



# Railways Act 1993

## 1993 CHAPTER 43

### PART I

#### THE PROVISION OF RAILWAY SERVICES

##### *Closures*

### **37 Proposals to discontinue non-franchised etc. passenger services**

(1) In any case where—

- (a) all the railway passenger services on any line or from any station are provided otherwise than in satisfaction of requirements imposed by a franchise agreement and otherwise than on behalf of the Franchising Director, and
- (b) the person providing those services (in this section referred to as “the service operator”) proposes to discontinue all such services on that line or from that station (in this section referred to as a closure),

then, unless the closure is certified by the Regulator as being a minor closure, the service operator shall give notice of the proposal to the Franchising Director not less than three months before the date specified pursuant to subsection (3)(b) below as that on which the service operator will cease providing the services (the “service operator’s withdrawal date”) and shall not discontinue those services before that date.

(2) In determining for the purposes of paragraph (a) of subsection (1) above whether all the railway passenger services on a line or from a station are provided as mentioned in that paragraph, there shall be left out of account any services—

- (a) which involve travel through the Channel Tunnel;
- (b) which are experimental passenger services, within the meaning of section 48 below, or which are provided on an experimental basis, for the purposes of section 56A of the Transport Act 1962;
- (c) which are provided otherwise than as regular scheduled services for that line or for that station, as the case may be; or

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- (d) which are designated, or which are of a class or description designated, by order under section 49(2) below as services in relation to which this section is not to have effect;

and this section shall not have effect in relation to any services falling within paragraphs (a) to (d) above.

- (3) A notice under subsection (1) above shall be accompanied by a statement of—
- (a) the service operator's reasons for the proposal;
  - (b) the date on which he will cease providing the services in question; and
  - (c) any alternative transport services which appear to the service operator to be available.
- (4) Where notice is given to the Franchising Director under subsection (1) above, he must consider, and form an opinion on, the question whether the proposed closure should or should not be permitted to take effect.
- (5) If the Franchising Director is of the opinion that the proposed closure should not be permitted to take effect, he shall be under a duty to secure the provision of the services in question after the service operator's withdrawal date.
- (6) If the Franchising Director is of the opinion that the proposed closure should be permitted to take effect, he shall publish in two successive weeks in a local newspaper circulating in the area affected and in two national newspapers, and in such other manner as appears to him to be appropriate, a notice containing—
- (a) particulars of the proposal to effect the closure,
  - (b) particulars of the date on which it is proposed that the closure will take effect,
  - (c) particulars of any alternative transport services which appear to him to be available,
  - (d) the addresses of the premises at which a statement of the reasons for the proposed closure can be inspected, or from which a copy of that statement can be obtained, and any fees payable for copies of the statement,
  - (e) a statement that objections to the proposed closure may be lodged with the Regulator within such period as may be specified for the purpose in the notice (being not less than six weeks from the date of the last publication of the notice in a local newspaper),
- and shall be under a duty during the interim period to secure the provision of the services to which the proposed closure relates.
- (7) The reasons contained in the statement referred to in subsection (6)(d) above may consist of or include the reasons included in the statement under subsection (3) above, with or without other reasons of the Franchising Director's.
- (8) Without prejudice to the provisions of section 38 below in relation to the services in question—
- (a) if the final decision on the closure question is that the proposed closure will not be allowed to take effect, the Franchising Director shall be under a duty to secure the provision of those services after the interim period; and
  - (b) if the final decision on the closure question is that the proposed closure will be allowed to take effect subject to compliance with conditions, the Franchising Director shall be under a duty to comply with those conditions or to secure that they are complied with.

- (9) In this section—

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“the area affected” means the area in which is situated the station or, as the case may be, the line mentioned in subsection (1) above;

“the final decision on the closure question” means—

- (a) in a case where the decision of the Regulator under section 43(9) below with respect to the proposed closure is not referred to the Secretary of State under section 44 below, that decision; or
- (b) in a case where that decision is referred to the Secretary of State under section 44 below, the disposal of that reference by the Secretary of State;

“the interim period” means the period beginning immediately after the service operator’s withdrawal date and ending four weeks after the date of the final decision on the closure question;

“minor closure” means the discontinuance of services on any stretch of line along which there is no station (or no station in use) where the circumstances are, in the opinion of the Regulator, such that—

- (a) any trains that would otherwise use that stretch of line in travelling between any two stations will instead pass along an alternative route; and
- (b) any passengers travelling on any such trains will not be required to make any additional change of train and will not incur any significant increase in the time which their journey takes.

- (10) The railway passenger services which are to be regarded for the purposes of this section as provided on behalf of the Franchising Director are those whose provision he is for the time being under a duty to secure in consequence of—
  - (a) section 30 above,
  - (b) subsection (5) or (8)(a) above,
  - (c) section 38(6)(a) below, or
  - (d) any closure condition imposed under section 43(9) or 44(2) below.
- (11) Any sums received by the Franchising Director under this section shall be paid into the Consolidated Fund.

### **38 Proposals to discontinue franchised etc. passenger services**

- (1) This section applies in any case where—
  - (a) any railway passenger services on any line or from any station are provided on behalf of the Franchising Director and he proposes to discontinue those services, or
  - (b) any railway passenger services on any line or from any station are provided in satisfaction of requirements imposed by a franchise agreement, but—
    - (i) the person so providing those services intends not to continue to provide them when the requirement so to provide them comes to an end, and
    - (ii) the Franchising Director proposes that they should then be discontinued;

and any reference in this section to a closure is a reference to a discontinuance falling within paragraph (a) or (b) above.

- (2) If in a case to which this section applies—
  - (a) the closure is certified by the Regulator as being a minor closure,

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- (b) the closure in question is one in respect of which, in consequence of the application of section 49(6) below, neither section 37 above nor Schedule 5 to this Act is to apply,
- (c) the closure is one in respect of which neither of the conditions in subsection (3) below is satisfied, and any requirement imposed by a franchise agreement to provide the services in question has come to an end, or
- (d) the services in question fall within any of paragraphs (a) to (c) of subsection (4) below,

the Franchising Director may discontinue the services in question, notwithstanding any duty imposed on him by or under this Part to secure their provision, and subsections (5) and (6) below shall not apply in relation to the closure.

- (3) The conditions mentioned in subsection (2)(c) above are—
  - (a) that all the railway passenger services on the line or from the station in question are provided on behalf of the Franchising Director and he proposes to discontinue all such services on that line or from that station; or
  - (b) that all the railway passenger services on the line or from the station in question are provided in satisfaction of requirements imposed by a franchise agreement, and—
    - (i) the person so providing those services intends not to continue providing them when the requirement so to provide them comes to an end, and
    - (ii) the Franchising Director proposes that all such services on that line or from that station should then be discontinued.
- (4) In determining, for the purposes of paragraph (a) or (b) of subsection (3) above, whether all the railway passenger services on a line or from a station are provided as mentioned in that paragraph there shall be left out of account any services—
  - (a) which involve travel through the Channel Tunnel;
  - (b) which are provided otherwise than as regular scheduled services for that line or for that station, as the case may be;
  - (c) which are designated, or which are of a class or description designated, by order under section 49(2) below as services in relation to which section 37 above is not to have effect; or
  - (d) which are experimental passenger services, within the meaning of section 48 below, or which are provided on an experimental basis, for the purposes of section 56A of the Transport Act 1962;

and this section shall not have effect in relation to any services falling within paragraph (d) above.

- (5) Subject to subsection (2) above, where this section applies, the Franchising Director shall publish in two successive weeks in a local newspaper circulating in the area affected and in two national newspapers, and in such other manner as appears to him to be appropriate, a notice containing—
  - (a) particulars of the proposal to effect the closure,
  - (b) the date on which it is proposed that the closure will take effect,
  - (c) particulars of any alternative transport services which appear to him to be available,
  - (d) the addresses of the premises at which a statement of the reasons for the proposed closure can be inspected, or from which a copy of that statement can be obtained, and any fees payable for copies of the statement,

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- (e) a statement that objections to the proposed closure may be lodged with the Regulator within such period as may be specified for the purpose in the notice (being not less than six weeks from the date of the last publication of the notice in a local newspaper),
- and shall be under a duty during the interim period to secure the provision of the services to which the proposed closure relates.
- (6) Without prejudice to any subsequent application of this section in relation to the services in question—
- (a) if the final decision on the closure question is that the proposed closure will not be allowed to take effect, the Franchising Director shall be under a duty to secure the provision of those services after the interim period; and
- (b) if the final decision on the closure question is that the proposed closure will be allowed to take effect subject to compliance with conditions, the Franchising Director shall be under a duty to comply with those conditions or to secure that they are complied with.
- (7) In this section—
- “the area affected” means the area in which is situated the station or, as the case may be, the line mentioned in subsection (1) above;
- “the final decision on the closure question” means—
- (a) in a case where the decision of the Regulator under section 43(9) below with respect to the proposed closure is not referred to the Secretary of State under section 44 below, that decision; or
- (b) in a case where that decision is referred to the Secretary of State under section 44 below, the disposal of that reference by the Secretary of State;
- “the interim period” means—
- (a) in a case falling within paragraph (a) of subsection (1) above, the period beginning with the date mentioned in subsection (5)(b) above and ending four weeks after the date of the final decision on the closure question; or
- (b) in a case falling within paragraph (b) of that subsection, the period beginning immediately after the requirement mentioned in subparagraph (i) of that paragraph comes to an end and ending four weeks after the date of the final decision on the closure question;
- “minor closure” has the same meaning as it has in section 37 above.
- (8) The services which are to be regarded for the purposes of this section as provided on behalf of the Franchising Director are the same services as are to be so regarded for the purposes of section 37 above.
- (9) Any sums received by the Franchising Director under this section shall be paid into the Consolidated Fund.

### **39 Notification of proposals to close operational passenger networks**

- (1) Subject to subsection (2) below, in any case where—
- (a) the operator of a network proposes to discontinue the operation of the network or some part of it (in this section referred to as a “closure”),
- (b) the network or, as the case may be, the part of the network in question has, at any time within the preceding five years, been used for or in connection with the provision of any services for the carriage of passengers by railway, and

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- (c) the network or, as the case may be, the part of the network in question is not one which is operated on behalf of the Franchising Director,
- then, unless the closure is certified by the Regulator as being a minor closure, the operator shall give notice of the proposal to the Franchising Director not less than three months before the date specified pursuant to subsection (4)(b) below as the date on which it is proposed that the closure should take effect and shall not discontinue the operation of the network or, as the case may be, the part of the network in question before that date.
- (2) This section does not apply if and to the extent that the proposal mentioned in subsection (1) above is a proposal to discontinue the operation of part of a multiple track railway between any two places, where the circumstances are such that the railway line in question will continue to be at least a single track railway between those two places.
- (3) In determining for the purposes of subsection (1)(b) above whether the network or, as the case may be, the part of the network in question has at any time within the period there mentioned been used for or in connection with the provision of services for the carriage of passengers by railway, there shall be left out of account any use for or in connection with the provision of services—
- (a) which involve travel through the Channel Tunnel;
  - (b) which are experimental passenger services, within the meaning of section 48 below, or which are provided on an experimental basis, for the purposes of section 56A of the Transport Act 1962; or
  - (c) which are provided otherwise than as regular scheduled services on that network or, as the case may be, the part of the network in question;
- and this section shall not have effect in relation to any networks which are designated, or which are of a class or description designated, by order under section 49(4) below as networks in relation to which this section is not to have effect.
- (4) A notice under subsection (1) above shall be accompanied by a statement of—
- (a) the operator's reasons for the proposal;
  - (b) the date on which it is proposed that the closure will take effect; and
  - (c) any alternative transport services which appear to him to be available.
- (5) Where notice is given to the Franchising Director under subsection (1) above, he must consider, and form an opinion on, the question whether the proposed closure should or should not be permitted to take effect.
- (6) If the Franchising Director is of the opinion that the proposed closure should not be permitted to take effect, he shall be under a duty to secure the continued operation of the network or, as the case may be, the part of the network in question after the date on which the operator proposes that the closure should take effect.
- (7) If the Franchising Director is of the opinion that the proposed closure should be permitted to take effect, he shall publish in two successive weeks in a local newspaper circulating in the area affected and in two national newspapers, and in such other manner as appears to him to be appropriate, a notice containing—
- (a) particulars of the proposal to effect the closure,
  - (b) the date on which it is proposed that the closure will take effect,
  - (c) particulars of any alternative transport services which appear to him to be available,

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- (d) the addresses of the premises at which a statement of the reasons for the proposed closure can be inspected, or from which a copy of that statement can be obtained, and any fees payable for copies of the statement,
- (e) a statement that objections to the proposed closure may be lodged with the Regulator within such period as may be specified for the purpose in the notice (being not less than six weeks from the date of the last publication of the notice in a local newspaper),

and shall be under a duty during the interim period to secure the operation of the network or, as the case may be, the part of the network to which the proposed closure relates.

- (8) The reasons contained in the statement referred to in subsection (7)(d) above may consist of or include the reasons included in the statement under subsection (4) above, with or without other reasons of the Franchising Director's.
- (9) Without prejudice to the provisions of section 40 below in relation to the network or the part of the network in question—
  - (a) if the final decision on the closure question is that the proposed closure will not be allowed to take effect, the Franchising Director shall be under a duty to secure the operation of the network or, as the case may be, the part of the network after the interim period; and
  - (b) if the final decision on the closure question is that the proposed closure will be allowed to take effect subject to compliance with conditions, the Franchising Director shall be under a duty to comply with those conditions or to secure that they are complied with.

(10) In this section—

“the area affected” means the area in which is situated the network or, as the case may be, the part of the network in question;

“the final decision on the closure question” means—

- (a) in a case where the decision of the Regulator under section 43(9) below with respect to the proposed closure is not referred to the Secretary of State under section 44 below, that decision; or
- (b) in a case where that decision is referred to the Secretary of State under section 44 below, the disposal of that reference by the Secretary of State;

“the interim period” means the period beginning with the date mentioned in subsection (7)(b) above and ending four weeks after the date of the final decision on the closure question;

“minor closure” means discontinuance of the operation of—

- (a) any part of a network which consists of a stretch of track, or installations associated with a stretch of track, along which there is no station (or no station in use) where the circumstances are, in the opinion of the Regulator, such that—
  - (b) any trains that would otherwise use that part of the network in travelling between any two stations will instead pass along an alternative route; and
  - (ii) any passengers travelling on any such trains will not be required to make any additional change of train and will not incur any significant increase in the time which their journey takes; or
- (d) any part of a network (other than track) which, in the opinion of the Regulator, is not necessary for the use of the network for or in connection with the provision of services for the carriage of passengers by railway;

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“multiple track railway” means a railway line between any two places which consists of two or more continuous sets of track taking the same route between those two places;

“single track railway” means a railway line between any two places which consists of one continuous set of track between the two places.

- (11) The networks, and the parts of networks, which are to be regarded for the purposes of this section as operated on behalf of the Franchising Director are those whose operation he is for the time being under a duty to secure, in consequence of—
- (a) subsection (6) or (9)(a) above,
  - (b) section 40(6)(a) below, or
  - (c) any closure condition imposed under section 43(9) or 44(2) below,
- and those whose operation he is for the time being securing in pursuance of his power under section 30 above.
- (12) Any sums received by the Franchising Director under this section shall be paid into the Consolidated Fund.

#### **40 Proposals to close passenger networks operated on behalf of the Franchising Director**

- (1) This section applies in any case where—
- (a) a network or a part of a network is operated on behalf of the Franchising Director; and
  - (b) the Franchising Director proposes to discontinue the operation of the network or, as the case may be, the part of the network in question (in this section referred to as a “closure”).
- (2) If in a case where this section applies—
- (a) the closure is certified by the Regulator as being a minor closure,
  - (b) the closure is one to which subsection (3) below applies,
  - (c) the network or, as the case may be, the part of the network in question has at no time within the preceding five years been used for or in connection with the provision of any services for the carriage of passengers by railway, or
  - (d) the network in question is one of those which are designated, or which are of a class or description designated, by order under section 49(4) below as networks in relation to which section 39 above is not to have effect,
- the Franchising Director may discontinue the operation of the network or, as the case may be, the part of the network in question, notwithstanding any duty imposed upon him by or under this Part to secure its operation, and subsections (5) and (6) below shall not apply in relation to the closure.
- (3) This subsection applies to a closure if and to the extent that it is the closure of part of a multiple track railway running between any two places, where the circumstances are such that the railway line in question will continue to be at least a single track railway between those two places.
- (4) In determining for the purposes of subsection (2)(c) above whether the network or, as the case may be, the part of the network in question has at any time within the period there mentioned been used for or in connection with the provision of services for the carriage of passengers by railway, there shall be left out of account any use for or in connection with the provision of services—



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- (a) which involve travel through the Channel Tunnel;
  - (b) which are experimental passenger services, within the meaning of section 48 below, or which are provided on an experimental basis, for the purposes of section 56A of the Transport Act 1962; or
  - (c) which are provided otherwise than as regular scheduled services on that network or, as the case may be, the part of the network in question.
- (5) Subject to subsection (2) above, where this section applies, the Franchising Director shall publish in two successive weeks in a local newspaper circulating in the area affected and in two national newspapers, and in such other manner as appears to him to be appropriate, a notice containing—
- (a) particulars of the proposal to effect the closure,
  - (b) the date on which it is proposed that the closure will take effect,
  - (c) particulars of any alternative transport services which appear to him to be available,
  - (d) the addresses of the premises at which a statement of the reasons for the proposed closure can be inspected, or from which a copy of that statement can be obtained, and any fees payable for copies of the statement,
  - (e) a statement that objections to the proposed closure may be lodged with the Regulator within such period as may be specified for the purpose in the notice (being not less than six weeks from the date of the last publication of the notice in a local newspaper),

and shall be under a duty during the interim period to secure the operation of the network or, as the case may be, the part of the network to which the proposed closure relates.

- (6) Subject to subsection (2) above and without prejudice to any subsequent application of this section in relation to the network or the part of the network in question—
- (a) if the final decision on the closure question is that the proposed closure will not be allowed to take effect, the Franchising Director shall be under a duty to secure the operation of the network or, as the case may be, the part of the network after the interim period; and
  - (b) if the final decision on the closure question is that the proposed closure will be allowed to take effect subject to compliance with conditions, the Franchising Director shall be under a duty to comply with those conditions or to secure that they are complied with.

- (7) In this section—

“the area affected” means the area in which is situated the network or, as the case may be, the part of the network in question;

“the final decision on the closure question” means—

- (a) in a case where the decision of the Regulator under section 43(9) below with respect to the proposed closure is not referred to the Secretary of State under section 44 below, that decision; or
- (b) in a case where that decision is referred to the Secretary of State under section 44 below, the disposal of that reference by the Secretary of State;

“the interim period” means the period beginning with the date mentioned in subsection (5)(b) above and ending four weeks after the date of the final decision on the closure question;

“minor closure”, “multiple track railway” and “single track railway” have the same meaning as they have in section 39 above.

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- (8) The networks and parts of networks that are to be regarded for the purposes of this section as operated on behalf of the Franchising Director are the same networks and parts of networks as are to be so regarded for the purposes of section 39 above.
- (9) Any sums received by the Franchising Director under this section shall be paid into the Consolidated Fund.

#### **41 Notification of proposals to close railway facilities used in connection with passenger services**

- (1) In any case where—
  - (a) the operator of a station or light maintenance depot (“the relevant facility”) proposes to terminate the use of that station or light maintenance depot, or some part of it, as such (in this section referred to as a “closure”),
  - (b) the relevant facility or, as the case may be, the part of the relevant facility in question has, at any time within the preceding five years, been used in connection with the provision of any services for the carriage of passengers by railway, and
  - (c) the relevant facility or, as the case may be, the part of the relevant facility in question is not one which is operated on behalf of the Franchising Director,then, unless the closure is certified by the Regulator as being a minor closure, the operator shall give notice of the proposal to the Franchising Director not less than three months before the date specified pursuant to subsection (3)(b) below as the date on which it is proposed that the closure should take effect and shall not terminate the use of the relevant facility or, as the case may be, the part of the relevant facility in question before that date.
- (2) In determining for the purposes of subsection (1)(b) above whether the relevant facility or, as the case may be, the part of the relevant facility in question has at any time within the period there mentioned been used in connection with the provision of services for the carriage of passengers by railway, there shall be left out of account any use in connection with the provision of services—
  - (a) which involve travel through the Channel Tunnel;
  - (b) which are experimental passenger services, within the meaning of section 48 below, or which are provided on an experimental basis, for the purposes of section 56A of the Transport Act 1962; or
  - (c) which are provided otherwise than as regular scheduled services;and this section shall not have effect in relation to any stations or light maintenance depots which are designated, or which are of a class or description designated, by order under section 49(5) below as stations or light maintenance depots in relation to which this section is not to have effect.
- (3) A notice under subsection (1) above shall be accompanied by a statement of—
  - (a) the operator’s reasons for the proposal;
  - (b) the date on which it is proposed that the closure will take effect; and
  - (c) any alternative facilities which appear to the operator to be available for the provision of services corresponding to those provided by means of the relevant facility or, as the case may be, the part of the relevant facility in question.

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- (4) Where notice is given to the Franchising Director under subsection (1) above, he must consider, and form an opinion on, the question whether the proposed closure should or should not be permitted to take effect.
- (5) If the Franchising Director is of the opinion that the proposed closure should not be permitted to take effect, he shall be under a duty to secure the continued operation of the relevant facility or, as the case may be, the part of the relevant facility in question after the date on which the operator proposes that the closure should take effect.
- (6) If the Franchising Director is of the opinion that the proposed closure should be permitted to take effect, he shall publish in two successive weeks in a local newspaper circulating in the area affected and in two national newspapers, and in such other manner as appears to him to be appropriate, a notice containing—
- (a) particulars of the proposal to effect the closure,
  - (b) the date on which it is proposed that the closure will take effect,
  - (c) particulars of any alternative facilities which appear to him to be available for the provision of services corresponding to those provided by means of the relevant facility or, as the case may be, the part of the relevant facility in question,
  - (d) the addresses of the premises at which a statement of the reasons for the proposed closure can be inspected, or from which a copy of that statement can be obtained, and any fees payable for copies of the statement,
  - (e) a statement that objections to the proposed closure may be lodged with the Regulator within such period as may be specified for the purpose in the notice (being not less than six weeks from the date of the last publication of the notice in a local newspaper),
- and shall be under a duty during the interim period to secure the operation of the relevant facility or, as the case may be, the part of the relevant facility to which the proposed closure relates.
- (7) The reasons contained in the statement referred to in subsection (6)(d) above may consist of or include the reasons included in the statement under subsection (3) above, with or without other reasons of the Franchising Director's.
- (8) Without prejudice to the provisions of section 42 below in relation to the relevant facility or the part of the relevant facility in question—
- (a) if the final decision on the closure question is that the proposed closure will not be allowed to take effect, the Franchising Director shall be under a duty to secure the operation of the relevant facility or, as the case may be, the part of the relevant facility after the interim period; and
  - (b) if the final decision on the closure question is that the proposed closure will be allowed to take effect subject to compliance with conditions, the Franchising Director shall be under a duty to comply with those conditions or to secure that they are complied with.
- (9) In this section—
- “the area affected”—
  - (a) in a case where the relevant facility is a station, means the area served by the station; and
  - (b) in a case where the relevant facility is a light maintenance depot, means the area in which the light maintenance depot is situated;
- “the final decision on the closure question” means—

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- (a) in a case where the decision of the Regulator under section 43(9) below with respect to the proposed closure is not referred to the Secretary of State under section 44 below, that decision; or
  - (b) in a case where that decision is referred to the Secretary of State under section 44 below, the disposal of that reference by the Secretary of State;
- “the interim period” means the period beginning with the date mentioned in subsection (6)(b) above and ending four weeks after the date of the final decision on the closure question;
- “minor closure”—
- (a) in relation to a station, means discontinuance of the operation of a part of the station which, in the opinion of the Regulator, is not necessary for the use of the station for the purpose of, or in connection with, the provision of services for the carriage of passengers by railway; and
  - (b) in relation to a light maintenance depot, means any such discontinuance as would not, in the opinion of the Regulator, jeopardise the provision of any services for the carriage of passengers by railway.
- (10) The stations and light maintenance depots, and the parts of stations or light maintenance depots, which are to be regarded for the purposes of this section as operated on behalf of the Franchising Director are those whose operation he is for the time being under a duty to secure, in consequence of—
- (a) subsection (5) or (8)(a) above,
  - (b) section 42(5)(a) below, or
  - (c) any closure condition imposed under section 43(9) or 44(2) below,
- and those whose operation he is for the time being securing in pursuance of his power under section 30 above.
- (11) Any sums received by the Franchising Director under this section shall be paid into the Consolidated Fund.

#### **42 Proposals to close passenger railway facilities operated on behalf of the Franchising Director**

- (1) This section applies in any case where—
- (a) the whole or some part of a station or light maintenance depot (“the relevant facility”) is operated on behalf of the Franchising Director; and
  - (b) the Franchising Director proposes to discontinue the operation of the relevant facility or of some part of the relevant facility (in this section referred to as a “closure”).
- (2) If in a case where this section applies—
- (a) the closure is certified by the Regulator as being a minor closure,
  - (b) the relevant facility or, as the case may be, the part of the relevant facility in question has at no time within the preceding five years been used in connection with the provision of any services for the carriage of passengers by railway, or
  - (c) the relevant facility is, or is part of, one of those stations or light maintenance depots which are designated, or which are of a class or description designated, by order under section 49(5) below as stations or light maintenance depots in relation to which section 41 above is not to have effect,

the Franchising Director may discontinue the operation of the relevant facility or, as the case may be, the part of the relevant facility in question, notwithstanding any duty

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imposed upon him by or under this Part to secure its operation, and subsections (4) and (5) below shall not apply in relation to the closure.

- (3) In determining for the purposes of subsection (2)(b) above whether the relevant facility or, as the case may be, the part of the relevant facility in question has at any time within the period there mentioned been used in connection with the provision of services for the carriage of passengers by railway, there shall be left out of account any use in connection with the provision of services—
- (a) which involve travel through the Channel Tunnel;
  - (b) which are experimental passenger services, within the meaning of section 48 below, or which are provided on an experimental basis, for the purposes of section 56A of the Transport Act 1962; or
  - (c) which are provided otherwise than as regular scheduled services.
- (4) Subject to subsection (2) above, where this section applies, the Franchising Director shall publish in two successive weeks in a local newspaper circulating in the area affected and in two national newspapers, and in such other manner as appears to him to be appropriate, a notice containing—
- (a) particulars of the proposal to effect the closure,
  - (b) the date on which it is proposed that the closure will take effect,
  - (c) particulars of any alternative facilities which appear to him to be available for the provision of services corresponding to those provided by means of the relevant facility or, as the case may be, the part of the relevant facility in question,
  - (d) the addresses of the premises at which a statement of the reasons for the proposed closure can be inspected, or from which a copy of that statement can be obtained, and any fees payable for copies of the statement,
  - (e) a statement that objections to the proposed closure may be lodged with the Regulator within such period as may be specified for the purpose in the notice (being not less than six weeks from the date of the last publication of the notice in a local newspaper),
- and shall be under a duty during the interim period to secure the operation of the relevant facility or, as the case may be, the part of the relevant facility to which the proposed closure relates.
- (5) Subject to subsection (2) above and without prejudice to any subsequent application of this section in relation to the relevant facility or the part of the relevant facility in question—
- (a) if the final decision on the closure question is that the proposed closure will not be allowed to take effect, the Franchising Director shall be under a duty to secure the operation of the relevant facility or, as the case may be, the part of the relevant facility after the interim period; and
  - (b) if the final decision on the closure question is that the proposed closure will be allowed to take effect subject to compliance with conditions, the Franchising Director shall be under a duty to comply with those conditions or to secure that they are complied with.

- (6) In this section—

“the area affected” means the area in which is situated the relevant facility or, as the case may be, the part of the relevant facility in question;

“the final decision on the closure question” means—

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- (a) in a case where the decision of the Regulator under section 43(9) below with respect to the proposed closure is not referred to the Secretary of State under section 44 below, that decision; or
  - (b) in a case where that decision is referred to the Secretary of State under section 44 below, the disposal of that reference by the Secretary of State;
- “the interim period” means the period beginning with the date mentioned in subsection (4)(b) above and ending four weeks after the date of the final decision on the closure question;
- “minor closure” has the same meaning as it has in section 41 above.

- (7) The stations and light maintenance depots and the parts of stations and light maintenance depots that are to be regarded for the purposes of this section as operated on behalf of the Franchising Director are the same stations and light maintenance depots and parts of stations and light maintenance depots as are to be so regarded for the purposes of section 41 above.
- (8) Any sums received by the Franchising Director under this section shall be paid into the Consolidated Fund.

#### **43 Notification to, and functions of, the Regulator and the relevant consultative committees**

- (1) Where the Franchising Director is required by any provision of sections 37 to 42 above to publish any notice, he shall also send the following documents, that is to say—
  - (a) a copy of the notice,
  - (b) a copy of the statement of reasons to which the notice refers, and
  - (c) a statement of his recommendations with respect to the conditions (if any) to be attached to any consent to the closure,
 to the Regulator and to every consultative committee whose area consists of or includes the whole or any part of the area affected by the proposed closure.
- (2) The Regulator shall send to every consultative committee whose area consists of or includes the whole or any part of the area affected a copy of every objection to the proposed closure which is lodged with him in accordance with the terms of the statement published pursuant to paragraph (e) of whichever of sections 37(6), 38(5), 39(7), 40(5), 41(6) or 42(4) above is applicable in the case of that proposed closure.
- (3) On receipt of the copy of the notice referred to in subsection (1)(a) above, a consultative committee shall—
  - (a) consider whether or not the proposed closure will cause any hardship;
  - (b) identify any reasonable means of alleviating any such hardship; and
  - (c) prepare, and send to the Regulator, a report of the conclusions which it has reached in the discharge of its functions under paragraphs (a) and (b) above;
 and, for the purposes of paragraph (b) above, a consultative committee shall not conclude that any particular means of alleviating hardship is reasonable unless, balancing the cost to the Franchising Director (or any other public authority) of employing those means against the benefit of any alleviation thereby secured, the committee is of the opinion, on the basis of the information available to it, that the expenditure involved represents good value for money.

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- (4) Any consultative committee which has prepared a report under subsection (3)(c) above shall send a copy of the report to the Central Committee and may publish the report in any manner which it considers appropriate.
- (5) For the purpose of facilitating the discharge of its functions under subsection (3) above, a consultative committee may, after consultation with the Regulator, hold public hearings.
- (6) In deciding whether to hold a public hearing for the purposes of this section, and in conducting any such hearing, a consultative committee shall take into account such matters as may be notified to it by the Regulator.
- (7) The report required by subsection (3)(c) above shall be sent to the Regulator before the expiration of the period of 12 weeks, or such longer period as the Regulator may allow in any particular case, immediately following the end of the period within which objections to the proposed closure may be lodged with the Regulator.
- (8) The Regulator shall only allow a longer period for the purposes of subsection (7) above if, on an application made to him by the consultative committee in question, he considers it appropriate to do so in the circumstances of the particular case.
- (9) It shall be for the Regulator to decide whether the proposed closure should, or should not, be allowed to take effect; and a decision may be given allowing the proposed closure to take effect subject to compliance with such conditions (if any) as the Regulator may see fit to impose.
- (10) Before deciding whether or not to allow the proposed closure to take effect, or whether to impose any and, if so, what conditions, the Regulator shall consider—
  - (a) the reasons for the proposed closure set out in the copy of the statement sent to him pursuant to subsection (1)(b) above;
  - (b) any objections to the proposed closure which have been lodged with him; and
  - (c) every report relating to the proposed closure which is sent to him by a consultative committee pursuant to subsection (3)(c) above.
- (11) The Regulator shall make his decision with respect to the proposed closure before the expiration of the period of 26 weeks, or such longer period as the Secretary of State may at the request of the Regulator allow in any particular case, immediately following the day on which he receives the documents sent to him pursuant to subsection (1) above.
- (12) When the Regulator has made a decision with respect to the proposed closure, he shall send a copy of the decision to—
  - (a) the Secretary of State,
  - (b) the Franchising Director,
  - (c) every such consultative committee as is mentioned in subsection (1) above, and
  - (d) either—
    - (i) in a case falling within section 37 above, the service operator, within the meaning of that section, or
    - (ii) in a case falling within section 39 or 41 above, the operator of the network, station or light maintenance depot in question who gave the notice required by subsection (1) of the section in question,and shall publish notice of the decision at every station within the area affected.

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- (13) In this section, “the area affected”, in relation to a proposed closure, shall be construed in accordance with the section under or by virtue of which the Franchising Director is required to publish the notice referred to in subsection (1) above.

#### **44 Reference to the Secretary of State of decisions of the Regulator concerning proposed closures**

- (1) Any person aggrieved by a decision of the Regulator in relation to a proposed closure may refer that decision to the Secretary of State by notice in writing given to the Secretary of State not later than 4 weeks after the date of the decision.
- (2) On a reference under this section, the Secretary of State may—
- (a) confirm the decision given by the Regulator;
  - (b) in the case of a decision of the Regulator to allow a proposed closure to take effect subject to compliance with conditions, confirm the decision to allow the proposed closure to take effect but modify the conditions; or
  - (c) substitute his decision for that of the Regulator.
- (3) Any person who refers a decision to the Secretary of State under this section shall provide, with his notice under subsection (1) above, a statement of the reasons why he is aggrieved by the decision of the Regulator.
- (4) On disposing of any reference under this section, the Secretary of State shall give notice of his decision to—
- (a) the Regulator,
  - (b) the Franchising Director,
  - (c) every consultative committee to which notice of the Regulator’s decision was required to be given by paragraph (c) of subsection (12) of section 43 above,
  - (d) any person to whom notice of the Regulator’s decision was required to be given by paragraph (d) of that subsection, and
  - (e) if not falling within paragraphs (a) to (d) above, the person who referred the Regulator’s decision to the Secretary of State under subsection (1) above,
- and shall publish notice of his decision on the reference at every station at which the Regulator was required by section 43(12) above to publish notice of his decision.

#### **45 Closure conditions: general**

- (1) In this Part, “closure conditions” means the conditions subject to compliance with which consent to a closure is given.
- (2) Closure conditions—
- (a) may impose requirements on the Franchising Director with respect to the times at which, or stages by which, a closure is to take effect;
  - (b) may require the Franchising Director to secure the provision of a bus substitution service, within the meaning of sections 119 to 124 of the Transport Act 1985.
- (3) The provisions of this section are without prejudice to the generality of the closure conditions that may be imposed in any case.



#### **46 Variation of closure conditions**

- (1) The Regulator may from time to time vary or revoke any conditions for the time being required to be complied with in connection with a closure, other than—
- (a) a condition imposed by the Secretary of State under Schedule 5 to this Act, or
  - (b) a condition requiring the Franchising Director to secure the provision of a bus substitution service (within the meaning of sections 119 to 124 of the Transport Act 1985),

whether or not those conditions have been imposed, modified or confirmed by the Secretary of State under section 44 above and whether the closure took place before or after the coming into force of this section.

- (2) Where, in exercise of his power under subsection (1) above, the Regulator decides to vary or revoke any closure condition, he shall send a copy of his decision to—
- (a) the Secretary of State,
  - (b) the Franchising Director,
  - (c) every consultative committee whose area consists of or includes the whole or any part of the area affected by the closure to which the condition relates, and
  - (d) either—
    - (i) if the closure in question is one falling within section 37 above, the service operator, within the meaning of that section, or
    - (ii) if the closure in question is one falling within section 39 or 41 above, the operator of the network, station or light maintenance depot in question who gave the notice required by subsection (1) of the section in question,

and shall publish notice of the decision at every station within the area affected by the closure to which the condition relates.

- (3) Any person aggrieved by a decision of the Regulator under subsection (1) above may refer that decision to the Secretary of State in accordance with section 44 above; and that section shall apply in relation to the reference of any such decision to vary or revoke a condition as it applies in relation to the reference of a decision in connection with a proposed closure, but taking any reference to proposed closure as a reference to variation or revocation of a condition.

- (4) In this section—

“the area affected”, in relation to any closure, shall be construed in accordance with the section under or by virtue of which the Franchising Director was required to publish in connection with that closure the notice referred to in section 43(1) above;

“closure” includes any closure within the meaning of subsection (7) of section 56 of the Transport Act 1962, whether that subsection applied in relation to the closure or not.

#### **47 Bus substitution services etc**

- (1) There are hereby transferred to the Franchising Director (so as to be exercisable concurrently with the Board) the functions of the Board under—
- (a) section 4A of the Transport Act 1962 (provision of road passenger transport services), and
  - (b) sections 119 to 124 of the Transport Act 1985 (bus substitution services etc),

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so far as relating to services which have been temporarily interrupted or discontinued.

- (2) In their application to the Franchising Director by virtue of subsection (1) above, the sections there mentioned shall have effect—
- (a) as if any reference to the Board were a reference to the Franchising Director;
  - (b) as if any reference to the imposition of a condition by the Secretary of State were a reference to the imposition of a closure condition under this Part by the Secretary of State or the Regulator;
  - (c) in the case of sections 119 to 122 of the Transport Act 1985, with the modifications set out in subsection (3) below; and
  - (d) in the case of section 123 of that Act, with the modifications set out in subsection (4) below.
- (3) The modifications of sections 119 to 122 are that—
- (a) any reference to the Secretary of State (other than a reference to the imposition of a condition by him) shall be taken as a reference to the Regulator;
  - (b) any reference to section 54(5) of the Transport Act 1968 shall be taken as a reference to section 43(9) or 44(2) above;
  - (c) in subsection (1)(a) of section 119, the words “by the Board” shall be treated as omitted; and
  - (d) subsections (4) and (5) of section 122 shall be disregarded.
- (4) The modifications of section 123 are that—
- (a) any reference to the Secretary of State shall be taken as a reference to the Regulator;
  - (b) in subsection (1), for paragraphs (a) and (c) there shall be substituted respectively—
    - “(a) “Area Committee” means a rail users' consultative committee established under subsection (2) of section 2 of the Railways Act 1993 or, in relation to the Greater London area, within the meaning of that section, the London Regional Passengers' Committee;”;
    - “(c) “the Central Committee” means the Central Rail Users' Consultative Committee;”;
 and the words following paragraph (c) shall be disregarded;
  - (c) subsection (3) shall be disregarded;
  - (d) in subsection (4)—
    - (i) the reference to section 56(4) of the Transport Act 1962 shall be taken as a reference to section 76 or, as the case may be, section 77 below; and
    - (ii) the reference to the services and facilities provided by the Railways Board shall be taken as a reference to services for the carriage of passengers by railway;
  - (e) in subsection (10), the reference to section 119 of that Act shall be taken to include a reference to section 37 or 38 above.
- (5) In sections 23 to 31 above, any reference to services for the carriage of passengers by railway includes a reference to bus substitution services required to be provided in place of any such services.

- (6) Where the Board is subject to a condition requiring the securing of the provision of a bus substitution service, the duty to comply with that condition shall, without prejudice to the generality of section 85 below, be regarded as a liability that may be transferred by a scheme under that section; and where there is such a transfer, any reference to the Board in sections 119 to 124 of the Transport Act 1985 shall accordingly be taken to include a reference to the transferee.
- (7) In this section “bus substitution service” has the same meaning as it has in sections 120 to 124 of the Transport Act 1985.

#### **48 Experimental railway passenger services**

- (1) Sections 37, 38, 43 and 44 above shall not apply in relation to any proposal to discontinue an experimental passenger service on any line or from any station.
- (2) In any case where—
- (a) an experimental passenger service on any line or from any station is provided in satisfaction of requirements imposed by a franchise agreement,
  - (b) the requirement so to provide that service comes to an end, and
  - (c) the operator intends to discontinue that service,
- the Franchising Director shall give due notice if he proposes not to secure its continued provision.
- (3) In any case where—
- (a) an experimental passenger service on any line or from any station is provided otherwise than as mentioned in subsection (2)(a) above, and
  - (b) the operator proposes to discontinue that service,
- he shall give due notice of that proposal and shall not discontinue that service before the expiry of the notice period.
- (4) For the purposes of subsection (2) above, the Franchising Director shall be taken to have given due notice of a proposal if, and only if, after consultation with every consultative committee whose area consists of or includes the whole or any part of the area affected, he has, not less than six weeks before giving effect to the proposal,—
- (a) published a notice giving details of the proposal in two successive weeks in a local newspaper circulating in the area affected and in two national newspapers and in such other manner as may appear to him appropriate; and
  - (b) sent a copy of that notice to every such consultative committee.
- (5) For the purposes of subsection (3) above, the operator shall be taken to have given due notice of a proposal if, and only if, not less than six weeks before giving effect to the proposal, he has published in two successive weeks in a local newspaper circulating in the area affected and in two national newspapers, and in such other manner as may appear to him appropriate, a notice giving details of the proposal.
- (6) In this Part “experimental passenger service”, in relation to any line or station, means a railway passenger service on that line or from that station which is designated by the Franchising Director as experimental and which either—
- (a) was so designated before its introduction; or
  - (b) before being designated under this section as experimental, was at some time provided on an experimental basis, within the meaning of section 56A of the Transport Act 1962.

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- (7) Where the Franchising Director decides to designate a service as experimental, he shall—
- (a) if the service is to be provided otherwise than in satisfaction of requirements imposed by a franchise agreement, give notice of the designation to the person who is to be the operator of the service;
  - (b) send a copy of that notice to the Regulator and to every consultative committee whose area consists of or includes the whole or any part of the area affected; and
  - (c) publish notice of the designation in two successive weeks in a local newspaper circulating in the area affected and in two national newspapers.
- (8) No service may be designated as experimental for a period exceeding 5 years.
- (9) Where a service is designated as experimental for a period of less than 5 years, the designation may subsequently be extended, but the aggregate of the periods for which a service is designated as experimental shall not exceed 5 years.
- (10) In determining for the purposes of subsection (8) or (9) above the period or periods for which a service is designated as experimental—
- (a) there shall be left out of account so much of any period when the service was designated as experimental as falls before the day on which the service was introduced; but
  - (b) if the service is one which has been provided on an experimental basis, within the meaning of section 56A of the Transport Act 1962, every period during which it was so provided, or during which the provisions of that section had effect in relation to it by virtue of subsection (11)(b) below, shall be counted as a period during which the service was designated as experimental.
- (11) Where, immediately before the coming into force of section 49(1) below so far as relating to section 56A of the Transport Act 1962 (proposals to discontinue services provided on an experimental basis), a railway passenger service is being provided on an experimental basis within the meaning of the said section 56A—
- (a) none of the following provisions, that is to say, sections 37 and 38 above, section 49(2) and (3) below and Schedule 5 to this Act, shall have effect in relation to that service until such time as a franchise agreement is entered into in respect of that service or in respect of some or all of the other railway passenger services provided in the area in which, or on the line on which, that service is provided; and
  - (b) the provisions of the said section 56A shall continue to have effect with respect to that service—
    - (i) until the time mentioned in paragraph (a) above, or
    - (ii) until the service becomes an experimental passenger service under this section,
 whichever first occurs.
- (12) In this section—
- “the area affected”, in relation to an experimental service on any line or from any station, means the area in which is situated the line or, as the case may be, the station in question;
- “operator”, in relation to any service, means—
- (a) in the case of a service provided in satisfaction of requirements imposed by a franchise agreement, the franchisee; or

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(b) in the case of a service provided otherwise than in satisfaction of requirements imposed by a franchise agreement, the person who provides the service.

(13) In this Part, “notice period”, in relation to the duty of an operator to give due notice of a proposed discontinuance of an experimental passenger service, means the period of six weeks immediately following the fulfilment by the operator of that duty.

#### **49 Abolition of former closure procedures, exemptions from new procedures and imposition of alternative procedure**

- (1) The former closure provisions, that is to say—
- (a) section 56(7) to (10) and (13) of the Transport Act 1962,
  - (b) section 56A of that Act,
  - (c) section 54 of the Transport Act 1968, and
  - (d) any other enactment (including an enactment comprised in local legislation) to the extent that it applies the enactments specified in paragraphs (a) to (c) above, with or without modification,
- shall, subject to the provisions of this Act, cease to have effect.
- (2) Section 37 above shall not have effect in relation to any railway passenger services, or any railway passenger services of a class or description, which the Secretary of State may by order designate as services in relation to which that section is not to have effect.
- (3) Schedule 5 to this Act (which makes similar provision to that made by section 56(7) to (10) and (13) of the Transport Act 1962) shall have effect in relation to such of the railway passenger services, or railway passenger services of a class or description, in relation to which section 37 above does not have effect as the Secretary of State may by order designate as railway passenger services in relation to which that Schedule is to have effect.
- (4) Section 39 above shall not have effect with respect to any networks, or any networks of a class or description, which the Secretary of State may by order designate as networks in relation to which that section is not to have effect.
- (5) Section 41 above shall not have effect in relation to any stations or light maintenance depots, or stations or light maintenance depots of a class or description, which the Secretary of State may by order designate as stations, or (as the case may be) light maintenance depots, in relation to which that section is not to have effect.
- (6) Where any enactment or instrument passed or made before the relevant date contains provision to the effect that section 56 of the Transport Act 1962 is not to apply in respect of the discontinuance of specified railway passenger services or railway passenger services of a specified class or description, that provision shall (notwithstanding anything in subsection (1) above) have effect in relation to any such discontinuance after the relevant date as if references in that provision to that section were references—
- (a) to section 37 above; and
  - (b) to Schedule 5 to this Act;
- and in this subsection “the relevant date” means the date on which the provisions mentioned in paragraphs (a) and (b) above come into force.

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- (7) Any reference in this section to railway passenger services, networks, stations or light maintenance depots includes a reference to part of a railway passenger service, network, station or light maintenance depot, as the case may be.
- (8) For the purposes of this section, “railway” has its wider meaning.

## **50 Exclusion of liability for breach of statutory duty**

- (1) The obligations of the Franchising Director, imposed by or under any provision of this Part—
  - (a) to comply with any closure conditions,
  - (b) to secure compliance with any closure conditions,
  - (c) to secure the provision of any services, or
  - (d) to secure the operation 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.
- (2) Subject to section 57 below, the obligations of—
  - (a) any service operator (within the meaning of section 37 above), imposed by or under section 37(1) above, not to discontinue any railway passenger services,
  - (b) any operator (within the meaning of section 48 above), imposed by or under section 48(3) above, not to discontinue any experimental passenger services, or
  - (c) any operator of an additional railway asset, imposed by or under section 39(1) or 41(1) above, not to discontinue the operation 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.