



Railways Act 1993

1993 CHAPTER 43

PART I

THE PROVISION OF RAILWAY SERVICES

Enforcement by the Regulator and the Franchising Director

57 Validity and effect of orders

- (1) If the relevant operator to whom a final or provisional order relates is aggrieved by the order and desires to question its validity on the ground—
 - (a) that its making or confirmation was not within the powers of section 55 above, or
 - (b) that any of the requirements of section 56 above have not been complied with in relation to it,he may, within 42 days from the date of service on him of a copy of the order, make an application to the court under this section.
- (2) On any such application the court, if satisfied that the making or confirmation of the order was not within those powers or that the interests of the relevant operator have been substantially prejudiced by a failure to comply with those requirements—
 - (a) may quash the order or any provision of the order; or
 - (b) if and to the extent that the application related to so much of an order as imposes a monetary penalty, may substitute a monetary penalty of such lesser amount as the court considers appropriate in all the circumstances of the case.
- (3) Except as provided by this section, the validity of a final or provisional order shall not be questioned by any legal proceedings whatever.
- (4) The obligation to comply with a final or provisional order shall be a duty owed to any person who may be affected by a contravention of the order.

Status: This is the original version (as it was originally enacted).

- (5) Where a duty is owed by virtue of subsection (4) above to any person, any breach of the duty which causes that person to sustain loss or damage shall be actionable at the suit or instance of that person.
- (6) In any proceedings brought against a relevant operator in pursuance of subsection (5) above, it shall be a defence for him to prove that he took all reasonable steps and exercised all due diligence to avoid contravening the order.
- (7) Without prejudice to any right which any person may have by virtue of subsection (5) above to bring civil proceedings in respect of any contravention or apprehended contravention of a final or provisional order, compliance with any such order shall be enforceable by civil proceedings by the appropriate officer for an injunction or for interdict or for any other appropriate relief or remedy.
- (8) Where a relevant operator to whom a final or provisional order relates has made an application pursuant to subsection (1) above questioning the validity of that order, the making of that application shall not affect—
 - (a) his obligation to comply with the order, or
 - (b) the right which any person may have to bring civil proceedings against him in pursuance of subsection (5) or (7) above.
- (9) In this section and section 58 below “the court” means the High Court in relation to England and Wales and the Court of Session in relation to Scotland.