

# **Passenger Railway Services (Public Ownership) Bill**

## EXPLANATORY NOTES

Explanatory notes to the Bill, prepared by the Department for Transport, have been ordered to be published as HL Bill 21—EN.

## EUROPEAN CONVENTION ON HUMAN RIGHTS

Lord Hendy of Richmond Hill has made the following statement under section 19(1)(a) of the Human Rights Act 1998:

In my view the provisions of the Passenger Railway Services (Public Ownership) Bill are compatible with the Convention rights.



# Passenger Railway Services (Public Ownership) Bill

[AS BROUGHT FROM THE COMMONS]

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[AS BROUGHT FROM THE COMMONS]

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**B I L L**

TO

Make provision for passenger railway services to be provided by public sector companies instead of by means of franchises.

**B**E IT ENACTED by the King’s most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

**1 Prohibition on franchise extensions and new franchises**

- (1) The Railways Act 1993 is amended in accordance with subsections (2) and (3).
- (2) For sections 25 to 26ZA substitute—

**“25A Prohibition on franchise extensions and new franchises**

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- (1) The franchise term in relation to a franchise agreement may not be extended except in accordance with section 30A (temporary continuation of existing franchises).
- (2) The Secretary of State may not enter into a franchise agreement except in accordance with section 30A.
- (3) The Welsh Ministers and the Scottish Ministers may not enter into a franchise agreement.”

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- (3) In section 23 (passenger services to be subject to franchise agreements)—
  - (a) in subsection (1), for “franchise agreements” substitute “sections 30 to 30C”;
  - (b) in subsection (2ZA)(a), for “under the same franchise agreement as” substitute “together with”;
  - (c) in subsection (2ZD)(a), for “under the same franchise agreement as” substitute “together with”;
  - (d) in subsection (3)—
    - (i) in the definition of “franchise agreement”, after “another party” insert “which is not a public sector company (as defined in section 30C)”;
    - (ii) in the definition of “franchise term”, after “section 29(3)” insert “or 30A(2)(b)”;

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- (e) for the heading substitute “Designation of passenger services”.
- (4) A designation made under section 23 of the Railways Act 1993 before this section comes into force is treated as having been made under that section as amended by subsection (3) of this section.

## 2 Future provision of services 5

- (1) The Railways Act 1993 is amended as follows.
- (2) In section 30 (duty of relevant franchising authority in absence of franchise)—
- (a) in subsection (1)(b) omit from “but” to the end;
- (b) for subsection (2) substitute—
- “(1A) The relevant franchising authority may secure the provision of services for the purpose of fulfilling the duty under subsection (1) only by making a direct award of a public service contract to a public sector company in accordance with regulation 17 (general direct award provision for rail) of the 2023 Regulations. 10
- (1B) Regulation 22 (pre-award publication) of the 2023 Regulations does not apply in relation to an award made as mentioned in subsection (1A). 15
- (1C) The duty in subsection (1) does not apply in respect of services at any time when they are being provided under section 30A (temporary continuation of existing franchises).” 20
- (c) for the heading substitute “Public sector provision of services”.

- (3) After that section insert—

### “30A Temporary continuation of existing franchises 25

- (1) This section applies where—
- (a) the Secretary of State is the appropriate franchising authority in relation to a franchise agreement (“the existing agreement”), and
- (b) the Secretary of State is satisfied that it will not be reasonably practicable to provide, or secure the provision of, the franchised services under section 30(1) when the existing agreement comes to an end. 30
- (2) Where this section applies—
- (a) the Secretary of State may enter into a new franchise agreement (“the new agreement”) for the provision of the services, or 35
- (b) the franchise term in relation to the existing agreement may be extended.
- (3) The Secretary of State may enter into the new agreement only if—
- (a) the franchise term in relation to the new agreement is to begin immediately after the end of the franchise period in relation to the existing agreement, and 40

- (b) the franchisee in relation to the new agreement is to be the same person as the franchisee in relation to the existing agreement.
- (4) The Secretary of State may by regulations repeal this section and section 30B. 5

### **30B Agreements and extensions under section 30A**

- (1) A franchise agreement may be entered into under section 30A only by making a direct award of a public service contract in accordance with regulation 16 (emergency measures) of the 2023 Regulations.
- (2) A franchise term may be extended under section 30A only by means of a formal agreement to extend such a contract in accordance with regulation 16 of the 2023 Regulations. 10
- (3) For the purposes of this section the Secretary of State is to be treated as being entitled to take emergency measures under regulation 16 of the 2023 Regulations whether or not the requirements of paragraph (1) of that regulation are met. 15

### **30C Sections 30 to 30B: supplementary**

- (1) In sections 30 to 30B and this section—
  - (a) “direct award” and “public service contract” have the same meanings as in the 2023 Regulations (see regulation 2(1)); 20
  - (b) “public sector company” means a company that is—
    - (i) wholly owned by the Secretary of State, the Welsh Ministers or the Scottish Ministers,
    - (ii) jointly owned by the Secretary of State and the Welsh Ministers, or 25
    - (iii) jointly owned by the Secretary of State and the Scottish Ministers;
  - (c) “the 2023 Regulations” means the Public Service Obligations in Transport Regulations 2023 (S.I. 2023/1369).
- (2) Subsections (4) and (5) of section 58 of the Railways Act 2005 (meaning of “wholly owned” and “jointly owned”) apply for the purposes of this section as they apply for the purposes of that Act.” 30

## **3 Consequential provision**

- (1) The Schedule contains consequential amendments.
- (2) The Secretary of State may by regulations make provision that is consequential on this Act. 35
- (3) Regulations under this section may amend, repeal or revoke provision made by or under an Act passed—
  - (a) before this Act, or

- (b) later in the same session of Parliament as this Act.
- (4) The power to make regulations under this section includes power to make—
  - (a) consequential, supplementary, incidental, transitional or saving provision;
  - (b) different provision for different purposes. 5
- (5) Regulations under this section are to be made by statutory instrument.
- (6) A statutory instrument containing regulations under this section that amend or repeal provision made by an Act may not be made unless a draft of the instrument has been laid before and approved by a resolution of each House of Parliament. 10
- (7) Any other statutory instrument containing regulations under this section is subject to annulment in pursuance of a resolution of either House of Parliament.

#### **4 Extent, commencement and short title**

- (1) This Act extends to England and Wales and Scotland. 15
- (2) This Act comes into force on the day on which it is passed.
- (3) This Act may be cited as the Passenger Railway Services (Public Ownership) Act 2024.



SCHEDULE

Section 3(1)

CONSEQUENTIAL AMENDMENTS

*Railways Act 1993*

- 1 The Railways Act 1993 is amended as follows.
- 2 In the heading before section 23 (passenger services to be subject to franchise agreements), for “Franchising” substitute “Provision”. 5
- 3 (1) Section 24 (exemption of passenger services from section 23(1)) is amended as follows.
  - (2) In subsection (2) –
    - (a) in the opening words, for “A franchise” substitute “An”; 10
    - (b) in the words after paragraph (b), for “a franchise” substitute “an”.
  - (3) In each of subsections (3A) and (3B), for “a franchise” substitute “an”.
  - (4) In subsection (4) –
    - (a) in the opening words, for “a franchise” substitute “an”;
    - (b) in each of paragraphs (a), (b) and (c) omit “franchise”. 15
  - (5) In subsection (5) omit “franchise”.
  - (6) In subsection (6) –
    - (a) for “a franchise” substitute “an”;
    - (b) omit “franchise” in the second place it occurs.
  - (7) In subsection (7) – 20
    - (a) for the definition of “condition” substitute –

““condition”, in relation to an exemption, means any condition subject to compliance with which the exemption was granted;”;
    - (b) in the definition of “relevant person”, omit “franchise” in both places. 25
  - (8) In subsection (8) –
    - (a) for “a franchise exemption” substitute “an exemption granted under this section”;
    - (b) omit “franchise” in the second and third place it occurs.
  - (9) In subsection (9) – 30
    - (a) for “a franchise” substitute “an”;
    - (b) omit “franchise” in the second place it occurs.
  - (10) In subsection (10) omit “franchise”.
  - (11) In subsection (11), for “a franchise exemption” substitute “an exemption under this section”. 35
  - (12) In subsection (12), for “Franchise exemptions” substitute “An exemption under this section”.
  - (13) Omit subsection (13).

- (14) An order made under section 24 of the Railways Act 1993 before this paragraph comes into force is to be treated as having been made under that section as amended by this paragraph.
- 4 (1) Section 24A (franchise exemptions granted by Secretary of State or Welsh Ministers: operator agreements) is amended as follows. 5
- (2) In the heading, omit “Franchise”.
- (3) In subsection (5), in the definition of “operator agreement”, for “a franchise exemption” substitute “an exemption under section 24”.
- 5 In section 29(1) (other terms and conditions of franchise agreements), for the opening words substitute “A franchise agreement may require—”. 10
- 6 In section 73(2)(a) (entries in register kept by Secretary of State), for “franchise exemption” substitute “exemption under section 24”.
- 7 In section 73A(3)(b) (entries in register kept by Scottish Ministers), for “franchise exemption” substitute “exemption under section 24”.
- 8 In section 73B(3)(b) (entries in register kept by Welsh Ministers), for “franchise exemption” substitute “exemption under section 24”. 15
- 9 In section 83(1) (interpretation of Part 1) —
- (a) omit the definition of “franchise exemption”;
- (b) in the definition of “public sector operator”, for “above” substitute “as it had effect before its repeal by section 1 of the Passenger Railway Services (Public Ownership) Act 2024”. 20



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*Brought from the Commons on 4th September 2024*

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