

# Railways Act 1993

## 1993 CHAPTER 43

Thomson Reuters (Legal) Limited.

UK Statutes Crown Copyright. Reproduced by permission of the Controller of Her Majesty's Stationery Office.

An Act to provide for the appointment and functions of a Rail Regulator and a Director of Passenger Rail Franchising and of users' consultative committees for the railway industry and for certain ferry services; to make new provision with respect to the provision of railway services and the persons by whom they are to be provided or who are to secure their provision; to make provision for and in connection with the grant and acquisition of rights over, and the disposal or other transfer and vesting of, any property, rights or liabilities by means of which railway services are, or are to be, provided; to amend the functions of the British Railways Board; to make provision with respect to the safety of railways and the protection of railway employees and members of the public from personal injury and other risks arising from the construction or operation of railways; to make further provision with respect to transport police; to make provision with respect to certain railway pension schemes; to make provision for and in connection with the payment of grants and subsidies in connection with railways and in connection with the provision of facilities for freight haulage by inland waterway; to make provision in relation to tramways and other guided transport systems; and for connected purposes.

[5th November 1993]

BE IT ENACTED by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows—

---

### Extent

Preamble: England, Wales, Scotland

---

## PART I

### THE PROVISION OF RAILWAY SERVICES

#### *Introductory*

**R** Repealed

**1.— [...]¹**

**Notes**

¹ Repealed by Railways and Transport Safety Act 2003 c. 20 Sch.8 para.1 (July 5, 2004 as SI 2004/1572)

**R** Repealed

**2.— [...]¹**

**Notes**

¹ Repealed by Railways Act 2005 c. 14 Sch.13(1) para.1 (July 24, 2005 as SI 2005/1909)

**R** Repealed

**3.— [...]¹**

**Notes**

¹ Repealed by Railways Act 2005 c. 14 Sch.13(1) para.1 (July 24, 2005 as SI 2005/1909)

**✓** Law In Force

**4.— General duties of the Secretary of State and [ the [ Office of Rail and Road ]² ]¹ .**

(1) [ The [ Office of Rail and Road ]² ]¹ [ shall ]³ have a duty to exercise the functions assigned or transferred to [ it ]¹ under or by virtue of this Part [ or the Railways Act 2005 ]⁴ [ that are not safety functions ]⁵ in the manner which [ it ]¹ considers best calculated—

- [ (zb) to promote improvements in railway service performance;
- (a) otherwise to protect the interests of users of railway services; ]⁶
- (b) to promote the use of the railway network in Great Britain for the carriage of passengers and goods, and the development of that railway network, to the greatest extent that [ it ]¹ considers economically practicable;
- [ (ba) to contribute to the development of an integrated system of transport of passengers and goods;
- (bb) to contribute to the achievement of sustainable development; ]⁷
- (c) to promote efficiency and economy on the part of persons providing railway services;
- (d) to promote competition in the provision of railway services [ for the benefit of users of railway services ]⁸ ;
- (e) to promote measures designed to facilitate the making by passengers of journeys which involve use of the services of more than one passenger service operator;
- (f) to impose on the operators of railway services the minimum restrictions which are consistent with the performance of [ its ]¹ functions under this Part [ or the Railways Act 2005 ]⁴ [ that are not safety functions ]⁵ ;
- (g) to enable persons providing railway services to plan the future of their businesses with a reasonable degree of assurance.

(2) Without prejudice to the generality of subsection (1)(a) above, [ the [Office of Rail and Road] <sup>2</sup> ] <sup>1</sup> [ shall ] <sup>9</sup> each have a duty, in particular, to exercise the functions assigned or transferred to [ it ] <sup>1</sup> under or by virtue of this Part [ or the Railways Act 2005 ] <sup>4</sup> [ that are not safety functions ] <sup>5</sup> in the manner which [ it ] <sup>1</sup> considers is best calculated to protect—

(a) the interests of users and potential users of services for the carriage of passengers by railway provided by a private sector operator otherwise than under a franchise agreement, in respect of—

- (i) the prices charged for travel by means of those services, and
- (ii) the quality of the service provided [ ; and ] <sup>10</sup>

[...] <sup>10</sup>

(b) the interests of persons providing services for the carriage of passengers or goods by railway in their use of any railway facilities which are for the time being vested in a private sector operator, in respect of—

- (i) the prices charged for such use; and
- (ii) the quality of the service provided.

(3) [ The [Office of Rail and Road] <sup>2</sup> ] <sup>1</sup> [ shall ] <sup>11</sup> be under a duty in exercising the functions assigned or transferred to [ it ] <sup>1</sup> under or by virtue of this Part [ or the Railways Act 2005 ] <sup>4</sup> [ that are not safety functions ] <sup>5</sup> —

- (a) to take into account the need to protect all persons from dangers arising from the operation of railways [...] <sup>12</sup> ; and
- (b) to have regard to the effect on the environment of activities connected with the provision of railway services.

[ (3A) Subsections (1) to (3) above shall have effect in relation to the Secretary of State as in relation to [ the [Office of Rail and Road] <sup>2</sup> ] <sup>1</sup> , except that in their application to the Secretary of State—

(a) [...] <sup>14</sup>

(b) the references in each of the subsections to the functions transferred or assigned to the Secretary of State under or by virtue of this Part include only the functions transferred or assigned to him under or by virtue of [ sections 6 to 22 ] <sup>15</sup> below [ ; and ] <sup>16</sup>

[ (c) the references in each of the subsections to the functions transferred or assigned under or by virtue of the Railways Act 2005 include only the functions transferred or assigned to the Secretary of State under or by virtue of the provisions of Part 4 of that Act other than section 39. ] <sup>16</sup>

] <sup>13</sup>

[ (3B) Subsections (1) to (3) above shall have effect in relation to the Scottish Ministers as in relation to the [Office of Rail and Road] <sup>2</sup> except that, in relation to those Ministers—

- (a) the references in each of the subsections to functions transferred or assigned to those Ministers under or by virtue of Part 1 of this Act include only the functions transferred or assigned under or by virtue of sections 16A to 16G of this Act; and
- (b) the references in each of the subsections to the functions transferred or assigned under or by virtue of the Railways Act 2005 include only the functions transferred or assigned to those Ministers under or by virtue of Part 4 of that Act.

(3C) Subsections (1) to (3) above shall have effect in relation to the National Assembly for Wales as in relation to the [Office of Rail and Road] <sup>2</sup> except that, in relation to that Assembly, the references in each of the subsections to functions transferred or assigned under or by virtue of Part

1 of this Act or the Railways Act 2005 include only the functions transferred or assigned to the Assembly under or by virtue of the provisions of Part 4 of that Act of 2005 other than section 39. ]<sup>17</sup>

(4) The Secretary of State shall also be under a duty, in exercising the functions assigned or transferred to him under or by virtue of this Part [ or the Railways Act 2005 ]<sup>18</sup>, to promote the award of franchise agreements to companies in which qualifying railway employees have a substantial interest, “qualifying railway employees” meaning for this purpose persons who are or have been employed in an undertaking which provides or provided the services to which the franchise agreement in question relates at a time before those services begin to be provided under that franchise agreement.

(5) [ The [ Office of Rail and Road ]<sup>2</sup> ]<sup>1</sup> shall also be under a duty in exercising the functions assigned or transferred to [ it ]<sup>1</sup> under this Part [ or the Railways Act 2005 ]<sup>19</sup> [ that are not safety functions ]<sup>20</sup> —

[ (a) to have regard to any general guidance given to [ it ]<sup>1</sup> by the Secretary of State about railway services or other matters relating to railways; ]<sup>21</sup>

[ (aa) to have regard to any general guidance given to it by the Scottish Ministers about railway services wholly or partly in Scotland or about other matters in or as regards Scotland that relate to railways;

(ab) in having regard to any guidance falling within paragraph (aa), to give what appears to it to be appropriate weight to the extent (if any) to which the guidance relates to matters in respect of which expenditure is to be or has been incurred by the Scottish Ministers; ]<sup>22</sup>

(b) to act in a manner which [ it ]<sup>1</sup> considers will not render it unduly difficult for persons who are holders of network licences to finance any activities or proposed activities of theirs in relation to which [ the [ Office of Rail and Road ]<sup>2</sup> ]<sup>1</sup> has functions under or by virtue of this Part [ or that Act ]<sup>23</sup> (whether or not the activities in question are, or are to be, carried on by those persons in their capacity as holders of such licences); [...]<sup>24</sup>

[ (c) to have regard to the funds available to the Secretary of State for the purposes of his functions in relation to railways and railway services;

(ca) to have regard to any notified strategies and policies of the National Assembly for Wales, so far as they relate to Welsh services or to any other matter in or as regards Wales that concerns railways or railway services;

(cb) to have regard to the ability of the National Assembly for Wales to carry out the functions conferred or imposed on it by or under any enactment; and ]<sup>25</sup>

[ (d) to have regard to the ability of the Mayor of London [...]<sup>26</sup> and Transport for London to carry out the functions conferred or imposed on them by or under any enactment. ]<sup>24</sup>

[ (5A) Before giving any guidance for the purposes of subsection (5)(a) above the Secretary of State must consult the National Assembly for Wales. ]<sup>27</sup>

[ (5B) In exercising its safety functions, other than its functions as an enforcing authority for the purposes of the Health and Safety at Work etc. Act 1974, the [ Office of Rail and Road ]<sup>2</sup> shall be under a duty to have regard to any general guidance given to it by the Secretary of State. ]<sup>28</sup>

[ (5C) In performing its duties under subsections (1) to (5A) above in relation to—

(a) any matter affecting the interests of users or potential users of railway services,

(b) any matter affecting the interests of persons providing railway services, or

(c) any matter not falling within paragraph (a) or (b) but falling within subsection (5D),

the [ Office of Rail and Road ]<sup>2</sup> must have regard, in particular, to the interests, in securing value for money, of the persons mentioned in paragraphs (a) and (b) above, of the persons who make available the resources and other funds mentioned in that subsection and of the general public.

(5D) A matter falls within this subsection if the [ Office of Rail and Road ]<sup>2</sup> has been informed that—

- (a) public financial resources (within the meaning of paragraph 1D of Schedule 4A to this Act), or
- (b) funds that do not comprise such resources but are provided in whole or in part by Transport for London, the National Assembly for Wales, a Passenger Transport Executive or any other body in receipt of such resources,

are or are likely to become available to be applied for purposes connected with that matter.

] <sup>29</sup>

(6) In performing [ its ]<sup>1</sup> duty under subsection (1)(a) above so far as relating to services for the carriage of passengers by railway or to station services, [ the [ Office of Rail and Road ]<sup>2</sup> ]<sup>1</sup> shall have regard, in particular, to the interests of persons who are disabled.

(7) Without prejudice to the generality of paragraph (e) of subsection (1) above, any arrangements for the issue and use of through tickets shall be regarded as a measure falling within that paragraph.

[ (7ZA) Where any general guidance is given to the [ Office of Rail and Road ]<sup>2</sup> for the purposes of subsection (5)(a) or (aa) or (5B)—

- (a) it may be varied or revoked by the person giving it at any time; and
- (b) the guidance, and any variation or revocation of the guidance, must be published by that person in such manner as he considers appropriate.

] <sup>30</sup>

[ (7A) Subsections (1) to (6) above do not apply in relation to anything done by [ the [ Office of Rail and Road ]<sup>2</sup> ]<sup>1</sup> in the exercise of functions assigned to [ it ]<sup>1</sup> by section 67(3) below (“Competition Act functions”).

(7B) [ The [ Office of Rail and Road ]<sup>2</sup> ]<sup>1</sup> may nevertheless, when exercising any Competition Act function, have regard to any matter in respect of which a duty is imposed by any of subsections (1) to (6) above, if it is a matter to which [ the CMA ]<sup>32</sup> could have regard when exercising that function. ] <sup>31</sup>

(8) [...] <sup>33</sup>

(9) In this section—

[ “the environment” means all, or any, of the following media, namely, the air, water and land (and the medium of air includes the air within buildings and the air within other natural or man-made structures above or below ground); ] <sup>34</sup>

[ “notified strategies and policies”, in relation to the National Assembly for Wales, means the strategies and policies of that Assembly that have been notified by that Assembly for the purposes of this section to the [ Office of Rail and Road ]<sup>2</sup>; ] <sup>35</sup>

“the passenger transport market” means the market for the supply of services for the carriage of passengers, whether by railway or any other means of transport;

(a)-(b) [...] <sup>36</sup>

[ “railway service performance” includes, in particular, performance in securing each of the following in relation to railway services—

- (a) reliability (including punctuality);



- (b) the avoidance or mitigation of passenger overcrowding; and
- (c) that journey times are as short as possible;

] <sup>37</sup>

[“safety functions” means functions assigned or transferred to the [Office of Rail and Road] <sup>2</sup> –

- (a) under this Part,
- (b) under or by virtue of the Railways Act 2005, or
- (c) under or by virtue of the Health and Safety at Work etc. Act 1974,

so far as they are being exercised for the railway safety purposes (within the meaning of Schedule 3 to the Railways Act 2005) or for purposes connected with those purposes. ] <sup>38</sup>

#### Notes

- <sup>1</sup> Words substituted by Railways and Transport Safety Act 2003 c. 20 Sch.2(1) para.3 (July 5, 2004)
- <sup>2</sup> Words substituted by Office of Rail Regulation (Change of Name) Regulations 2015/1682 Sch.1(1) para.1(a) (October 16, 2015)
- <sup>3</sup> Words substituted by Transport Act 2000 c. 38 Pt IV c.II s.224(2)(a) (February 1, 2001)
- <sup>4</sup> Words substituted by Railways Act 2005 c. 14 Pt 1 s.3(2) (June 8, 2005 as SI 2005/1444)
- <sup>5</sup> Substituted by Railways Act 2005 c. 14 Pt 1 s.3(2) (April 1, 2006 as SI 2006/266)
- <sup>6</sup> Substituted by Railways Act 2005 c. 14 Pt 1 s.3(3) (June 26, 2005)
- <sup>7</sup> Added by Transport Act 2000 c. 38 Pt IV c.II s.224(2)(c) (February 1, 2001)
- <sup>8</sup> Words inserted by Transport Act 2000 c. 38 Pt IV c.II s.224(2)(d) (February 1, 2001)
- <sup>9</sup> Words substituted by Transport Act 2000 c. 38 Pt IV c.II s.224(3)(a) (February 1, 2001)
- <sup>10</sup> Words repealed by Enterprise Act 2002 c. 40 Sch.26 para.1 (June 20, 2003 as SI 2003/1397)
- <sup>11</sup> Words substituted by Transport Act 2000 c. 38 Pt IV c.II s.224(4) (February 1, 2001)
- <sup>12</sup> Words repealed by Railways Act 2005 c. 14 Sch.13(1) para.1 (April 1, 2006 as SI 2006/266)
- <sup>13</sup> Added by Transport Act 2000 c. 38 Pt IV c.II s.224(5) (February 1, 2001)
- <sup>14</sup> Repealed by Railways Act 2005 c. 14 Sch.13(1) para.1 (June 26, 2005 as SI 2005/1444)
- <sup>15</sup> Words repealed by Railways Act 2005 c. 14 Sch.13(1) para.1 (December 1, 2006 as SI 2006/2911)
- <sup>16</sup> Added by Railways Act 2005 c. 14 Pt 1 s.3(5) (December 1, 2006)
- <sup>17</sup> Added by Railways Act 2005 c. 14 Pt 1 s.3(6) (October 16, 2005 for purposes specified in SI 2005/2812 Sch.1; December 1, 2006 as specified in SI 2006/2911 art.1 and Sch.1 otherwise)
- <sup>18</sup> Words inserted by Railways Act 2005 c. 14 Pt 1 s.3(7) (June 26, 2005)
- <sup>19</sup> Words inserted by Railways Act 2005 c. 14 Pt 1 s.3(8)(a) (June 8, 2005 as SI 2005/1444)
- <sup>20</sup> Added by Railways Act 2005 c. 14 Pt 1 s.3(8)(a) (April 1, 2006 as SI 2006/266)
- <sup>21</sup> Substituted by Transport Act 2000 c. 38 Pt IV c.II s.224(6) (February 1, 2001)
- <sup>22</sup> Added by Railways Act 2005 c. 14 Pt 1 s.3(8)(b) (October 16, 2005)
- <sup>23</sup> Added by Railways Act 2005 c. 14 Pt 1 s.3(8)(c) (June 8, 2005)
- <sup>24</sup> Added by Greater London Authority Act 1999 c. 29 Pt IV c.VI s.200(4) (July 3, 2000)
- <sup>25</sup> Substituted by Railways Act 2005 c. 14 Pt 1 s.3(8)(d) (July 24, 2005)
- <sup>26</sup> Words repealed by Railways Act 2005 c. 14 Sch.13(1) para.1 (June 8, 2005 as SI 2005/1444)
- <sup>27</sup> Added by Railways Act 2005 c. 14 Pt 1 s.3(9) (June 8, 2005 as SI 2005/1444)
- <sup>28</sup> Added by Railways Act 2005 c. 14 Pt 1 s.3(9) (April 1, 2006 as SI 2006/266)
- <sup>29</sup> Added by Railways Act 2005 c. 14 Pt 1 s.3(9) (January 29, 2007 as SI 2007/62)
- <sup>30</sup> Substituted by Railways Act 2005 c. 14 Pt 1 s.3(10) (October 16, 2005 for purposes specified in SI 2005/2812 Sch.1)
- <sup>31</sup> Added by Competition Act 1998 c. 41 Sch.10(II) para.6(3) (March 1, 2000 as SI 2000/344)

- <sup>32</sup> Words substituted by Enterprise and Regulatory Reform Act 2013 (Competition) (Consequential, Transitional and Saving Provisions) Order 2014/892 Sch.1(2) para.100 (April 1, 2014)
- <sup>33</sup> Repealed by Enterprise Act 2002 c. 40 Sch.26 para.1 (June 20, 2003 as SI 2003/1397)
- <sup>34</sup> Definition substituted by Pollution Prevention and Control Act 1999 c. 24 Sch.2 para.12 (September 29, 2000: as SSI 2000/322)
- <sup>35</sup> Definition inserted by Railways Act 2005 c. 14 Pt 1 s.3(11)(a) (July 24, 2005)
- <sup>36</sup> Definition repealed by Transport Act 2000 c. 38 Sch.31(IV) para.1 (February 1, 2001 as SI 2001/57)
- <sup>37</sup> Definitions inserted by Railways Act 2005 c. 14 Pt 1 s.3(11)(b) (June 26, 2005 as SI 2005/1444)
- <sup>38</sup> Added by Railways Act 2005 c. 14 Pt 1 s.3(11)(b) (April 1, 2006 as SI 2006/266)

### Commencement

Pt I s. 4(1)-(1)(g), (3)-(3)(b): December 24, 1993 for the purposes of the functions of the Secretary of State under 1993 c.43 s.33; February 22, 1994 for the purposes of the functions of the Regulator under 1993 c.43 s.70; March 21, 1994 otherwise (SI 1993/3237 art. 2(1))

Pt I s. 4(2)-(2)(b)(ii), (5)-(6): February 22, 1994 for the purposes of the functions of the Regulator under 1993 c.43 s.70; March 21, 1994 otherwise (SI 1994/447 art. 2)

Pt I s. 4(4), (8)-(8)(b), (9) definition of "the passenger transport market": March 21, 1994 (SI 1994/571 art. 3)

Pt I s. 4(7)-(7): December 24, 1993 for the purposes of the functions of the Secretary of State under 1993 c.43 s.33; March 21, 1994 otherwise (SI 1993/3237 art. 2(1))

Pt I s. 4(9)-(9) definition of "environment", (9) definition of "through ticket"-(9) definition of "through ticket" (b): December 24, 1993

### Extent

Pt I s. 4(1)-(9) definition of "through ticket" (b): England, Wales, Scotland


 Repealed

### 5.— [...]¹

#### Notes

- <sup>1</sup> Repealed by Transport Act 2000 c. 38 Sch.31(IV) para.1 (February 1, 2001 as SI 2001/57)

## *Licensing of operators of railway assets*

 Law In Force

### 6.— Prohibition on unauthorised operators of railway assets.

- (1) Any person who acts as the operator of a railway asset is guilty of an offence unless—
- (a) he is authorised to be the operator of that railway asset by a licence; or
  - (b) he is exempt, by virtue of section 7 below, from the requirement to be so authorised.





**Extent**

Pt II s. 116(1)-(2)(c)(ii): United Kingdom

**PART III****MISCELLANEOUS, GENERAL AND SUPPLEMENTAL PROVISIONS***Safety, emergencies, security etc.*☒ Law In Force**117.— Safety of railways and other guided transport systems.**

(1) Part I of the Health and Safety at Work etc. Act 1974 (“the 1974 Act”) shall have effect as if the provisions mentioned in subsection (4) below (which relate to the proper construction and safe operation of certain transport systems, and of the vehicles used on those systems, and the protection of railway employees or the general public from personal injury and other risks arising therefrom)—

- (a) were existing statutory provisions, within the meaning of that Part; and
- (b) in the case of the enactments mentioned in paragraphs (a) to (m) of that subsection, were specified in the third column of Schedule 1 to that Act.

(2) If to any extent they would not do so apart from this subsection, the general purposes of Part I of the 1974 Act shall include—

- (a) securing the proper construction and safe operation of transport systems to which this section applies, and of any locomotives, rolling stock or other vehicles used, or to be used, on those systems; and
- (b) protecting the public (whether passengers or not) from personal injury and other risks arising from the construction and operation of transport systems to which this section applies.

(3) Without prejudice to the generality of subsection (1) of section 15 of the 1974 Act (health and safety regulations), regulations under that section may—

- (a) repeal or modify any of the provisions mentioned in subsection (4) below; and
- (b) make any provision which, but for any such repeal or modification, could be made by regulations or orders made under any enactment there mentioned.

(4) The provisions referred to in subsections (1) and (3) above are—

- (a) the Highway (Railway Crossings) Act 1839;
- (b) sections 9 and 10 of the Railway Regulation Act 1842;
- (c) section 22 of the Regulation of Railways Act 1868;
- (d) the Regulation of Railways Act 1871;
- (e) sections 1 and 4 of the Regulation of Railways Act 1889;
- (f) the Railway Employment (Prevention of Accidents) Act 1900;
- (g) section 42 of the Road and Rail Traffic Act 1933;
- (h) section 40 of the British Transport Commission Act 1954;

- (j) section 66 of the British Transport Commission Act 1957;
  - (k) sections 124 and 125 of the Transport Act 1968;
  - (l) the Level Crossings Act 1983;
  - (m) sections 41 to 45 of the Transport and Works Act 1992;
  - (n) any regulations made under section 2 of the European Communities Act 1972 for the purpose of implementing the Council Directive of 29th July 1991 on the development of the Community's railways, so far as the regulations are made for safety purposes .
- (5) In consequence of subsection (1) above and the resulting application of sections 38 and 50 of the 1974 Act (consent to prosecutions, and procedural requirements for making regulations)—
- (a) in section 57 of the Transport and Works Act 1992 (duty to consult before making regulations under, among other provisions, section 38(2), 41 or 43 of that Act) for the words “38(2), 41 or 43” there shall be substituted the words “or 38(2)”; and
  - (b) in section 58 of that Act (which requires the consent of the Secretary of State or the Director of Public Prosecutions to a prosecution for an offence under Part II of that Act) after the words “offence under this Part” there shall be inserted the words “, other than an offence under section 41 or 43 above,”.
- (6) This section applies to the following transport systems, that is to say—
- (a) any railway, tramway or trolley vehicle system; or
  - (b) any transport system using any other mode of guided transport.
- (7) The definitions of “guided transport”, “railway”, “tramway”, “trolley vehicle system” and “vehicle” in section 67(1) of the Transport and Works Act 1992 shall have effect for the purposes of this section as they have effect for the purposes of that Act, but disregarding for the purposes of this section paragraph (b) of the definition of “railway” (which includes a condition as to the minimum gauge of the track).

---

#### Commencement

Pt III s. 117(1)-(7): February 2, 1994 (SI 1994/202 art. 2)

#### Extent

Pt III s. 117(1)-(7): England, Wales, Scotland

---

☒ Law In Force

### **118.— Control of railways in time of hostilities, severe international tension or great national emergency.**

(1) In time of hostilities, whether actual or imminent, severe international tension or great national emergency, the Secretary of State may give directions under this subsection to such of the following persons as he may consider appropriate, that is to say—

- (a) [ the [Office of Rail and Road] <sup>2</sup> ] <sup>1</sup> ;
- (b) [...] <sup>3</sup>
- (c) any person who is the owner or operator of a relevant asset;
- (d) any person who provides railway services.