



Railways Act 2005

2005 CHAPTER 14

PART 2

PUBLIC SECTOR FUNDING AUTHORITIES FOR RAILWAYS

Assisting and securing the provision of services

6 Financial assistance etc. from the Secretary of State

- (1) The Secretary of State may provide, or agree to provide, financial assistance to any person—
 - (a) for the purpose of securing the provision, improvement or development of railway services or railway assets; or
 - (b) for any other purpose relating to a railway or to railway services.
- (2) For the purposes of this section the provision of financial assistance includes each of the following—
 - (a) the making of grants or loans;
 - (b) the giving of guarantees; and
 - (c) investments in bodies corporate.
- (3) Agreements or other arrangements entered into by the Secretary of State under this section may be entered into on whatever terms, and subject to whatever conditions, he considers appropriate.
- (4) In exercising his powers under this section—
 - (a) for any purpose mentioned in section 9(1) in relation to which powers are exercisable by the Scottish Ministers under section 8, or
 - (b) for any purpose mentioned in section 11(1) in relation to which powers are exercisable by the National Assembly for Wales under section 10,the Secretary of State must have regard to the desirability of acting consistently with anything notified to him under section 9 or 11.

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- (5) A power of the Secretary of State under this section or otherwise to enter into agreements or other arrangements (other than franchise agreements) for a purpose set out in subsection (1) may be exercised by his entering into an agreement or other arrangement with a relevant person in respect of services provided under a franchise agreement only where the agreement or arrangement is entered into in accordance with that franchise agreement.
- (6) For the purposes of subsection (5) a person is a relevant person in relation to a franchise agreement if he is—
 - (a) the franchise operator;
 - (b) the franchisee; or
 - (c) an employee, agent or independent contractor of the franchise operator or of the franchisee.
- (7) In this section “railway” has its wider meaning.
- (8) Paragraph (a) of subsection (1) of section 17 of the Ministry of Transport Act 1919 (c. 50) (grants or loans for the construction, improvement or maintenance of railways, light railways or tramways) shall cease to have effect.

7 Notification of assistance from Secretary of State for freight services

- (1) This section applies if the Secretary of State makes or modifies a scheme setting out how he proposes to exercise his powers under section 6 for the purpose of securing the provision, improvement or development of—
 - (a) services for the carriage of goods by railway; or
 - (b) facilities for or in connection with—
 - (i) the carriage of goods by railway; or
 - (ii) the loading or unloading of goods carried or intended to be carried by railway.
- (2) This section also applies if the Secretary of State makes or modifies a determination of the criteria that he will apply in exercising his functions under such a scheme.
- (3) The Secretary of State must send a copy of the scheme or determination, or (as the case may be) of the scheme or determination as modified—
 - (a) to the Scottish Ministers; and
 - (b) to the National Assembly for Wales.
- (4) In this section—
 - “facilities” includes track, rolling stock, depots, access roads and equipment; and
 - “railway” has its wider meaning.

8 Franchising and financial assistance in relation to Scotland

- (1) For the purposes of being a party to a franchise agreement the Scottish Ministers shall have power to provide, or to agree to provide, financial assistance to the franchisee—
 - (a) for the purpose of securing the provision, improvement or development of the Scottish services to which the agreement relates; or
 - (b) for any other purpose relating to the provision of those services.

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- (2) The Scottish Ministers shall also have power, where they do so wholly or primarily for Scottish purposes, to provide, or to agree to provide, financial assistance to persons otherwise than under franchise agreements—
 - (a) for the purpose of securing the provision, improvement or development of railway services or railway assets; or
 - (b) for any other purpose relating to a railway or to railway services.
- (3) In subsection (2) “Scottish purposes” means any of the following—
 - (a) any purposes connected with a Scottish service or proposed Scottish service;
 - (b) the provision, improvement or development of services for the carriage of goods by railway where the services are to be or are provided wholly or partly in Scotland;
 - (c) the provision, improvement or development of facilities for use for or in connection with—
 - (i) the carriage of goods by railway using services that are to be or are provided wholly or partly in Scotland; or
 - (ii) the loading or unloading of goods so carried or intended to be so carried.
- (4) For the purposes of this section the provision of financial assistance includes each of the following—
 - (a) the making of grants or loans;
 - (b) the giving of guarantees; and
 - (c) investments in bodies corporate.
- (5) Agreements and other arrangements entered into by the Scottish Ministers under subsection (1) or (2) may be entered into on whatever terms, and subject to whatever conditions, they consider appropriate.
- (6) In exercising their powers under this section for any purpose mentioned in subsection (1) of section 7, the Scottish Ministers must have regard to the desirability of acting consistently with anything notified to them under that section.
- (7) The power of the Scottish Ministers under subsection (2) may be exercised by their entering into an agreement or other arrangement with a relevant person in respect of services provided under a franchise agreement only where the agreement or other arrangement is entered into in accordance with that franchise agreement.
- (8) For the purposes of subsection (7) a person is a relevant person in relation to a franchise agreement if he is—
 - (a) the franchise operator;
 - (b) the franchisee; or
 - (c) an employee, agent or independent contractor of the franchise operator or of the franchisee.
- (9) In this section—
 - “facilities” includes track, rolling stock, depots, access roads and equipment;
 - “railway” has its wider meaning;
 - “Scottish service” means any service which is a Scotland-only service or a cross-border service.

9 Notification of assistance from Scottish Ministers for freight services

- (1) This section applies if the Scottish Ministers make or modify a scheme setting out how they propose to exercise their powers under section 8 for the purpose of securing the provision, improvement or development of—
 - (a) services for the carriage of goods by railway; or
 - (b) facilities for or in connection with—
 - (i) the carriage of goods by railway; or
 - (ii) the loading or unloading of goods carried or intended to be carried by railway.
- (2) This section also applies if the Scottish Ministers make or modify a determination of the criteria that they will apply in exercising their functions under such a scheme.
- (3) The Scottish Ministers must send a copy of the scheme or determination, or (as the case may be) of the scheme or determination as modified, to the Secretary of State.
- (4) In this section—

“facilities” includes track, rolling stock, depots, access roads and equipment; and

“railway” has its wider meaning.

10 Franchising and financial assistance in relation to Wales

- (1) Before—
 - (a) issuing an invitation to tender for a franchise agreement in a case in which the services to be provided under the agreement are or include Welsh services, or
 - (b) entering into a franchise agreement in respect of services that are or include Welsh services in a case in which no such invitation has been issued,the Secretary of State must consult the National Assembly for Wales.
- (2) The Secretary of State may not enter into a franchise agreement relating to services that are or include Wales-only services unless the National Assembly for Wales joins with him as a party to the agreement.
- (3) For the purposes of being a party to a franchise agreement (whether or not in a case falling within subsection (2)) the National Assembly for Wales shall have power to provide, or to agree to provide, financial assistance to the franchisee—
 - (a) for the purpose of securing the provision, improvement or development of any Welsh services to which the agreement relates; or
 - (b) for any other purpose relating to the provision of those services.
- (4) The National Assembly for Wales shall also have power, where it does so wholly or primarily for Welsh purposes, to provide, or to agree to provide, financial assistance to persons otherwise than under franchise agreements—
 - (a) for the purpose of securing the provision, improvement or development of railway services or railway assets; or
 - (b) for any other purpose relating to a railway or to railway services.
- (5) In subsection (4) “Welsh purposes” means any of the following—
 - (a) any purposes connected with a Welsh service or proposed Welsh service;

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- (b) the provision, improvement or development of services for the carriage of goods by railway where the services are to be or are provided wholly or partly in Wales;
 - (c) the provision, improvement or development of facilities for use for or in connection with—
 - (i) the carriage of goods by railway using services that are to be or are provided wholly or partly in Wales; or
 - (ii) the loading or unloading of goods so carried or intended to be so carried.
- (6) The National Assembly for Wales may make payments to the Secretary of State or the Scottish Ministers in respect of the performance of his or their duty under section 30 of the 1993 Act (provision of services by operator of last resort) in relation to a Welsh service.
- (7) For the purposes of this section the provision of financial assistance includes each of the following—
- (a) the making of grants or loans;
 - (b) the giving of guarantees; and
 - (c) investments in bodies corporate.
- (8) Agreements and other arrangements entered into by the National Assembly for Wales under subsection (3) or (4) may be entered into on whatever terms, and subject to whatever conditions, the Assembly considers appropriate.
- (9) In exercising its powers under this section for any purpose mentioned in subsection (1) of section 7, the National Assembly for Wales must have regard to the desirability of acting consistently with anything notified to it under that section.
- (10) The power of the National Assembly for Wales under subsection (4) may be exercised by its entering into an agreement or other arrangement with a relevant person in respect of services provided under a franchise agreement only where the agreement or other arrangement is entered into in accordance with that franchise agreement.
- (11) For the purposes of subsection (10) a person is a relevant person in relation to a franchise agreement if he is—
- (a) the franchise operator;
 - (b) the franchisee; or
 - (c) an employee, agent or independent contractor of the franchise operator or of the franchisee.
- (12) In this section—
- “facilities” includes track, rolling stock, depots, access roads and equipment;
 - “railway” has its wider meaning.

11 Notification of assistance from Welsh Assembly for freight services

- (1) This section applies if the National Assembly for Wales makes or modifies a scheme setting out how it proposes to exercise its powers under section 10 for the purpose of securing the provision, improvement or development of—
- (a) services for the carriage of goods by railway; or
 - (b) facilities for or in connection with—

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- (i) the carriage of goods by railway; or
 - (ii) the loading or unloading of goods carried or intended to be carried by railway.
- (2) This section also applies if the National Assembly for Wales makes or modifies a determination of the criteria that it will apply in exercising its functions under such a scheme.
- (3) The National Assembly for Wales must send a copy of the scheme or determination, or (as the case may be) of the scheme or determination as modified, to the Secretary of State.
- (4) In this section—
- “facilities” includes track, rolling stock, depots, access roads and equipment; and
 - “railway” has its wider meaning.

12 Transfer schemes at end of franchising agreements

- (1) This section applies where a franchise agreement is or has been in force.
- (2) The appropriate national authority may make a scheme for the transfer, at or after the end of the franchise period, of relevant franchise assets from the franchise company to a person specified in subsection (3), or to two or more of those persons.
- (3) Those persons are—
- (a) the Secretary of State;
 - (b) the Scottish Ministers;
 - (c) a company which is wholly owned by the Secretary of State or the Scottish Ministers;
 - (d) a company which is jointly owned by the Secretary of State and the Scottish Ministers; and
 - (e) a franchise company.
- (4) Before making a scheme under this section, the appropriate national authority must consult every person to whom relevant franchise assets would be transferred under the proposed scheme.
- (5) On the day on which a scheme made under this section comes into force—
- (a) the transferee or transferees must pay to the transferor, or
 - (b) the transferor must pay to the transferee or transferees,
- such sums as may be specified in, or determined in accordance with, the franchise agreement.
- (6) Subsection (5) is subject to any other agreement between the transferor and the transferee or transferees.
- (7) Schedule 2 (which contains supplemental provisions about transfer schemes) has effect in relation to schemes under this section.
- (8) In this section—
- “the appropriate national authority” means—
 - (a) in relation to a franchise agreement to which the Secretary of State is a party, the Secretary of State; and

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(b) in relation to a franchise agreement to which the Scottish Ministers are a party, the Scottish Ministers;

“franchise company” means a person who is, or is to be, the franchisee or the franchise operator under a franchise agreement;

“relevant franchise assets” means property, rights and liabilities which, immediately before the end of the franchise period which is ending or has ended, will be or were designated as franchise assets for the purposes of the agreement;

“transferee”, in relation to a scheme, means a person to whom property, rights or liabilities are transferred in accordance with the scheme; and

“transferor”, in relation to a scheme, means the person from whom property, rights or liabilities are transferred in accordance with the scheme.