Draft Order laid before Parliament under sections 55(7B) and 57A(3) of the Railways Act 1993, for approval by resolution of each House of Parliament.

DRAFT STATUTORY INSTRUMENTS

2005 No.

TRANSPORT

The Railways Act 1993 (Determination of Turnover) Order 2005

Made - - - -	*2005*
Coming into force - -	*2005*

Whereas a draft of this Order has been laid before, and approved by a resolution of, each House of Parliament pursuant to sections 55(7B) and 57A(3) of the Railways Act 1993(**1**);

Now, therefore, the Secretary of State, in exercise of the powers conferred upon him by sections 55(7B) and 57A(3) of the Railways Act 1993, hereby makes the following Order:

Citation and Commencement

1. This Order may be cited as the Railways Act 1993 (Determination of Turnover) Order 2005 and shall come into force on 2005.

Interpretation

2.—(1) In this Order—

"the Act" means the Railways Act 1993;

"applicable turnover" means the turnover of the relevant operator derived from its railway business activities in Great Britain during a business year after deduction of trade discounts, value added tax and other taxes directly related to turnover, and where a business year does not equal 12 months, the applicable turnover shall be the amount which bears the same proportion to the applicable turnover during that business year as 12 months does to the period of that year;

"business year" means a period of more than six months in respect of which a relevant operator publishes accounts or, if no such accounts have been published for the period, prepares accounts; and

"railway business activities" means so much of any business carried on by a relevant operator as consists in either or both of the following:

(**1**) 1993 c.43; sections 55(7B) and 57A(3) were inserted by the Transport Act 2000 (c.38), sections 225(2) and 225(1) respectively.

(a) the provision of railway services; and

(b) the ownership or operation of a railway asset;

together with any business carried on incidental to that business.

(2) In this Order, turnover derived from railway business activities includes (without limitation) amounts derived from:

(a) aid granted to the relevant operator by a public service operator, if the aid facilitates or promotes the relevant operator's railway business activities;

(b) fares paid in respect of railway passenger services;

(c) fees paid in respect of services for the carriage of goods by railway;

(d) catering services provided at stations or on trains;

(e) car parking facilities at stations;

(f) the sale of land forming part of a station; and

(g) leases and licences granted in respect of land forming part of a station.

Determination of Turnover for the purposes of section 55(7B)

3.—(1) The turnover of a relevant operator, for the purposes of section 55(7B), is—

(a) the applicable turnover for the business year preceding the date on which the relevant operator first made a specified contravention of the final or provisional order to which it was subject; and

(b) where the length of the infringement is more than 12 months, in addition the amount of the applicable turnover for the business year preceding that identified under sub-paragraph (a) which bears the same proportion to the applicable turnover for that business year as the period by which the length of infringement exceeds 12 months bears to 12 months;

save that the amount added under sub-paragraph (b) shall not exceed the amount of the applicable turnover for the previous business year in question.

(2) For the purposes of this article, "length of the infringement" means the period of the specified contravention of a final or provisional order by the relevant operator.

Determination of Turnover for the purposes of section 57A(3)

4.—(1) The turnover of a relevant operator, for the purposes of section 57A(3), is—

(a) the applicable turnover for the business year preceding the date on which a notice pursuant to section 57C(1)(**2**) of the Act was served on the relevant operator; and

(b) where the length of the infringement is more than 12 months, in addition the amount of the applicable turnover for the business year preceding that identified under sub-paragraph (a) which bears the same proportion to the applicable turnover for that business year as the period by which the length of the infringement exceeds 12 months bears to 12 months;

save that the amount added under sub-paragraph (b) shall not exceed the amount of the applicable turnover for the preceding business year in question.

(2) For the purposes of this article, "length of the infringement" means the period of the contravention of the relevant condition or requirement or final or provisional order by the relevant operator.

(**2**) section 57C(1) was inserted by the Transport Act 2000, section 225(1).