

SCHEDULES

SCHEDULE 8

Section 49

PROVISION OF PASSENGER RAIL SERVICES

Consequential amendments

- 1 The Transport Act 1968 is amended in accordance with paragraphs 2 to 5.
- 2 (1) Section 10(1) is amended as follows.
 - (2) In paragraph (iii), before “(ii)”, in both places, insert “(ia)(b) or”.
 - (3) In paragraph (iv), before “(ii)” insert “(ia),”.
 - (4) After paragraph (viiiia), insert—
 - “(viiiiaa) where that area is in England, to let locomotives and other rolling stock on hire to a person not falling within paragraph (viiiia) for or in connection with the provision of railway passenger services;”.
 - (5) In paragraph (viiiib), at the beginning insert “where that area is in Wales or Scotland,”.
- 3 In section 10(1), paragraphs (vi) and (viza) have effect, until the day on which the repeal of those provisions in relation to Scotland by section 14(1)(a) of the Railways Act 2005 comes into force, as if for “(ii)” there were substituted “(ia)(b)”.
- 4 (1) Section 20 (special duty of certain Executives with respect to railway passenger services) is amended as follows.
 - (2) In paragraph (a) of subsection (2), omit the words from “for the purposes” to the end of the paragraph.
 - (3) After subsection (2) insert—
 - “(2A) For the purposes of subsection (2)(a) “permitted distance”, in relation to an integrated transport area, a combined authority area or a passenger transport area, means the distance of 25 miles from the nearest point on the boundary of that area.”
- 5 In section 23A (interpretation of certain provisions of this Part relating to railways), after subsection (1) insert—
 - “(1A) For the purposes of section 10, “railway” has the meaning given in section 67(1) of the Transport and Works Act 1992.”
- 6 Section 119 of the Transport Act 1985 (bus substitution services and bus service conditions) has effect, until the repeal of the section by Part 4 of Schedule 31 to the Transport Act 2000 comes into force, as if—
 - (a) in subsection (3) the words from “for the purposes” to the end of the subsection were omitted;

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(b) after subsection (5) there were inserted—

“(5A) For the purposes of subsection (3) “permitted distance”, in relation to a passenger transport area, means the distance of 25 miles from the nearest point on the boundary of that area.”

7 In section 13 of the Railways Act 2005 (railway functions of Passenger Transport Executives), in subsection (9), for the words from “has the same meaning” to the end substitute “, in relation to an integrated transport area, means the distance of 25 miles from the nearest point on the boundary of that area.”

Franchise exemptions granted by Secretary of State: protection of railway assets etc

8 After section 24 of the Railways Act 1993 insert—

“24A Secretary of State franchise exemptions: operator agreements

- (1) Conditions specified in an order under section 24 made by the Secretary of State may, in particular, include conditions which are to apply to any person providing services under an operator agreement.
- (2) An order under section 24 made by the Secretary of State may include provision which, subject to any modifications that the Secretary of State considers appropriate, has an effect in connection with operator agreements which corresponds or is similar to the effect of the following provisions in connection with franchise agreements—
 - (a) section 27(3) of this Act (restrictions on transfer or creation of security over assets);
 - (b) section 27(5) of this Act (transactions entered into in breach of restrictions to be void);
 - (c) section 27(6) and (7) of this Act (no execution or other legal process etc in respect of assets);
 - (d) section 31 of this Act (disapplication of legislation: security of tenure of business premises);
 - (e) sections 55 to 58 of this Act (enforcement);
 - (f) section 12 of, and Schedule 2 to, the Railways Act 2005 (transfer schemes), subject to subsection (4) below.
- (3) Provision included in an order by virtue of subsection (2) may be made by applying the provision in question, subject to any modifications that the Secretary of State considers appropriate.
- (4) The provision which may be included in an order by virtue of subsection (2) (f) is subject to the following restrictions—
 - (a) it is to be provision which applies only where an operator agreement is or has been in force to which one of the following is or was party—
 - (i) a Passenger Transport Executive,
 - (ii) a local transport authority, or
 - (iii) a relevant company;
 - (b) the person entitled under the provision to make a transfer scheme is to be a Passenger Transport Executive or local transport authority which—

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- (i) is or was party to the operator agreement, or
- (ii) is the owner, or one of the owners, of a relevant company which is or was party to the operator agreement;
- (c) the persons to whom assets may be transferred under a scheme made under the provision are to be—
 - (i) the Passenger Transport Executive or local transport authority which makes the scheme;
 - (ii) any other Passenger Transport Executive or local transport authority which—
 - (a) is or was party to the operator agreement, or
 - (b) is the owner, or one of the owners, of a relevant company which is or was party to the operator agreement;
 - (iii) a relevant company;
 - (iv) a person who is, or is to be, the operator under an operator agreement.

(5) In this section—

“local transport authority” has the same meaning as in Part 2 of the Transport Act 2000 (see section 108(4) of that Act);

“operator agreement” means any agreement which a person who has the benefit of a franchise exemption may enter into for another person (“the operator”) to provide the services (or any part of the services) in respect of which the exemption is granted;

“Passenger Transport Executive” means a body which is such an Executive for the purposes of Part 2 of the Transport Act 1968;

“relevant company” means—

- (a) a company that is wholly owned by a Passenger Transport Executive or a local transport authority, or
- (b) a company of which each owner is a Passenger Transport Executive or a local transport authority.”

Minor correcting amendments

9 (1) The Transport Act 1968 is amended as follows.

(2) In section 9(1)(c)—

- (a) in sub-paragraph (i), for “sub-paragraph (ia)” substitute “sub-paragraphs (ia) to (ie)”;
- (b) after sub-paragraph (ia) insert—
 - “(ib) in relation to the area of the Greater Manchester Combined Authority, the Greater Manchester Passenger Transport Executive;
 - (ic) in relation to the area of the Greater Merseyside Combined Authority, the Merseyside Passenger Transport Executive;
 - (id) in relation to the area of the Barnsley, Doncaster, Rotherham and Sheffield Combined Authority, the South Yorkshire Passenger Transport Executive;

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(ie) in relation to the area of the Durham, Gateshead, Newcastle upon Tyne, North Tyneside, Northumberland, South Tyneside and Sunderland Combined Authority, the Tyne and Wear Passenger Transport Executive;”.

- (3) In section 16(2A)—
- (a) for “subsection (2)” substitute “subsection (1)”;
 - (b) omit the “and” at the end of paragraph (b);
 - (c) after paragraph (c) insert “; and
 - (d) the words from “including in particular” to the end of the subsection were omitted.”
- (4) In Schedule 5—
- (a) in Part 2, in paragraph 2, after “as the case may be,” in both places where it occurs, insert “the combined authority area or”;
 - (b) in Part 3, in paragraph 11(a), after “integrated transport area” insert “, a combined authority area”.
- 10 (1) In section 30 of the Railways Act 1993 (duty of relevant franchising authority), subsection (3) is amended as follows.
- (2) In paragraph (b)—
- (a) for “notice” substitute “proposal”;
 - (b) for “the proposal date specified for the purposes of subsection (5)(a)(ii) of that section” substitute “the date for the discontinuance of services specified in the proposal”.
- (3) In paragraph (c), for “subsection (2)” substitute “subsection (3)”.