

EXPLANATORY MEMORANDUM TO
THE RAILWAYS (NORTH AND WEST LONDON LINES EXEMPTION)
ORDER 2007

2007 No. 1790

1. This explanatory memorandum has been prepared by the Department for Transport and is laid before Parliament by Command of Her Majesty.

This memorandum contains information for the Joint Committee on Statutory Instruments

2. **Description**

2.1 This instrument exempts Transport for London, its subsidiaries and concessionaires in respect of railway services provided by them on certain routes specified in the instrument from designation as passenger services to be provided under franchise agreements. The exemption is given as part of the transfer of responsibility for the operation of these services from the Secretary of State to Transport for London (“TfL”).

3. **Matters of special interest to the Joint Committee on Statutory Instruments**

3.1 None

4. **Legislative Background**

4.1 The Railways Act 1993 (the “1993 Act”):

- (a) requires the Secretary of State (and Scottish Ministers in respect of Scotland only services) to designate such services for the carriage of passengers by railway as it considers ought to be provided under franchise agreements and to select the franchisees (section 23); and
- (b) permits the Secretary of State (and Scottish Ministers in respect of Scotland only services) to exempt from designation under section 23 such services for the carriage of passengers by rail as may be specified in an order (section 24 of the 1993 Act).

4.2 The instrument is made as part of the transfer of responsibility for the operation of services on specified routes from the Secretary of State for Transport to TfL. Those are:

- (a) Gospel Oak station to Barking station.
- (b) Willesden Junction (High Level) station to Clapham Junction station via Kensington Olympia Station and West Brompton Station.

(c) London Euston station to Watford Junction station (local services);
and

(d) Stratford Low Level station to Richmond station via Kensal Rise.

4.3 TfL currently enjoys exemptions from designation to designate its railway passenger services as services which ought to be provided by franchise. This exemption is granted in the Railways (London Regional Transport) (Exemptions) Order 1994¹. The current instrument would extend that exemption on the specified routes to services provided by a concessionaire.

5. Territorial Extent and Application

5.1 This instrument applies to Great Britain.

6. European Convention on Human Rights

6.1 As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

7. Policy background

7.1 In February 2006 the Secretary of State announced the intention to transfer the responsibility for the operation of rail services on the North and West London Lines to Transport for London. The rationale behind the announcement was to give greater ability to the Mayor to coordinate transport in the capital. The service in question is the only franchise which operates almost entirely in the Greater London Authority Area.

7.2 Under the terms of transfer agreed between TfL and the Secretary of State, TfL will have to consult with the Secretary of State before there are material variations to the network in question, including fare regulation and ticket office hours.

7.3 As the new franchising authority, Transport for London will be responsible for ensuring that rail passengers experience no deterioration in services from those currently provided under the Silverlink Franchise Agreement. This includes quantum, journey times and frequencies of services, Ticket Office opening hours and regulation of the availability and costs of National Rail rail tickets.

7.4 Consultation was carried out amongst 20 local authorities and stakeholders across the effected area. Responses were generally positive, with no objections. The original consultation material was sent on 9 February, for a response by 20 April. However, some intended recipients did not receive these documents and the response date was accordingly extended to 8 May.

¹ S.I. 1994/573.

In total there were 7 responses, two of which were merely to say that they had no comment to add.

Wandsworth Council had the following comment:

‘Whilst appreciating the arguments for Transport for London (TfL) taking control of these services, our view on the franchising is that DfT should very strictly monitor TfL’s performance to ensure that it can adequately control Overground Rail services and costs to passengers and tax payers. This is a new area of responsibility for TfL, and there is no previous record of achievement in this field. There should be a monitoring process and a mechanism for DfT Rail to take control back if necessary’.

The Terms of Transfer between the Secretary of State for Transport and Transport for London state that the handover is irrevocable. Given the general support from other parties, and no compelling argument from Wandsworth, it was decided not to alter the Terms of Transfer.

Responses to the consultation are available on request.

8. Impact

8.1 A Regulatory Impact Assessment has not been prepared for this instrument as it has no impact on business, charities or voluntary bodies.

8.2 The impact on the public sector is negligible as the Department will fund TfL to procure these services, as opposed to the current situation whereby the services are funded directly through the Franchise Agreement between Silverlink Train Services and the Department for Transport.

9. Contact

Gary Willey at the Department for Transport. Tel: 020 7944 5268 or email: gary.willey@dft.gsi.gov.uk can answer any queries regarding the instrument.