



Railways Act 2005

2005 CHAPTER 14

PART 4

NETWORK MODIFICATIONS ETC.

Supplemental provisions of Part

41 Proposals by funding authorities

- (1) A railway funding authority may make a proposal—
 - (a) for the discontinuance of a railway passenger service,
 - (b) for the discontinuance of the operation of a network or part of a network, or
 - (c) for the discontinuance of the operation of a station or part of a station,if, and only if, the requirements of subsection (3), (4) or (5) are satisfied.
- (2) The requirements of subsection (3) apply to the making of such a proposal by a railway funding authority other than a Passenger Transport Executive, the Mayor of London or Transport for London.
- (3) The requirements of this subsection are—
 - (a) that the proposal is made in association with another proposal by the authority;
 - (b) that the other proposal relates to any agreement or other arrangements to which the authority is a party and which relate to the provision of financial assistance in connection with the service or the operation or use of the network or station; and
 - (c) that it appears to the authority that the other proposal would have an effect which is reasonably likely to create or contribute to a need for the service to be discontinued or the operation or use of the network or station to be discontinued.
- (4) The requirements of this subsection apply in relation to the making of a proposal by a Passenger Transport Executive and are—

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- (a) that no funding in relation to a service or, as the case may be, network or station, or part of a network or station, to which the proposal relates is provided by a railway funding authority other than the Passenger Transport Executive; or
 - (b) that—
 - (i) every service to which the proposal relates operates entirely within their area; and
 - (ii) every network or station, or part of a network or station, to which the proposal relates is wholly in their area.
- (5) The requirements of this subsection apply in relation to the making of a proposal by the Mayor of London or Transport for London and are—
- (a) that no funding in relation to a service or (as the case may be) network or station, or part of a network or station, to which the proposal relates is provided by a railway funding authority other than the Mayor of London or Transport for London; or
 - (b) that—
 - (i) every service to which the proposal relates operates entirely within Greater London; and
 - (ii) every network or station, or part of a network or station, to which the proposal relates is wholly in Greater London.
- (6) The arrangements referred to in subsection (3)(b) include arrangements between the railway funding authority in question and another such authority.
- (7) For the purposes of subsections (4) and (5) a service operates entirely within an area if it starts and ends in that area and does not make any other scheduled calls outside that area.

Commencement Information

II [S. 41](#) in force at 1.12.2006 by [S.I. 2006/2911](#), art. 2, [Sch.](#)

42 Closures guidance

- (1) It shall be the duty of the Scottish Ministers to publish guidance for the purposes of the provisions of this Part so far as they have effect in relation to—
- (a) proposals to discontinue any Scotland-only service or services;
 - (b) proposals to discontinue any cross-border service or services in relation to which no funding is provided by a railway funding authority other than the Scottish Ministers;
 - (c) proposals to discontinue the operation of a network or part of a network that is wholly in Scotland; or
 - (d) proposals to discontinue the use or operation of any station or part of a station that is wholly in Scotland.
- [^{F1}(1A) It is the duty of the Welsh Ministers to publish guidance for the purposes of the provisions of this Part so far as they have effect in relation to—
- (a) proposals to discontinue any Wales-only service or services; or
 - (b) proposals to discontinue the use or operation of any station, or part of a station, that—

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- (i) is wholly in Wales, and
 - (ii) is a station to which subsection (1B) applies or part of such a station.
- (1B) This subsection applies to a station at which the only scheduled calls made by any railway passenger service are those made by a railway passenger service provided under a Welsh franchise agreement or secured to any extent by the Welsh Ministers.]
- (2) It shall be the duty of the Scottish Ministers acting jointly with the Secretary of State [F²or the Welsh Ministers (or the Secretary of State and the Welsh Ministers)] to publish guidance for the purposes of the provisions of this Part so far as they have effect in relation to proposals to discontinue any cross-border services in relation to which, as the case may be—
 - (a) the Secretary of State provides funding;
 - (b) [F³the Welsh Ministers provide] funding; or
 - (c) [F⁴the Secretary of State and the Welsh Ministers provide funding].
- (3) It shall be the duty of the Secretary of State acting jointly with [F⁵the Welsh Ministers] to publish guidance for the purposes of the provisions of this Part so far as they have effect in relation to—
 - (a) proposals to discontinue any Welsh service or services [F⁶(other than any Wales-only service or services)];
 - (b) proposals to discontinue the operation of a network or part of a network that is wholly in Wales; or
 - (c) proposals to discontinue the use or operation of any station or part of a station that is wholly in Wales [F⁷(other than a station to which subsection (1B) applies or part of such a station)].
- (4) It shall be the duty of the Secretary of State to publish guidance for the purposes of the provisions of this Part so far as they have effect in relation to proposals as respects which none of the preceding subsections imposes any duty.
- (5) Guidance published under this section may include different provision for different descriptions of proposals and for different purposes.
- (6) A person who is under a duty to publish guidance under this section may from time to time—
 - (a) modify the guidance; and
 - (b) publish revised guidance.
- (7) Before publishing or modifying any guidance under this section the person with the duty of publishing the guidance must consult—
 - (a) such persons operating railway passenger services, networks and stations that are affected by the proposed guidance as he thinks appropriate; and
 - (b) such other persons as he thinks appropriate.
- (8) For the purposes of subsection (7) a railway passenger service, network or station is affected by proposed guidance if the proposed guidance would have effect in relation to a proposal relating to that service, network or station.

Textual Amendments

- F1** S. 42(1A)(1B) inserted (14.10.2018) by [The Welsh Ministers \(Transfer of Functions\) \(Railways\) Order 2018 \(S.I. 2018/631\)](#), art. 1(3), [Sch. para. 55\(2\)](#)

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- F2** Words in s. 42(2) substituted (13.6.2018) by [The Welsh Ministers \(Transfer of Functions\) \(Railways\) Order 2018 \(S.I. 2018/631\)](#), art. 1(2)(b)(xiv), **Sch. para. 55(3)(a)**
- F3** Words in s. 42(2)(b) substituted (13.6.2018) by [The Welsh Ministers \(Transfer of Functions\) \(Railways\) Order 2018 \(S.I. 2018/631\)](#), art. 1(2)(b)(xiv), **Sch. para. 55(3)(b)**
- F4** Words in s. 42(2)(c) substituted (13.6.2018) by [The Welsh Ministers \(Transfer of Functions\) \(Railways\) Order 2018 \(S.I. 2018/631\)](#), art. 1(2)(b)(xiv), **Sch. para. 55(3)(c)**
- F5** Words in s. 42(3) substituted (13.6.2018) by [The Welsh Ministers \(Transfer of Functions\) \(Railways\) Order 2018 \(S.I. 2018/631\)](#), art. 1(2)(b)(xiv), **Sch. para. 55(4)(a)**
- F6** Words in s. 42(3)(a) inserted (14.10.2018) by [The Welsh Ministers \(Transfer of Functions\) \(Railways\) Order 2018 \(S.I. 2018/631\)](#), art. 1(3), **Sch. para. 55(4)(b)**
- F7** Words in s. 42(3)(c) inserted (14.10.2018) by [The Welsh Ministers \(Transfer of Functions\) \(Railways\) Order 2018 \(S.I. 2018/631\)](#), art. 1(3), **Sch. para. 55(4)(c)**

Commencement Information

- I2** S. 42 in force at 1.8.2006 by [S.I. 2006/1951](#), **art. 2(2)(b)**

43 Procedure relating to publication and modification of closures guidance

- (1) The Secretary of State must lay before each House of Parliament a copy of any guidance or revised guidance, or modifications of guidance, which he publishes or makes (whether or not jointly with any other person) under section 42.
- (2) The Scottish Ministers must lay before the Scottish Parliament a copy of any guidance or revised guidance, or modifications of guidance, which they publish or make (whether or not jointly with any other person) under that section.
- [^{F8}(2A) The Welsh Ministers must lay before the National Assembly for Wales a copy of any guidance or revised guidance, or modifications of guidance, which they publish or make under section 42(1A).]
- (3) Any guidance or revised guidance published under section 42 is to have effect, and any modifications of guidance made under that section are to have effect, in accordance with an order made—
 - (a) if subsection (1) applies in relation to the guidance or modifications, by the Secretary of State;
 - (b) if subsection (2) applies in relation to the guidance or modifications, by the Scottish Ministers; and
 - (c) if both subsections (1) and (2) apply in relation to the guidance or modifications, jointly by the Secretary of State and the Scottish Ministers.
- [^{F9}(3A) Guidance published by the Welsh Ministers under section 42(1A) (and any modifications of that guidance or any revised version of that guidance published by the Welsh Ministers under section 42(6)) are to have effect in accordance with an order made by the Welsh Ministers.]
- (4) An order under subsection (3) which relates to guidance or revised guidance published, or modifications of guidance made, by [^{F10}the Welsh Ministers] jointly with the Secretary of State or the Scottish Ministers, or both of them, may be made only with the consent of [^{F10}the Welsh Ministers] .
- (5) An order under subsection (3) [^{F11}or (3A)] is subject to the negative resolution procedure.

Changes to legislation: There are currently no known outstanding effects for the Railways Act 2005, Cross Heading: Supplemental provisions of Part. (See end of Document for details)

- (6) If a statutory instrument containing an order under subsection (3) [^{F11}or (3A)] is annulled—
- (a) the guidance or revised guidance, or modifications of guidance, to which it relates is, or are, treated as having been withdrawn; and
 - (b) where revised guidance or modifications is or are so withdrawn, any guidance published under section 42 which had effect before the publication of the revised guidance or the making of the modifications is to continue to have effect.
- (7) The withdrawal of guidance or revised guidance or modifications of guidance under subsection (6)—
- (a) does not affect anything done in consequence of the guidance before the withdrawal; and
 - (b) does not preclude the publication of further guidance or revised guidance or the making of further modifications.

Textual Amendments

- F8** S. 43(2A) inserted (13.6.2018) by [The Welsh Ministers \(Transfer of Functions\) \(Railways\) Order 2018 \(S.I. 2018/631\)](#), art. 1(2)(b)(xiv), [Sch. para. 56\(2\)](#)
- F9** S. 43(3A) inserted (13.6.2018) by [The Welsh Ministers \(Transfer of Functions\) \(Railways\) Order 2018 \(S.I. 2018/631\)](#), art. 1(2)(b)(xiv), [Sch. para. 56\(3\)](#)
- F10** Words in s. 43(4) substituted (13.6.2018) by [The Welsh Ministers \(Transfer of Functions\) \(Railways\) Order 2018 \(S.I. 2018/631\)](#), art. 1(2)(b)(xiv), [Sch. para. 56\(4\)](#)
- F11** Words in s. 43(5)(6) inserted (13.6.2018) by [The Welsh Ministers \(Transfer of Functions\) \(Railways\) Order 2018 \(S.I. 2018/631\)](#), art. 1(2)(b)(xiv), [Sch. para. 56\(5\)](#)

Commencement Information

- I3** S. 43 in force at 1.8.2006 by [S.I. 2006/1951](#), [art. 2\(2\)\(b\)](#)

44 Exclusion of liability for breach of statutory duty

- (1) Subject to section 57 of the 1993 Act (validity and effect of final and provisional orders under section 55 of that Act), the obligations specified in subsection (2) shall not give rise to any form of duty or liability enforceable by civil proceedings for breach of statutory duty.
- (2) Those obligations are—
- (a) any obligation of a person under section 22(8) not to discontinue a railway passenger service;
 - (b) any obligation of a person under section 26(8) not to discontinue the operation of a network or part of a network;
 - (c) any obligation of a person under section 29(8) not to discontinue the use of a station or part of a station;
 - (d) any obligation of a person to comply with a requirement imposed under section 33(2) ;
 - (e) any obligation of a person to comply with conditions to which he has agreed under section 34(5) ;
 - (f) any obligation of a person under section 37(2) not to discontinue an experimental passenger service;

Changes to legislation: There are currently no known outstanding effects for the Railways Act 2005, Cross Heading: Supplemental provisions of Part. (See end of Document for details)

- (g) any obligation of the Secretary of State^{F12}, the Welsh Ministers] or the Scottish Ministers under this Part to secure ^{F13}(to any extent)] the provision of a railway passenger service, network or station or of a part of a network or station.

Textual Amendments

- F12** Words in s. 44(2)(g) inserted (14.10.2018) by [The Welsh Ministers \(Transfer of Functions\) \(Railways\) Order 2018 \(S.I. 2018/631\)](#), art. 1(3), **Sch. para. 57(a)**
- F13** Words in s. 44(2)(g) inserted (14.10.2018) by [The Welsh Ministers \(Transfer of Functions\) \(Railways\) Order 2018 \(S.I. 2018/631\)](#), art. 1(3), **Sch. para. 57(b)**

Commencement Information

- I4** S. 44 in force at 1.12.2006 by [S.I. 2006/2911](#), art. 2, **Sch.**

45 Interpretation of Part 4

(1) In this Part—

“closure” means—

- (a) the discontinuance of a railway passenger service or of railway passenger services;
- (b) the discontinuance of the operation of the whole or a part of a network; or
- (c) the discontinuance of the use or operation of the whole or a part of a station;

“closure non-ratification notice” is to be construed in accordance with section 32(7);

“closure ratification notice” is to be construed in accordance with section 32(8);

“closures guidance” means the guidance published under section 42, and references to the relevant part of the closures guidance are to be construed in accordance with subsection (2);

“the end of the interim period” is to be construed in accordance with subsection (3);

“excluded proposal” is to be construed in accordance with section 38;

“experimental passenger service” means a railway passenger service which, before its introduction, was designated under section 36 as experimental;

“proposal date”, in relation to a proposal for the discontinuance of any service or services, or any network or station or part of a network or station, means the date after which, according to the proposal, the service or services will no longer be provided or, as the case may be, the operation or use of the network or station or part of a network or station will be discontinued;

“railway funding authority” means—

- (a) the Secretary of State;
- (b) the Scottish Ministers;
- (c) ^{F14}the Welsh Ministers];
- (d) a Passenger Transport Executive;
- (e) the Mayor of London;
- (f) Transport for London;

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- (g) a person designated as such an authority by an order under subsection (4);
“secured service” means a service which is provided by or on behalf of the Secretary of State^[F15], the Welsh Ministers] or the Scottish Ministers under—
- (a) section 30 of the 1993 Act;
 - (b) section 22(9), 23(7) or 24(7) or (8) of this Act; or
 - (c) a requirement imposed under section 33(2) of this Act;
- “secured”, in relation to a network or station, or a part of a network or station, means provided on behalf of the Secretary of State ^[F16]the Welsh Ministers] or the Scottish Ministers under—
- (a) section 26(9), 27(7) or 28(6) or (7) of this Act (networks);
 - (b) section 29(9), 30(7) or 31(6) or (7) of this Act (stations); or
 - (c) a requirement imposed under section 33(2) of this Act.
- (2) In this Part “the relevant part of the closures guidance”—
- (a) in relation to a proposal to discontinue any railway passenger service or services, means the part of the closures guidance relating to the discontinuance of any such services that is applicable to that proposal;
 - (b) in relation to a proposal to discontinue the operation of a network or part of a network, means the part of the closures guidance relating to the discontinuance of the operation of networks or parts of networks that is applicable to that proposal; and
 - (c) in relation to a proposal to discontinue the use or operation of a station or part of a station, means the part of the closures guidance relating to the discontinuance of the use or operation of such stations or parts of such stations that is applicable to that proposal.
- (3) For the purposes of this Part the interim period, in relation to a proposal for the discontinuance of any service or services, or any network or station or part of a network or station, is a period ending—
- (a) in a case where the national authority forms the opinion in accordance with the criteria set out in the relevant part of the closures guidance that the proposal should not be allowed, with the proposal date; and
 - (b) otherwise, as the case may be—
 - (i) with the date on which notification is given to the person who made the proposal that the national authority has changed its opinion with respect to the proposal;
 - (ii) with the withdrawal of the proposal; or
 - (iii) four weeks after the date on which a closure ratification notice or closure non-ratification notice is issued by the ^[F17]Office of Rail and Road] on any reference to it relating to the proposal.
- (4) The appropriate authority may by order designate a person as a railway funding authority if—
- (a) that person is a person on whom functions are conferred by or under any enactment; and
 - (b) the appropriate authority is satisfied that that person, in the carrying out of those functions, provides financial assistance for purposes that are connected with railways or the provision of railway services.
- (5) In subsection (4), “appropriate authority”—

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- (a) in relation to a person who provides no financial assistance for purposes mentioned in subsection (4)(b) other than—
- (i) funding in relation to the provision of Scotland-only services,
 - (ii) Scottish majority funding in relation to cross-border services, or
 - (iii) funding in relation to the operation or use of a network or station, or part of a network or station, that is wholly in Scotland,
- means the Scottish Ministers;
- [^{F18}(aa) in relation to a person who provides no financial assistance for purposes mentioned in subsection (4)(b) other than—
- (i) funding in relation to the provision of Wales-only services, or
 - (ii) funding in relation to the operation or use of a station, or part of a station, that is wholly in Wales and is a station to which subsection (5A) applies or part of such a station,
- means the Welsh Ministers;]
- (b) in any other case, means the Secretary of State.
- [^{F19}(5A) This subsection applies to a station at which the only scheduled calls made by any railway passenger service are those made by a railway passenger service provided under a Welsh franchise agreement or secured to any extent by the Welsh Ministers.]
- (6) For the purposes of subsection (5)(a)(ii), a person provides Scottish majority funding in relation to particular services if—
- (a) the person is—
 - (i) a body established by or under an Act of the Scottish Parliament; or
 - (ii) a body which has its principal office in Scotland; and
 - (b) in relation to those services, the person provides more funding than is provided in aggregate by railway funding authorities.
- (7) An order under subsection (4) is subject to the negative resolution procedure.
- (8) In subsection (4)(a), “enactment” includes an enactment contained in an Act of the Scottish Parliament.
- (9) In this Part references to financial assistance include references to each of the following—
- (a) the making of grants or loans;
 - (b) the giving of guarantees; and
 - (c) investments in bodies corporate.

Textual Amendments

- F14** Words in s. 45(1) substituted (13.6.2018) by [The Welsh Ministers \(Transfer of Functions\) \(Railways\) Order 2018 \(S.I. 2018/631\)](#), art. 1(2)(b)(xv), **Sch. para. 58(2)(a)**
- F15** Words in s. 45(1) inserted (14.10.2018) by [The Welsh Ministers \(Transfer of Functions\) \(Railways\) Order 2018 \(S.I. 2018/631\)](#), art. 1(3), **Sch. para. 58(2)(b)**
- F16** Words in s. 45(1) inserted (14.10.2018) by [The Welsh Ministers \(Transfer of Functions\) \(Railways\) Order 2018 \(S.I. 2018/631\)](#), art. 1(3), **Sch. para. 58(2)(c)**
- F17** Words in s. 45(3)(b)(iii) substituted (16.10.2015) by [The Office of Rail Regulation \(Change of Name\) Regulations 2015 \(S.I. 2015/1682\)](#), reg. 1(2), **Sch. para. 3(p)**
- F18** S. 45(5)(aa) inserted (14.10.2018) by [The Welsh Ministers \(Transfer of Functions\) \(Railways\) Order 2018 \(S.I. 2018/631\)](#), art. 1(3), **Sch. para. 58(3)**

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F19 S. 45(5A) inserted (14.10.2018) by The Welsh Ministers (Transfer of Functions) (Railways) Order 2018 (S.I. 2018/631), art. 1(3), **Sch. para. 58(4)**

Commencement Information

- I5** S. 45(1) in force at 1.8.2006 for specified purposes by S.I. 2006/1951, **art. 2(2)(c)**
- I6** S. 45(1) in force at 1.12.2006 in so far as not already in force by S.I. 2006/2911, art. 2, **Sch.**
- I7** S. 45(2) in force at 1.8.2006 by S.I. 2006/1951, **art. 2(2)(d)**
- I8** S. 45(3)-(9) in force at 1.12.2006 by S.I. 2006/2911, art. 2, **Sch.**

Changes to legislation:

There are currently no known outstanding effects for the Railways Act 2005, Cross Heading:
Supplemental provisions of Part.