



# Railways Act 1993

## 1993 CHAPTER 43

### PART I

#### THE PROVISION OF RAILWAY SERVICES

##### *Franchising of passenger services*

#### **23 Passenger services to be subject to franchise agreements.**

- (1) It shall be the duty of the [<sup>F1</sup>appropriate designating authority] from time to time to designate [<sup>F2</sup>such services for the carriage of passengers by railway (other than services which are, by virtue of section 24 below, exempt from designation under this subsection) as it considers ought to be provided under franchise agreements.].
  - (2) The [<sup>F1</sup>appropriate designating authority] may perform [<sup>F3</sup>its] duty under subsection (1) above by designating particular services or services of a class or description.
- [<sup>F4</sup>(2ZA) Where the Scottish Ministers designate Scotland-only services, they may also designate cross-border services which—
- (a) they consider should be provided under the same franchise agreement as particular Scotland-only services or a particular class of them; and
  - (b) are not exempt from designation under subsection (1) by virtue of section 24.
- (2ZB) Nothing in this section requires the Secretary of State to designate a cross-border service already designated by the Scottish Ministers.
- (2ZC) Before the Secretary of State or the Scottish Ministers designate a cross-border service he or they must consult the other.]
- [<sup>F5</sup>(2ZD) Where the Welsh Ministers designate Wales-only services, they may also designate Welsh components of Welsh services which—
- (a) they consider should be provided under the same franchise agreement as particular Wales-only services or a particular class of Wales-only services; and
  - (b) are not exempt from designation under subsection (1) by virtue of section 24.

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(2ZE) Nothing in this section requires the Secretary of State to designate a Welsh service so far as already designated by the Welsh Ministers.]

[<sup>F6</sup>(2A) A designation may be varied or revoked; but a variation or revocation of the designation of particular services, or services of a class or description, shall not affect any franchise agreement previously entered into with respect to those services or services of that class or description.

<sup>F7</sup>(2B) . . . . .]

(3) In this Part—

[<sup>F8</sup>“the appropriate designating authority”—

- (a) in relation to Scotland-only services, means the Scottish Ministers; <sup>F9</sup> ...
- (aa) [<sup>F10</sup>in relation to Wales-only services, means the Welsh Ministers; and]
- (b) in relation to all other services, means the Secretary of State;

“the appropriate franchising authority”—

- (a) in relation to a Scottish franchise agreement, means the Scottish Ministers; <sup>F11</sup> ...
- (aa) [<sup>F12</sup>in relation to a Welsh franchise agreement to the extent that the franchised services under it are Wales-only services or Welsh components of Welsh services, means the Welsh Ministers;
- (ab) in relation to a Welsh franchise agreement to the extent that the franchised services under it are services other than Wales-only services or Welsh components of Welsh services, means the Secretary of State;]
- (b) in relation to any other franchise agreement, means the Secretary of State;]

“franchise agreement” means an agreement [<sup>F13</sup>to which the Secretary of State, the Scottish Ministers or the Welsh Ministers is or are party], under which another party undertakes either—

- (a) to provide, or
- (b) to secure that a wholly owned subsidiary of his provides,

throughout the franchise term those services for the carriage of passengers by railway to which the agreement relates;

“franchise operator”, in relation to any franchise agreement, means the person (whether the franchisee or, as the case may be, the wholly owned subsidiary of the franchisee) who is to provide the franchised services;

“franchise period”, in relation to any franchise agreement, means the franchise term, except where the franchise agreement is terminated before the end of that term, in which case it means so much of that term as ends with that termination;

“franchise term”, in relation to any franchise agreement, means the period specified in the franchise agreement as the period throughout which the franchisee is to provide, or secure that a wholly owned subsidiary of his provides, the franchised services, and includes any such extension of that period as is mentioned in section 29(3) below;

“franchised services”, in relation to any franchise agreement, means the services for the carriage of passengers by railway which are to be provided under that franchise agreement;

“franchisee” means—

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- (a) in relation to a franchise agreement under which a party undertakes to secure that a wholly owned subsidiary of his provides the franchised services, the party so undertaking; or
  - (b) in relation to any other franchise agreement, the person who is to provide the franchised services.
- (4) Any reference in this Part to the provision of services under a franchise agreement is a reference to the provision of those services by the franchise operator; and where the franchise operator is, or is to be, a wholly owned subsidiary of the franchisee, any reference to the provision of services by the franchisee under a franchise agreement shall accordingly be construed as a reference to his securing their provision by the franchise operator.

#### Textual Amendments

- F1** Words in s. 23(1)(2) substituted (24.7.2005) by Railways Act 2005 (c. 14), ss. 1, 60, **Sch. 1 para. 13(1)(5)**; S.I. 2005/1909, **art 2**, Sch.
- F2** Words in s. 23(1) substituted (1.2.2001) by 2000 c. 38, s. 212(1) (with Sch. 28 para. 3); S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I** (subject to savings and transitional provisions in Sch. 2 Pt. II)
- F3** Words in s. 23(2) substituted (1.2.2001) by 2000 c. 38, s. 215, **Sch. 16 para. 14(3)**; S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I** (subject to savings and transitional provisions in Sch. 2 Pt. II) (which S.I. was amended by S.I. 2001/115, **art. 2(2)**)
- F4** S. 23(2ZA)-(2ZC) inserted (16.10.2005) by Railways Act 2005 (c. 14), ss. 1, 60, **Sch. 1 para. 13(2)(5)**; S.I. 2005/2812, **art 2(1)**, Sch. 1
- F5** S. 23(2ZD)(2ZE) inserted (13.6.2018) by The Welsh Ministers (Transfer of Functions) (Railways) Order 2018 (S.I. 2018/631), art. 1(2)(b)(ii), **Sch. para. 5(2)**
- F6** S. 23(2A)(2B) inserted (1.2.2001) by 2000 c. 38, s. 212(2) (with Sch. 28 para. 3); S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I** (subject to savings and transitional provisions in Sch. 2 Pt. II)
- F7** S. 23(2B) repealed (24.7.2005) by Railways Act 2005 (c. 14), ss. 1, 59, 60, Sch. 1 para. 13(3)(5), **Sch. 13** (with s. 14(4)(5), Sch. 11 para. 11(2)); S.I. 2005/1909, **art 2**, Sch.
- F8** Definitions of "appropriate designating authority" and "appropriate franchising authority" in s. 23(3) inserted (24.7.2005 for certain purposes and 16.10.2005 in so far as not already in force) by Railways Act 2005 (c. 14), ss. 1, 60, **Sch. 1 para. 13(4)(a)(5)**; S.I. 2005/1909, **art 2**, Sch.; S.I. 2005/2812, **art. 2(1)**, Sch. 1
- F9** Word in s. 23(3) omitted (14.10.2018 at 2.00 a.m.) by virtue of The Welsh Ministers (Transfer of Functions) (Railways) Order 2018 (S.I. 2018/631), art. 1(3), **Sch. para. 5(3)(a)**
- F10** Words in s. 23(3) inserted (14.10.2018 at 2.00 a.m.) by The Welsh Ministers (Transfer of Functions) (Railways) Order 2018 (S.I. 2018/631), art. 1(3), **Sch. para. 5(3)(a)**
- F11** Word in s. 23(3) omitted (13.6.2018) by virtue of The Welsh Ministers (Transfer of Functions) (Railways) Order 2018 (S.I. 2018/631), art. 1(2)(b)(ii), **Sch. para. 5(3)(b)**
- F12** Words in s. 23(3) inserted (13.6.2018) by The Welsh Ministers (Transfer of Functions) (Railways) Order 2018 (S.I. 2018/631), art. 1(2)(b)(ii), **Sch. para. 5(3)(b)**
- F13** Words in s. 23(3) substituted (13.6.2018) by The Welsh Ministers (Transfer of Functions) (Railways) Order 2018 (S.I. 2018/631), art. 1(2)(b)(ii), **Sch. para. 5(3)(c)**

#### Modifications etc. (not altering text)

- C1** S. 23(1) excluded (1.4.1994) by S.I. 1994/606, **art. 6**  
S. 23(1) excluded (13.12.1999) by S.I. 1999/3112, **art. 3**

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*Changes to legislation: There are currently no known outstanding effects for the Railways Act 1993, Section 23. (See end of Document for details)*

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#### **Commencement Information**

- II** S. 23 wholly in force at 1.4.1994; s. 23 not in force at Royal Assent see s. 154(2); s. 23(3)(4) in force at 6.1.1994 by [S.I. 1993/3237](#), [art. 2\(2\)](#); s. 23 in force at 1.4.1994 insofar as not already in force by [S.I. 1994/571](#), [art. 5](#)

**Changes to legislation:**

There are currently no known outstanding effects for the Railways Act 1993, Section 23.