedule 1 to the Act which transfer railway licensing functions from the Strategic Rail Authority (“SRA”) to the Office of Rail Regulation. Those functions concern conditions of licences and licence exemptions granted under sections 7 and 8 of the Railways Act 1993 (“the 1993 Act”) that relate to consumer protection. The article also commences the repeal of all the provisions in the 1993 Act that define and refer to consumer protection conditions, as there is no longer any need for a distinction to be drawn between consumer protection conditions and other conditions.

The Order also brings into force the provisions in Schedule 1 to the Act under which the SRA’s role as franchising authority in relation to railway passenger services is transferred to the Secretary of State. This includes the function of “Operator of Last Resort” under section 30 of the 1993 Act, functions in relation to enforcement under section 55 of that Act, and functions relating to the maintenance of the public register under section 73 of that Act. The transfer of such functions to the Scottish Ministers will be brought into force at a later date.

Article 2 brings into force section 12 of the Act, which provides power for the Secretary of State to make transfer schemes at the end of franchise agreements. This power enables the Secretary of State to transfer relevant property, rights and liabilities from an outgoing franchise operator to the next operator of those services. Schedules 2 (which sets out detailed provisions in relation to transfer schemes) and 10 (taxation) are also brought into force, in so far as they relate to transfer schemes made under section 12.

It also brings into force sections 13 and 14 of the Act in relation to England and Wales. These provisions contain new functions for Passenger Transport Executives in relation to railway services, and make connected repeals of earlier statutes. Section 52 of the Act, which provides a duty on Passenger Transport Executives in England and Wales to advise the Secretary of State, is also brought into force.

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(a) 2002 c.40.  
(b) 2002 asp 11.  
(c) 2003 c.20.

The Order brings into force sections 15 and 16 of the Act, which relate to Transport for London (“TfL”). Section 15 amends section 201 of the Greater London Authority Act 1999 so as to replace the existing duty to co-operate between TfL and the SRA with a duty between TfL and the Secretary of State, in view of the transfer of the SRA’s franchising functions to the Secretary of State. Section 16 replaces the existing restrictions on TfL’s powers to enter into agreements relating to railways, set out in section 201 of the Greater London Authority Act 1999, with revised restrictions.

It brings into force sections 19 to 21 of the Act, which relate to the Rail Passengers’ Council and Rail Passengers’ Committees. Section 19 establishes a new Council as a body corporate to replace the body of the same name established by section 3(2) of the Railways Act 1993. Section 20 enables the new Council to delegate certain of its functions to other public bodies. Section 21 provides for the abolition of the Rail Passengers’ Committees. Schedules 5 and 6 to the Act are also brought into force. Schedule 5 contains detailed provisions as to the constitution and procedure of the new Council. Schedule 6 contains new functions for the London Transport Users’ Committee to replace functions which it previously had under the 1993 Act by virtue of being treated as a Rail Passengers’ Committee, and which are repealed under this Act.

Article 2 also brings into force section 40 of the Act, which enables the Secretary of State and the National Assembly for Wales to secure the provision of substitute bus services where railway services are temporarily disrupted or discontinued.

It brings into force section 46 of the Act, which also introduces Schedule 9, both of which relate to bye-laws. These provisions contain new powers which enable railway operators to make bye-laws in respect of their railway assets, subject to confirmation from the Secretary of State. Aspects of these provisions which relate to the Scottish Ministers’ role in respect of bye-laws will be brought into force at a later date.

Certain minor and consequential amendments in Schedules 11 and 12 to the Act and repeals in Schedule 13 to the Act are also brought into force.

#### **NOTE AS TO EARLIER COMMENCEMENT ORDERS**

*(This note is not part of the Order)*

The following provisions of the Railways Act 2005 have been brought into force by a commencement order made before the date of this Order.

<i>Provision</i>	<i>Date of Commencement</i>	<i>S.I. No.</i>
Section 1(1) (partially)	8th June 2005 (partially), 26th June 2005 (partially)	2005/1444
Section 1(2)	8th June 2005	2005/1444
Section 1(3) (partially)	8th June 2005	2005/1444
Section 1(4) to (9)	8th June 2005	2005/1444
Section 3(1) (partially)	8th June 2005 (partially), 26th June 2005 (partially)	2005/1444
Section 3(2) (partially)	8th June 2005	2005/1444
Section 3(3) and (7)	26th June 2005	2005/1444
Section 3(8)(a) (partially)	8th June 2005	2005/1444
Section 3(8)(c)	8th June 2005	2005/1444
Section 3(9) (partially)	8th June 2005	2005/1444

Section 3(11)(b)	26th June 2005	2005/1444
Section 6(1) to (3)	8th June 2005	2005/1444
Section 6(4) (partially)	8th June 2005	2005/1444
Section 6(5) to (8)	8th June 2005	2005/1444
Section 7	8th June 2005	2005/1444
Section 10, except subsection (6)	8th June 2005	2005/1444
Section 11	8th June 2005	2005/1444
Section 51(1)(a) and (c), (3) and (4)	8th June 2005	2005/1444
Section 53 (partially)	8th June 2005	2005/1444
Section 54(1) to (3)	8th June 2005	2005/1444
Section 54(4) (partially)	8th June 2005	2005/1444
Section 55	8th June 2005	2005/1444
Section 56(2) (partially)	8th June 2005	2005/1444
Section 56(3), except paragraphs (b) and (c)	8th June 2005	2005/1444
Section 56(4)	8th June 2005	2005/1444
Section 56(5) (partially)	8th June 2005	2005/1444
Section 56(6)	8th June 2005	2005/1444
Section 57	8th June 2005	2005/1444
Section 58	8th June 2005	2005/1444
Section 59(1) (partially)	8th June 2005	2005/1444
Section 59(2) to (5)	8th June 2005	2005/1444
Section 59(6) (partially)	8th June 2005	2005/1444
	(partially), 26th June 2005	
	(partially)	
Schedule 1, paragraph 29	26th June 2005	2005/1444
Schedule 1, paragraph 37	8th June 2005	2005/1444
Schedule 2 (partially)	8th June 2005	2005/1444
Schedule 10, Parts 1 and 2	8th June 2005	2005/1444
Schedule 10, Parts 4 and 5 (partially)	8th June 2005	2005/1444
Schedule 11, paragraph 1 (partially)	8th June 2005	2005/1444
Schedule 11, paragraph 14(1) to (5)	8th June 2005	2005/1444
Schedule 11, paragraph 16(1)	8th June 2005	2005/1444
Schedule 12, paragraphs 7, 9, 10 and 11	8th June 2005	2005/1444
Schedule 12, paragraph 14(1) (partially)	8th June 2005	2005/1444
Schedule 12, paragraph 14(5)(b)	8th June 2005	2005/1444
Schedule 12, paragraphs 15 and 16	8th June 2005	2005/1444
Schedule 12, paragraph 17(1) (partially)	8th June 2005	2005/1444
Schedule 12, paragraph 17(7)	8th June 2005	2005/1444
Schedule 12, paragraph 18(1) (partially)	8th June 2005	2005/1444
Schedule 12, paragraph 18(4)	8th June 2005	2005/1444
Schedule 13, Part 1 (partially)	8th June 2005	2005/1444
	(partially), 26th June 2005	
	(partially)	

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