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## SCHEDULES

### SCHEDULE 1

Section 15

#### [<sup>F1</sup>OFFICE OF RAIL AND ROAD]

##### Textual Amendments

- F1** Words in Sch. 1 substituted (16.10.2015) by [The Office of Rail Regulation \(Change of Name\) Regulations 2015 \(S.I. 2015/1682\)](#), reg. 1(2), [Sch. para. 2\(d\)](#)

##### *Constitution*

- 1 (1) The [<sup>F1</sup>Office of Rail and Road] shall consist of a chairman and at least four other members appointed by the Secretary of State.
- (2) The chairman or another member—
- (a) may not be appointed for a term of more than five years (but may be reappointed),
  - (b) may resign by notice in writing to the Secretary of State, and
  - (c) shall hold and vacate office in accordance with the terms of his appointment.
- (3) Before appointing a member other than the chairman the Secretary of State shall consult the chairman.

##### Commencement Information

- II** Sch. 1 para. 1 in force at 5.7.2004 by [S.I. 2004/827](#), [art. 4\(f\)](#)

- 2 The Secretary of State may dismiss a member of the Office by notice in writing on the grounds that the member—
- (a) has been absent from meetings of the Office without permission of the Office during a period of more than three months,
  - (b) has a financial or other personal interest which is likely to influence the performance of his functions as a member,
  - (c) is the subject of a bankruptcy restrictions order<sup>F2</sup> or an interim bankruptcy restrictions order, or a debt relief restrictions order or interim debt relief restrictions order under Schedule 4ZB of the Insolvency Act 1986],
  - (d) has had his estate sequestrated in Scotland or, under Scots law, has made a composition or arrangement with, or granted a trust deed for, his creditors,
  - (e) has misbehaved, or
  - (f) is unable, unfit or unwilling to perform his functions as a member.

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#### Textual Amendments

- F2** Words in Sch. 1 para. 2(c) substituted (1.10.2012) by [The Tribunals, Courts and Enforcement Act 2007 \(Consequential Amendments\) Order 2012 \(S.I. 2012/2404\)](#), art. 1, [Sch. 2 para. 48\(2\)](#) (with arts. 5, 6)

#### Commencement Information

- I2** Sch. 1 para. 2 in force at 5.7.2004 by [S.I. 2004/827](#), [art. 4\(f\)](#)

#### Staff

- 3 (1) The Office shall appoint a Chief Executive.
- (2) Before appointing a Chief Executive the Office shall—
- (a) consult the Secretary of State, and
  - (b) obtain the Treasury’s approval of the terms and conditions of appointment.

#### Commencement Information

- I3** Sch. 1 para. 3 in force at 5.7.2004 by [S.I. 2004/827](#), [art. 4\(f\)](#)

- 4 (1) The Office may appoint other employees.
- (2) The power under sub-paragraph (1) may be exercised only if the Office has the approval of the Treasury as to—
- (a) numbers, and
  - (b) terms and conditions of employment.

#### Commencement Information

- I4** Sch. 1 para. 4 in force at 5.7.2004 by [S.I. 2004/827](#), [art. 4\(f\)](#)

- 5 Service as an employee of the Office is employment in the civil service of the State.

#### Commencement Information

- I5** Sch. 1 para. 5 in force at 5.7.2004 by [S.I. 2004/827](#), [art. 4\(f\)](#)

#### Proceedings

- 6 The Office may establish one or more committees (which may include persons who are neither members of nor employed by the Office).

#### Commencement Information

- I6** Sch. 1 para. 6 in force at 5.7.2004 by [S.I. 2004/827](#), [art. 4\(f\)](#)

- 7<sup>[F3]</sup>(1) The Office may delegate a function to—
- (a) the Chief Executive or another employee, or
  - (b) a committee.

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- [<sup>F4</sup>(2) Sub-paragraph (1) is subject to provision in rules made under section 51 of the Competition Act 1998 by virtue of paragraph 1A of Schedule 9 to that Act in respect of the exercise of a function under Part 1 of that Act.]

#### Textual Amendments

- F3** Sch. 1 para. 7(1): Sch. 1 para. 7 renumbered as Sch. 1 para. 7(1) (1.4.2014) by [Enterprise and Regulatory Reform Act 2013 \(c. 24\)](#), s. 103(3), **Sch. 15 para. 41(a)**; S.I. 2014/416, art. 2(1)(f) (with Sch.)
- F4** Sch. 1 para. 7(2) inserted (1.4.2014) by [Enterprise and Regulatory Reform Act 2013 \(c. 24\)](#), s. 103(3), **Sch. 15 para. 41(b)**; S.I. 2014/416, art. 2(1)(f) (with Sch.)

#### Commencement Information

- I7** Sch. 1 para. 7 in force at 5.7.2004 by [S.I. 2004/827](#), **art. 4(f)**

- 8 The Office shall—
- (a) determine arrangements for the conduct of its proceedings (which may, in particular, include arrangements for a quorum), and
  - (b) publish those arrangements.

#### Commencement Information

- I8** Sch. 1 para. 8 in force at 5.7.2004 by [S.I. 2004/827](#), **art. 4(f)**

- 9 (1) The Office may do anything which it thinks necessary or expedient for the purpose of or in connection with the performance of its functions.
- (2) Sub-paragraph (1) is subject to paragraph 16.

#### Commencement Information

- I9** Sch. 1 para. 9 in force at 5.7.2004 by [S.I. 2004/827](#), **art. 4(f)**

- 10 The validity of any proceedings of the Office shall not be affected by—
- (a) a vacancy, or
  - (b) a defective appointment.

#### Commencement Information

- I10** Sch. 1 para. 10 in force at 5.7.2004 by [S.I. 2004/827](#), **art. 4(f)**

### Money

- 11 The Office may with the approval of the Secretary of State make to or in respect of members of the Office, employees or committee-members payments by way of or in respect of—
- (a) remuneration;
  - (b) pension;
  - (c) allowances;
  - (d) expenses.

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**Commencement Information**

**I11** Sch. 1 para. 11 in force at 5.7.2004 by [S.I. 2004/827](#), **art. 4(f)**

- 12 (1) This paragraph applies where an employee of the Office becomes a member of the Office.
- (2) The Secretary of State may determine that the person's term as a member shall be treated for the purposes of a scheme under section 1 of the Superannuation Act 1972 (c. 11) (civil service pension scheme) as employment in the civil service of the State.

**Commencement Information**

**I12** Sch. 1 para. 12 in force at 5.7.2004 by [S.I. 2004/827](#), **art. 4(f)**

- 13 If the Secretary of State thinks that special circumstances of a person's ceasing to be a member of the Office make it appropriate to pay him compensation, the Office may pay him compensation of an amount approved by the Secretary of State (whether or not he receives other benefits by way of pension).

**Commencement Information**

**I13** Sch. 1 para. 13 in force at 5.7.2004 by [S.I. 2004/827](#), **art. 4(f)**

- 14 The Office may incur expenditure in connection with advisory or other services provided to the Office.

**Commencement Information**

**I14** Sch. 1 para. 14 in force at 5.7.2004 by [S.I. 2004/827](#), **art. 4(f)**

- 15 Expenditure incurred by the Office in connection with the performance of its functions shall (to the extent not met by other income of the Office) be paid out of money provided by Parliament.

**Commencement Information**

**I15** Sch. 1 para. 15 in force at 5.7.2004 by [S.I. 2004/827](#), **art. 4(f)**

- 16 The Office may not borrow money.

**Commencement Information**

**I16** Sch. 1 para. 16 in force at 5.7.2004 by [S.I. 2004/827](#), **art. 4(f)**

*Conflict of interest*

- 17 (1) Before appointing a person as a member of the Office the Secretary of State shall satisfy himself that the person neither has nor is expected to acquire a financial or

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other personal interest which is likely to influence the performance of his functions as a member.

- (2) From time to time the Secretary of State shall satisfy himself that no member of the Office has a financial or other personal interest which is likely to influence the performance of his functions as a member.

**Commencement Information**

**I17** Sch. 1 para. 17 in force at 5.7.2004 by [S.I. 2004/827](#), [art. 4\(f\)](#)

- 18 (1) Procedural arrangements made by the Office under paragraph 8 shall include arrangements under which a member, employee or committee-member who has a financial or other personal interest which is likely to influence his performance of a particular function is obliged—
- (a) to declare the interest, and
  - (b) to withdraw from the performance of the function to the relevant extent.
- (2) Procedural arrangements made by the Office under paragraph 8 shall include arrangements under which a member, employee or committee-member who has a financial or other personal interest which is relevant to a particular function but does not fall under sub-paragraph (1) is obliged—
- (a) to declare the interest, and
  - (b) unless the members of the Office direct otherwise, to withdraw from the performance of the function to the relevant extent.

**Commencement Information**

**I18** Sch. 1 para. 18 in force at 5.7.2004 by [S.I. 2004/827](#), [art. 4\(f\)](#)

SCHEDULE 2

Section 16

ABOLITION OF RAIL REGULATOR: CONSEQUENTIAL AMENDMENTS

**PART 1**

RAILWAYS ACT 1993 (C. 43)

- 1 The Railways Act 1993 shall be amended as follows.

**Commencement Information**

**I19** Sch. 2 para. 1 in force at 5.7.2004 by [S.I. 2004/827](#), [art. 4\(g\)](#)

- 2 Section 1 and Schedule 1 (the Rail Regulator) shall cease to have effect.

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### Commencement Information

**I20** Sch. 2 para. 2 in force at 5.7.2004 by S.I. 2004/827, art. 4(g)

3 Subject to the following paragraphs of this Schedule, in the provisions specified in the following table—

- (a) for “the Regulator” substitute “ the Office of Rail Regulation ”,
- (b) for “he” and “him”, where they refer only to the Regulator, substitute “ it ”, and
- (c) for “his”, where it refers to the Regulator, substitute “ its ”.

<i>Section</i>	<i>Description</i>	<i>Section</i>	<i>Description</i>
Section 4	General duties	Section 22B	Applications for directions
Section 6	Unauthorised operators	Section 22C	Amendment: supplementary
Section 7	Exemptions	Section 24	Exemption of passenger services
F5	F5	Section 26	Invitations to tender
...	...		
Section 8	Licences	F5	F5
		...	...
Section 9	Conditions of licences	F5	F5
		...	...
Section 11	Assignment of licences	F5	F5
		...	...
Section 12	Modification by agreement	F5	F5
		...	...
Section 13	Modification references	Section 55	Orders for ensuring compliance
Section 14	Reports on references	Section 56	Procedural requirements
Section 15	Modification following report	Section 57A	Penalties
Section 15A	Power to veto modification	Section 57B	Statement of policy
Section 15B	Modification by Commission	Section 57C	Procedural requirements for penalties
Section 15C	Supplementary	Section 67	Respective functions

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Section 16	Modification by order	Section 68	Investigatory functions
Section 16A	Provision &c. of facilities	Section 69	General functions
Section 16B	Exemption	Section 71	Publication of information
Section 16C	Applications for directions	Section 72	Keeping of register: Regulator
Section 16D	Procedure	Section 73	Keeping of register: Authority
Section 16E	Decisions: adequate reward	Section 74	Reports: Regulator
Section 16F	Decisions: other provisions	F5 ...	F5 ...
Section 16G	Directions	Section 76	Rail Passengers' Council
Section 16H	Code of Practice	F5 ...	F5 ...
Section 16I	Supplementary	F5 ...	F5 ...
Section 17	Access agreements: directions	Section 95	Transfer schemes: power to require information
Section 18	Access agreements: approval	Section 118	National emergency
Section 19	Access agreements: use of installations	Section 145	Disclosure of information
Section 19A	Review of access charges	F5 ...	F5 ...
Section 20	Exemption	F5 ...	F5 ...
Section 21	Model clauses	Schedule 4	Access agreements
Section 22	Amendment	Schedule 4A	Review of access charges
Section 22A	Directions to amend		

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### Textual Amendments

**F5** Sch. 2 para. 3 entries repealed (24.7.2005 for specified purposes, 1.12.2006 in so far as not already in force) by Railways Act 2005 (c. 14), s. 60(2), Sch. 13 Pt. 1 (with s. 14(4)(5), Sch. 11 para. 11(2)); S.I. 2005/1909, art. 2, Sch.; S.I. 2006/2911, art. 2, Sch.

### Commencement Information

**I21** Sch. 2 para. 3 in force at 5.7.2004 by S.I. 2004/827, art. 4(g)

- 4 In section 7 (exemptions from section 6)—
- (a) in subsection (3)(b) for “it” substitute “ the exemption ”, and
  - (b) in subsection (8) after “he” insert “ or it ”.

### Commencement Information

**I22** Sch. 2 para. 4 in force at 5.7.2004 by S.I. 2004/827, art. 4(g)

- 5 In section 8(4)(a) and (b) (licences) after “he” insert “ or it ”.

### Commencement Information

**I23** Sch. 2 para. 5 in force at 5.7.2004 by S.I. 2004/827, art. 4(g)

- 6 In section 9(3)(f) (conditions of licences) after “he” and “him” insert “ or it ”.

### Commencement Information

**I24** Sch. 2 para. 6 in force at 5.7.2004 by S.I. 2004/827, art. 4(g)

- 7 In section 15(4A) (modification following report)—
- (a) omit “he or”, and
  - (b) in paragraphs (a) and (b) omit “it proposes to”.

### Commencement Information

**I25** Sch. 2 para. 7 in force at 5.7.2004 by S.I. 2004/827, art. 4(g)

- 8 In section 15C(3) (sections 15A and 15B: supplementary)—
- (a) after “shall” insert “ each ”, and
  - (b) in each place, omit “his or”.

### Commencement Information

**I26** Sch. 2 para. 8 in force at 5.7.2004 by S.I. 2004/827, art. 4(g)

- 9 In section 20(3)(b) (exemption of railway facilities from sections 17, 18 and 22A) for “it” substitute “ the exemption ”.



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**Commencement Information**

**I27** Sch. 2 para. 9 in force at 5.7.2004 by S.I. 2004/827, art. 4(g)

- 10 In section 21(5) (model clauses for access contracts)—
- (a) after “any” insert “ of its ”, and
  - (b) omit “of his”.

**Commencement Information**

**I28** Sch. 2 para. 10 in force at 5.7.2004 by S.I. 2004/827, art. 4(g)

<sup>F6</sup>11 .....

**Textual Amendments**

**F6** Sch. 2 para. 11 repealed (1.12.2006) by Railways Act 2005 (c. 14), s. 60(2), Sch. 13 Pt. 1 (with s. 14(4)(5), Sch. 11 para. 11(2)); S.I. 2006/2911, art. 2, Sch.

**Commencement Information**

**I29** Sch. 2 para. 11 in force at 5.7.2004 by S.I. 2004/827, art. 4(g)

- 12 In section 57A(5)(a) (penalties) for the second “it” substitute “ the Authority ”.

**Commencement Information**

**I30** Sch. 2 para. 12 in force at 5.7.2004 by S.I. 2004/827, art. 4(g)

- 13 In section 57B (statement of policy)—
- (a) in subsection (3) omit “or his”, and
  - (b) in subsection (4)(a) omit “his or”.

**Commencement Information**

**I31** Sch. 2 para. 13 in force at 5.7.2004 by S.I. 2004/827, art. 4(g)

- 14 In section 74 (reports)—
- (a) in subsection (1) for “after the end of the first relevant financial year and of each subsequent financial year,” substitute “ after the end of each financial year, ”, and
  - (b) in subsection (8) omit the definition of “first relevant financial year”.

**Commencement Information**

**I32** Sch. 2 para. 14 in force at 5.7.2004 by S.I. 2004/827, art. 4(g)

- 15 In section 76(5A) (matters referred to the Authority by the Rail Passengers' Council) for “him” substitute “ the Office of Rail Regulation ”.

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**Commencement Information**

**I33** Sch. 2 para. 15 in force at 5.7.2004 by S.I. 2004/827, art. 4(g)

<sup>F7</sup>16 .....

**Textual Amendments**

**F7** Sch. 2 para. 16 repealed (24.7.2005) by Railways Act 2005 (c. 14), s. 60(2), Sch. 13 Pt. 1 (with s. 14(4)(5), Sch. 11 para. 11(2)); S.I. 2005/1909, art. 2, Sch.

**Commencement Information**

**I34** Sch. 2 para. 16 in force at 5.7.2004 by S.I. 2004/827, art. 4(g)

17 In section 151(1) (general interpretation) omit the definition of “the Regulator”.

**Commencement Information**

**I35** Sch. 2 para. 17 in force at 5.7.2004 by S.I. 2004/827, art. 4(g)

18 In Part I of Schedule 6 (railway administration orders) for “the Rail Regulator” substitute “ the Office of Rail Regulation ”.

**Commencement Information**

**I36** Sch. 2 para. 18 in force at 5.7.2004 by S.I. 2004/827, art. 4(g)

**PART 2**

OTHER ACTS

*General*

19 In the following enactments for a reference to the Rail Regulator there shall be substituted a reference to the

“Office of Rail Regulation”

- (a) section 13 of the Transport Act 1962 (c. 46) (Boards' powers of manufacture),
- (b) Schedule 2 to the Parliamentary Commissioner Act 1967 (c. 13) (departments subject to jurisdiction),
- (c) section 133 of the Fair Trading Act 1973 (c. 41) (disclosure of information),
- (d) section 174 of the Consumer Credit Act 1974 (c. 39) (disclosure of information),
- (e) section 10 of the Estate Agents Act 1979 (c. 38) (disclosure of information),
- (f) section 19 of the Competition Act 1980 (c. 21) (disclosure of information),
- (g) section 101 of the Telecommunications Act 1984 (c. 12) (disclosure of information),

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- (h) section 41A of the London Regional Transport Act 1984 (c. 32) (access contracts),
- (i) section 74 of the Airports Act 1986 (c. 31) (disclosure of information),
- (j) section 9E of the Company Directors Disqualification Act 1986 (c. 46) (disqualification for competition infringement),
- (k) section 38 of the Consumer Protection Act 1987 (c. 43) (disclosure of information),
- (l) Schedule 15 to the Water Industry Act 1991 (c. 56) (disclosure of information),
- (m) Schedule 24 to the Water Resources Act 1991 (c. 57) (disclosure of information),
- (n) Schedules 2 and 4 to the Deregulation and Contracting Out Act 1994 (c. 40) (sectoral regulators),
- (o) sections 17, 21 and 22 of the Channel Tunnel Rail Link Act 1996 (c. 61) (rail legislation and regulator),
- (p) section 54 of, Part I of Schedule 10 to and Schedule 11 to the Competition Act 1998 (c. 41) (regulators),
- (q) sections 199, 200, 228(2) and (3) and 235 of, and paragraph 15 of Schedule 18 to, the Greater London Authority Act 1999 (c. 29),
- <sup>F8</sup>(r) .....
- (s) section 105 of the Utilities Act 2000 (c. 27) (disclosure of information),
- (t) the following provisions of the Transport Act 2000 (c. 38)—
  - (i) section 206 (strategies),
  - (ii) section 216 (assumption of certain functions of Regulator),
  - (iii) paragraph 3 of Schedule 9 (disclosure of information),
  - (iv) paragraph 13 of Schedule 10 (disclosure of information),
  - (v) Part III of Schedule 17 (transfers to SRA from Regulator), and
  - (vi) Part II of Schedule 26 (transfers to SRA: tax), and
- (u) sections 136 and 168 of the Enterprise Act 2002 (c. 40) (investigations and regulated markets).

**Textual Amendments**

**F8** Sch. 2 para. 19(r) omitted (1.10.2011) by virtue of [Postal Services Act 2011 \(c. 5\)](#), s. 93(2)(3), [Sch. 12 para. 169](#); [S.I. 2011/2329](#), art. 3

**Commencement Information**

**I37** Sch. 2 para. 19 in force at 5.7.2004 by [S.I. 2004/827](#), art. 4(g)

20 In addition to the amendments effected by paragraph 19, the following enactments shall be amended as specified.

**Commencement Information**

**I38** Sch. 2 para. 20 in force at 5.7.2004 by [S.I. 2004/827](#), art. 4(g)

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*House of Commons Disqualification Act 1975 (c. 24)*

- 21 In Schedule 1 to the House of Commons Disqualification Act 1975 (offices disqualifying for membership)—
- (a) in Part II (bodies of which all members are disqualified) at the appropriate place insert— “ The Office of Rail Regulation. ”, and
  - (b) in Part III (other disqualifying offices) omit the entry relating to the Rail Regulator.

**Commencement Information**

**I39** Sch. 2 para. 21 in force at 5.7.2004 by S.I. 2004/827, art. 4(g)

*Channel Tunnel Rail Link Act 1996 (c. 61)*

- 22 In sections 21 and 22 of the Channel Tunnel Rail Link Act 1996—
- (a) for “he” and “him”, where they refer to the Rail Regulator, substitute “ it ”, and
  - (b) for “his”, where it refers to the Rail Regulator, substitute “ its ”.

**Commencement Information**

**I40** Sch. 2 para. 22 in force at 5.7.2004 by S.I. 2004/827, art. 4(g)

*Greater London Authority Act 1999 (c. 29)*

- 23 For section 228(1) of the Greater London Authority Act 1999 (the heading to which becomes “PPP arbiter also Member of Office of Rail Regulation: duties of staff”) substitute—
- “(1) Subsections (2) and (3) shall apply while a member of the Office of Rail Regulation holds the office of PPP arbiter.”

**Commencement Information**

**I41** Sch. 2 para. 23 in force at 5.7.2004 by S.I. 2004/827, art. 4(g)

*Financial Services and Markets Act 2000 (c. 8)*

- 24 In the table in Part I of Schedule 19 to the Financial Services and Markets Act 2000 (competition information) for the entry numbered 11 substitute—

“11 The Office of Rail Regulation.	Any function of that office under a specified enactment.”
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**Commencement Information**

**I42** Sch. 2 para. 24 in force at 5.7.2004 by S.I. 2004/827, art. 4(g)

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## SCHEDULE 3

Section 16

### ABOLITION OF RAIL REGULATOR: SAVINGS, &C.

- 1 Section 16 shall not affect the validity of anything done by or in relation to the Rail Regulator before commencement.

#### Commencement Information

**I43** Sch. 3 para. 1 in force at 5.7.2004 by [S.I. 2004/827](#), [art. 4\(h\)](#)

- 2 Anything done by or in relation to the Rail Regulator which has effect at commencement shall, so far as necessary for continuing its effect after commencement, have effect as if done by or in relation to the [<sup>F9</sup>Office of Rail and Road].

#### Textual Amendments

**F9** Words in Sch. 3 substituted (16.10.2015) by [The Office of Rail Regulation \(Change of Name\) Regulations 2015 \(S.I. 2015/1682\)](#), [reg. 1\(2\)](#), [Sch. para. 2\(e\)](#)

#### Commencement Information

**I44** Sch. 3 para. 2 in force at 5.7.2004 by [S.I. 2004/827](#), [art. 4\(h\)](#)

- 3 Anything (including any legal proceedings) which at commencement is in the process of being done by or in relation to the Rail Regulator may be continued by or in relation to the [<sup>F9</sup>Office of Rail and Road].

#### Textual Amendments

**F9** Words in Sch. 3 substituted (16.10.2015) by [The Office of Rail Regulation \(Change of Name\) Regulations 2015 \(S.I. 2015/1682\)](#), [reg. 1\(2\)](#), [Sch. para. 2\(e\)](#)

#### Commencement Information

**I45** Sch. 3 para. 3 in force at 5.7.2004 by [S.I. 2004/827](#), [art. 4\(h\)](#)

- 4 A reference in any enactment, instrument or other document to the Rail Regulator shall, so far as necessary or appropriate in consequence of section 16, be treated after commencement as a reference to the [<sup>F9</sup>Office of Rail and Road].

#### Textual Amendments

**F9** Words in Sch. 3 substituted (16.10.2015) by [The Office of Rail Regulation \(Change of Name\) Regulations 2015 \(S.I. 2015/1682\)](#), [reg. 1\(2\)](#), [Sch. para. 2\(e\)](#)

#### Commencement Information

**I46** Sch. 3 para. 4 in force at 5.7.2004 by [S.I. 2004/827](#), [art. 4\(h\)](#)

- 5 (1) Section 16 is without prejudice to any personal right or liability of any person who held the office of the Rail Regulator.

*Status: Point in time view as at 20/10/2015.*

*Changes to legislation: Railways and Transport Safety Act 2003 is up to date with all changes known to be in force on or before 10 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

- (2) In particular, the Secretary of State may continue to make payments in accordance with arrangements made before commencement for or in respect of a pension for a person who held the office of the Rail Regulator.
- (3) The Secretary of State may pay compensation to the last person who held the office of the Rail Regulator.

**Commencement Information**

**I47** Sch. 3 para. 5 in force at 5.7.2004 by [S.I. 2004/827](#), **art. 4(h)**

**F10**<sup>6</sup> .....

**Textual Amendments**

**F10** Sch. 3 para. 6 omitted (28.11.2005) by virtue of [Railways Infrastructure \(Access and Management\) Regulations 2005 \(S.I. 2005/3049\)](#), reg. 1(1), **Sch. 1 para. 7** (with reg. 4)

**Commencement Information**

**I48** Sch. 3 para. 6 in force at 5.7.2004 by [S.I. 2004/827](#), **art. 4(h)**

7 In this Schedule “commencement” means the coming into force of section 16.

**Commencement Information**

**I49** Sch. 3 para. 7 in force at 5.7.2004 by [S.I. 2004/827](#), **art. 4(h)**

SCHEDULE 4

Section 18

BRITISH TRANSPORT POLICE AUTHORITY

**PART 1**

MEMBERSHIP

*Appointment*

- 1 (1) The Secretary of State—
- (a) shall appoint the members of the Authority, and
  - (b) shall ensure that the number of members is an odd number neither lower than 11 nor higher than 17.
- (2) The Secretary of State may by order amend sub-paragraph (1)(b) so as to substitute a different number for a number specified.
- (3) An order under sub-paragraph (2) may not be made unless the Secretary of State has consulted the Authority.

*Status: Point in time view as at 20/10/2015.*

*Changes to legislation: Railways and Transport Safety Act 2003 is up to date with all changes known to be in force on or before 10 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

**Commencement Information**

**I50** Sch. 4 para. 1 in force at 1.7.2004 by S.I. 2004/1572, art. 3(iii)

- 2 (1) The Secretary of State shall so far as is reasonably practicable ensure that the membership of the Authority includes—
- (a) at least four persons who have knowledge of and experience in relation to the interests of persons travelling by railway,
  - (b) at least four persons who have knowledge of and experience in relation to the interests of persons providing railway services,
  - (c) a person who has knowledge of and experience in relation to the interests of employees of persons providing railways services,
  - <sup>F11</sup>(d) .....
  - (e) a person who has knowledge of the interests of persons in Scotland and who is appointed following consultation with the Scottish Ministers,
  - (f) a person who has knowledge of the interests of persons in Wales and who is appointed following consultation with the National Assembly for Wales, and
  - (g) a person who has knowledge of the interests of persons in England.
- (2) A person may be appointed so as to satisfy, or to contribute to satisfying, more than one paragraph of sub-paragraph (1).
- (3) But a person may not be appointed so as to—
- (a) contribute to satisfying sub-paragraph (1)(b), and
  - (b) satisfy sub-paragraph (1)(c).
- (4) In appointing members of the Authority the Secretary of State shall have regard to the desirability of appointing persons who have experience of and have shown capacity in relation to matters relevant to the policing of the railways.

**Textual Amendments**

**F11** Sch. 4 para. 2(1)(d) repealed (1.12.2006) by Railways Act 2005 (c. 14), s. 60(2), Sch. 13 Pt. 1 (with s. 14(4)(5), Sch. 11 para. 11(2)); S.I. 2006/2911, art. 2, Sch.

**Commencement Information**

**I51** Sch. 4 para. 2 in force at 1.7.2004 by S.I. 2004/1572, art. 3(iii)

*Tenure*

- 3 (1) A member of the Authority shall hold and vacate office in accordance with the terms of his appointment (subject to the provisions of this Schedule).
- (2) A member of the Authority may resign by notice to the Secretary of State, which must be—
- (a) in writing, and
  - (b) copied to the Authority.
- (3) The Secretary of State may dismiss a member of the Authority if—
- (a) he is absent from meetings of the Authority during a period of more than three months without permission of the Authority,

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- (b) he is convicted of an offence, or
- (c) the Secretary of State thinks that the member is unable, unfit or unwilling to perform his functions as a member (whether because of illness or otherwise).

**Commencement Information**

**I52** Sch. 4 para. 3 in force at 1.7.2004 by S.I. 2004/1572, art. 3(iii)

*Chairman and deputy chairman*

- 4 (1) The Secretary of State shall appoint a member of the Authority as its chairman.
- (2) The chairman shall perform such functions as may be assigned to him by the Secretary of State.

**Commencement Information**

**I53** Sch. 4 para. 4 in force at 1.7.2004 by S.I. 2004/1572, art. 3(iii)

- 5 (1) The Secretary of State may appoint a member of the Authority as its deputy chairman.
- (2) The deputy chairman—
- (a) may act for the chairman when he is unable to act or unavailable, and
  - (b) shall perform such other functions as may be assigned or delegated to him by the chairman.

**Commencement Information**

**I54** Sch. 4 para. 5 in force at 1.7.2004 by S.I. 2004/1572, art. 3(iii)

- 6 The Secretary of State may not appoint as chairman or deputy chairman of the Authority a member who—
- (a) is an officer or employee of a body which is required to enter into a police services agreement, <sup>F12</sup>...
  - <sup>F12</sup>(b) .....

**Textual Amendments**

**F12** Sch. 4 para. 6(b) and word repealed (1.12.2006) by Railways Act 2005 (c. 14), s. 60(2), Sch. 13 Pt. 1 (with s. 14(4)(5), Sch. 11 para. 11(2)); S.I. 2006/2911, art. 2, Sch.

**Commencement Information**

**I55** Sch. 4 para. 6 in force at 1.7.2004 by S.I. 2004/1572, art. 3(iii)

*Disqualification*

- 7 (1) A person under the age of 21 shall not be eligible for appointment as a member of the Authority.



*Status: Point in time view as at 20/10/2015.*

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- (2) A person shall not be eligible for appointment as a member of the Authority while he—
- (a) is an officer or employee of the Authority,
  - (b) is a constable,
  - [<sup>F13</sup>(c) a member of a police and crime commissioner's staff (within the meaning of Part 1 of the Police Reform and Social Responsibility Act 2011),
  - (ca) a member of the staff of the Mayor's Office for Policing and Crime (within the meaning of that Part of that Act),
  - (cb) a member of the civilian staff of a police force, including the metropolitan police force, (within the meaning of that Part of that Act), or]
  - [<sup>F14</sup>(d) is an employee of the Scottish Police Authority.]
- (3) A person shall not be eligible for appointment as a member of the Authority if he is the subject of—
- (a) a bankruptcy restrictions order [<sup>F15</sup>or an interim bankruptcy restrictions order, or a debt relief restrictions order or interim debt relief restrictions order under Schedule 4ZB of the Insolvency Act 1986],
  - (b) a disqualification order under the Company Directors Disqualification Act 1986 (c. 46) or under [<sup>F16</sup>the Company Directors Disqualification (Northern Ireland) Order 2002], or
  - (c) an order under section 429(2)(b) of the Insolvency Act 1986 (c. 45) (disability imposed on revoking administration order under County Courts Act 1984).
- (4) A person shall not be eligible for appointment as a member of the Authority if his estate has been sequestrated in Scotland or if, under Scots law, he has made a composition or arrangement with, or granted a trust deed for, his creditors.
- (5) If a person is convicted of an offence for which he is sentenced to imprisonment for a term of at least three months, he shall not be eligible for appointment as a member of the Authority during the period of five years beginning with the date of the conviction.

#### Textual Amendments

- F13** Sch. 4 para. 7(2)(c)-(cb) substituted for Sch. 4 para. 7(2)(c) (16.1.2012) by [Police Reform and Social Responsibility Act 2011 \(c. 13\)](#), s. 157(1), **Sch. 16 para. 328**; S.I. 2011/3019, art. 3, Sch. 1 (with Sch. 2 para. 75)
- F14** Sch. 4 para. 7(2)(d) substituted (1.4.2013) by [The Police and Fire Reform \(Scotland\) Act 2012 \(Consequential Provisions and Modifications\) Order 2013 \(S.I. 2013/602\)](#), art. 1(2), **Sch. 2 para. 41(7)**
- F15** Words in Sch. 4 para. 7(3)(a) substituted (1.10.2012) by [The Tribunals, Courts and Enforcement Act 2007 \(Consequential Amendments\) Order 2012 \(S.I. 2012/2404\)](#), art. 1, **Sch. 2 para. 48(3)** (with arts. 5, 6)
- F16** Words in Sch. 4 para. 7(3)(b) substituted (1.10.2009) by [The Companies Act 2006 \(Consequential Amendments, Transitional Provisions and Savings\) Order 2009 \(S.I. 2009/1941\)](#), art. 1(2), **Sch. 1 para. 217** (with art. 10)

#### Commencement Information

- I56** Sch. 4 para. 7 in force at 1.7.2004 by [S.I. 2004/1572](#), **art. 3(iii)**

- 8 If a member of the Authority becomes ineligible for appointment his membership shall lapse.

*Status: Point in time view as at 20/10/2015.*

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**Commencement Information**

**I57** Sch. 4 para. 8 in force at 1.7.2004 by S.I. 2004/1572, art. 3(iii)

**PART 2**

PROCEEDINGS

*Standards of conduct*

- 9 (1) The Authority shall make a code of practice establishing standards for the conduct of members.
- (2) The code of practice must make provision similar to that of the model code issued by the Secretary of State under section 50 of the Local Government Act 2000 (c. 22) (local government: conduct).
- (3) Before making the code of practice the Authority shall—
- (a) submit a draft to the Secretary of State, and
  - (b) obtain his approval of it.

**Commencement Information**

**I58** Sch. 4 para. 9 in force at 1.7.2004 by S.I. 2004/1572, art. 3(iii)

*Staff*

- 10 The Authority may—
- (a) appoint staff;
  - (b) delegate a function to staff.

**Commencement Information**

**I59** Sch. 4 para. 10 in force at 1.7.2004 by S.I. 2004/1572, art. 3(iii)

- 11 In particular, the Authority shall appoint—
- (a) a Treasurer with responsibility for ensuring the proper management of the Authority's finances, and
  - (b) [<sup>F17</sup>a chief executive ]with responsibilities, assigned by the Authority, similar to those of the head of a local authority's paid service under section 4 of the Local Government and Housing Act 1989 (c. 42).

**Textual Amendments**

**F17** Words in Sch. 4 para. 11(b) substituted (1.4.2007) by Police and Justice Act 2006 (c. 48), s. 53(1), Sch. 14 para. 52(1); S.I. 2007/709, art. 3(p) (with art. 6)

*Status: Point in time view as at 20/10/2015.*

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**Commencement Information**

**I60** Sch. 4 para. 11 in force at 1.7.2004 by [S.I. 2004/1572](#), [art. 3\(iii\)](#)

*Committees*

- 12 The Authority may—
- (a) establish a committee (which may include persons who are not members of the Authority);
  - (b) delegate a function to a committee established under paragraph (a).

**Commencement Information**

**I61** Sch. 4 para. 12 in force at 1.7.2004 by [S.I. 2004/1572](#), [art. 3\(iii\)](#)

*Procedure*

- 13 The Authority shall determine its practice and procedure (subject to the provisions of this Schedule).

**Commencement Information**

**I62** Sch. 4 para. 13 in force at 1.7.2004 by [S.I. 2004/1572](#), [art. 3\(iii\)](#)

- 14 (1) The Authority shall conduct its proceedings in public.
- (2) The Authority—
- (a) may disapply sub-paragraph (1) in respect of proceedings which the Authority thinks should be conducted in private, and
  - (b) may exclude a specified person from proceedings.

**Commencement Information**

**I63** Sch. 4 para. 14 in force at 1.7.2004 by [S.I. 2004/1572](#), [art. 3\(iii\)](#)

*Validity of proceedings*

- 15 The validity of proceedings of the Authority shall not be affected by—
- (a) a vacancy in the membership,
  - (b) a vacancy in the office of chairman,
  - (c) a defect in the appointment of a member, of the chairman or of the deputy chairman, or
  - (d) the participation of a person whose membership has lapsed.

**Commencement Information**

**I64** Sch. 4 para. 15 in force at 1.7.2004 by [S.I. 2004/1572](#), [art. 3\(iii\)](#)

*Status: Point in time view as at 20/10/2015.*

*Changes to legislation: Railways and Transport Safety Act 2003 is up to date with all changes known to be in force on or before 10 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

### PART 3

#### MONEY AND PROPERTY

##### *The British Transport Police Fund*

- 16 The Authority shall establish a fund to be known as the British Transport Police Fund.

#### Commencement Information

**I65** Sch. 4 para. 16 in force at 1.7.2004 by [S.I. 2004/1572](#), [art. 3\(iii\)](#)

- 17 The Authority shall—
- (a) maintain accounts of the British Transport Police Fund, and
  - <sup>F18</sup>(b) send a copy of the accounts in respect of each financial year ending on or after 31st March 2005 to the Comptroller and Auditor General as soon as reasonably practicable after the end of that year.]

#### Textual Amendments

**F18** Sch. 4 para. 17(b) substituted (23.3.2005) by [Government Resources and Accounts Act 2000 \(Audit of Public Bodies\) Order 2005 \(S.I. 2005/913\)](#), arts. 1, [3\(3\)](#)

#### Commencement Information

**I66** Sch. 4 para. 17 in force at 1.7.2004 by [S.I. 2004/1572](#), [art. 3\(iii\)](#)

- <sup>F19</sup>17A. The Comptroller and Auditor General shall examine, certify and report on the accounts sent to him under paragraph 17(b) in respect of each financial year and shall lay a copy of the accounts and his report on them before each House of Parliament.]

#### Textual Amendments

**F19** Sch. 4 para. 17A inserted (23.3.2005) by [Government Resources and Accounts Act 2000 \(Audit of Public Bodies\) Order 2005 \(S.I. 2005/913\)](#), arts. 1, [3\(4\)](#)

- 18 All expenditure of the Authority shall be made by way of payment out of the British Transport Police Fund.

#### Commencement Information

**I67** Sch. 4 para. 18 in force at 1.7.2004 by [S.I. 2004/1572](#), [art. 3\(iii\)](#)

##### *Budget*

- 19 (1) The Authority shall before each financial year set a budget of expected expenditure and income for the year.
- (2) Before setting a budget the Authority shall consult—
- (a) the Treasurer, and

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- (b) the Chief Constable.
- (3) A budget must be set by a decision taken—
  - (a) by majority vote at a meeting of the Authority,
  - (b) with at least half of the members of the Authority voting in favour, and
  - (c) with at least half of the members who vote being neither officers of nor employed by a person who has entered into, or is required to enter into, a police services agreement.
- (4) If the Authority has not immediately before a financial year complied with sub-paragraph (1) the Secretary of State may set a budget for the Authority for the year.
- (5) Before setting a budget under sub-paragraph (4) the Secretary of State shall consult—
  - (a) each member of the Authority,
  - (b) the Treasurer, and
  - (c) the Chief Constable.

**Commencement Information**

**I68** Sch. 4 para. 19 in force at 1.7.2004 by [S.I. 2004/1572](#), [art. 3\(iii\)](#)

- 20 The Authority shall make an estimate of the likely ratio of customers' contributions in accordance with section 33(4)(b)—
- (a) before and in relation to each consecutive period of five financial years, and
  - (b) at such other times and in relation to such other periods as the Authority think appropriate.

**Commencement Information**

**I69** Sch. 4 para. 20 in force at 1.7.2004 by [S.I. 2004/1572](#), [art. 3\(iii\)](#)

*Members: remuneration, allowances, &c.*

- 21 (1) The Authority shall publish arrangements for the making of payments to or in respect of members or former members whether by way of or in respect of—
- (a) remuneration,
  - (b) allowances,
  - (c) expenses,
  - (d) compensation, or
  - (e) gratuity.
- (2) The first arrangements published under this paragraph shall come into force—
- (a) on being made, or
  - (b) at such later time as they may specify.
- (3) Subsequent arrangements published under this paragraph shall come into force at the end of the period of 12 months beginning with the date of publication.
- (4) Arrangements under this paragraph may not be made without the consent of the Secretary of State.

*Status: Point in time view as at 20/10/2015.*

*Changes to legislation: Railways and Transport Safety Act 2003 is up to date with all changes known to be in force on or before 10 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

- (5) Arrangements under this paragraph shall, in particular, provide that compensation may be paid by the Authority to a person who ceases to be a member only if the Secretary of State thinks it appropriate because of special circumstances.
- (6) The Authority may make payments in accordance with arrangements published under this paragraph.

**Commencement Information**

**I70** Sch. 4 para. 21 in force at 1.7.2004 by [S.I. 2004/1572](#), [art. 3\(iii\)](#)

*General staff: remuneration, allowances, &c.*

- 22 (1) The Authority may make payments to or in respect of staff or former staff whether by way of or in respect of—
- (a) remuneration,
  - (b) allowances,
  - (c) expenses,
  - (d) compensation, or
  - (e) gratuity.
- (2) In this paragraph “staff” does not include a constable, cadet or civilian employee of the Police Force.

**Commencement Information**

**I71** Sch. 4 para. 22 in force at 1.7.2004 by [S.I. 2004/1572](#), [art. 3\(iii\)](#)

*Constables, &c.: remuneration, allowances, &c.*

- 23 (1) The Authority may make payments to or in respect of a person who is or has been a constable, cadet or civilian employee of the Police Force—
- (a) in accordance with the terms of the person’s appointment, and
  - (b) subject to any provision made by or under this Act.
- (2) The Authority may make payments to or for a person who is or has been a constable of the Police Force in respect of proceedings brought against the person in relation to anything done or not done in the course of or in connection with his duties.
- (3) The Authority may on the recommendation of the Chief Constable make a payment to a constable or cadet by way of reward for—
- (a) exceptional diligence, or
  - (b) other specially meritorious conduct.

**Commencement Information**

**I72** Sch. 4 para. 23 in force at 1.7.2004 by [S.I. 2004/1572](#), [art. 3\(iii\)](#)

*Status: Point in time view as at 20/10/2015.*

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### *Pensions*

- 24 (1) This paragraph applies in relation to any pension scheme which—
- (a) had effect before the commencement of this Schedule principally or exclusively for the benefit of constables of the old transport police (within the meaning of section 73(3)), and
  - (b) has effect after the commencement of this Schedule (whether or not wholly or partly by virtue of an order under that section) principally or exclusively for the benefit of constables of the Police Force.
- (2) The Secretary of State may by order vary—
- (a) the terms of the scheme;
  - (b) arrangements relating to the operation of the scheme.
- (3) An order under sub-paragraph (2) may, in particular—
- (a) amend an instrument under which a scheme has effect;
  - (b) amend an instrument regulating a scheme;
  - (c) make provision about the manner in which a scheme can be amended;
  - (d) make provision about the exercise of functions under a scheme;
  - (e) confer a function (which may include a discretionary function) on the Secretary of State.
- (4) An order under sub-paragraph (2) may not—
- (a) make provision about—
    - (i) the persons who may participate in a scheme,
    - (ii) contributions by participants,
    - (iii) contributions by employers of participants,
    - (iv) the investment of assets, or
    - (v) the winding up of all or part of the scheme,
  - (b) prevent approval of a scheme under Chapter I of Part XIV of the Income and Corporation Taxes Act 1988 (c. 1) (retirement benefit schemes), or
  - (c) prevent a scheme from being a contracted-out scheme for the purposes of Part III of the Pension Schemes Act 1993 (c. 48) or of the Pension Schemes (Northern Ireland) Act 1993 (c. 49).
- (5) Section 67(2) to (4) of the Pensions Act 1995 (c. 26) (restriction on power to alter pension scheme) shall apply to the power conferred by sub-paragraph (2) (except in so far as may be prescribed under section 67(5)(b) of that Act).
- (6) Provision made under sub-paragraph (2) shall have effect only in so far as it is consistent with provision made under Schedule 11 to the Railways Act 1993 (c. 43).
- (7) An order under sub-paragraph (2) may not be made unless the Secretary of State has consulted the trustees of any scheme to which the order relates.

#### **Commencement Information**

**I73** Sch. 4 para. 24 in force at 1.7.2004 by [S.I. 2004/1572](#), [art. 3\(iii\)](#)

- 25 (1) The Authority may with the consent of the Secretary of State arrange for the establishment of a pension scheme for the benefit of members or staff.

*Status: Point in time view as at 20/10/2015.*

*Changes to legislation: Railways and Transport Safety Act 2003 is up to date with all changes known to be in force on or before 10 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

- (2) A scheme established under sub-paragraph (1) may confer a function (which may include a discretionary function) on the Secretary of State.
- (3) In this paragraph “staff” includes a constable, cadet or civilian employee of the Police Force.

**Commencement Information**

**I74** Sch. 4 para. 25 in force at 1.7.2004 by [S.I. 2004/1572](#), [art. 3\(iii\)](#)

- 26 The Authority may make payments—
- (a) under a scheme in relation to which paragraph 24 applies;
  - (b) under a scheme which continues to have effect by virtue of or in accordance with an order under section 73(3);
  - (c) under a scheme which is established under paragraph 25;
  - (d) otherwise in respect of pensions for members, former members, staff or former staff.

**Commencement Information**

**I75** Sch. 4 para. 26 in force at 1.7.2004 by [S.I. 2004/1572](#), [art. 3\(iii\)](#)

*Income*

- 27 The Secretary of State may make a payment to the Authority—
- (a) by way of grant (subject to such conditions, if any, as the Secretary of State may specify), or
  - (b) by way of loan (on such terms, as to interest or otherwise, as the Secretary of State may specify).

**Commencement Information**

**I76** Sch. 4 para. 27 in force at 1.7.2004 by [S.I. 2004/1572](#), [art. 3\(iii\)](#)

- 28 The Authority may accept money or other property, by way of grant, loan or otherwise, from any person (whether or not subject to conditions or terms).

**Commencement Information**

**I77** Sch. 4 para. 28 in force at 1.7.2004 by [S.I. 2004/1572](#), [art. 3\(iii\)](#)

- 29 The Authority may borrow money only from or with the consent (which may be general or specific) of the Secretary of State.

**Commencement Information**

**I78** Sch. 4 para. 29 in force at 1.7.2004 by [S.I. 2004/1572](#), [art. 3\(iii\)](#)



*Status: Point in time view as at 20/10/2015.*

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30 All money received by the Authority shall be paid into the British Transport Police Fund.

**Commencement Information**

**I79** Sch. 4 para. 30 in force at 1.7.2004 by [S.I. 2004/1572](#), [art. 3\(iii\)](#)

*Property*

31 The Authority may acquire, develop or dispose of property.

**Commencement Information**

**I80** Sch. 4 para. 31 in force at 1.7.2004 by [S.I. 2004/1572](#), [art. 3\(iii\)](#)

*Financial year*

32 The financial year of the Authority shall be the period of twelve months ending with 31st March.

**Commencement Information**

**I81** Sch. 4 para. 32 in force at 1.7.2004 by [S.I. 2004/1572](#), [art. 3\(iii\)](#)

**PART 4**

MISCELLANEOUS

*Status*

- 33 (1) The Authority shall not be regarded as the servant or agent of the Crown or as enjoying any status, immunity or privilege of the Crown.
- (2) Property of the Authority shall not be regarded as property of or held on behalf of the Crown.
- (3) Membership of or employment by the Authority is not employment in the civil service of the State.

**Commencement Information**

**I82** Sch. 4 para. 33 in force at 1.7.2004 by [S.I. 2004/1572](#), [art. 3\(iii\)](#)

*Status: Point in time view as at 20/10/2015.*

*Changes to legislation: Railways and Transport Safety Act 2003 is up to date with all changes known to be in force on or before 10 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

## SCHEDULE 5

Section 73

### BRITISH TRANSPORT POLICE: CONSEQUENTIAL AMENDMENTS>

#### *British Transport Commission Act 1949 (c. xxix)*

- 1 Section 53 of the British Transport Commission Act 1949 (constables) shall cease to have effect.

#### **Commencement Information**

**I83** Sch. 5 para. 1 in force at 1.7.2004 by S.I. 2004/1572, art. 3(jjj)

#### *Railways Act 1993 (c. 43)*

- 2 Sections 132 and 133 of (and Schedule 10 to) the Railways Act 1993 (transport police) shall cease to have effect.

#### **Commencement Information**

**I84** Sch. 5 para. 2 in force at 1.7.2004 by S.I. 2004/1572, art. 3(jjj)

#### *Anti-terrorism, Crime and Security Act 2001 (c. 24)*

- 3 Paragraphs 6 and 25 of Schedule 7 to the Anti-terrorism, Crime and Security Act 2001 (amendment of s. 43 of Police (Scotland) Act 1967 and s. 90 of Police Act 1996) shall cease to have effect.

#### **Commencement Information**

**I85** Sch. 5 para. 3 in force at 1.7.2004 by S.I. 2004/1572, art. 3(jjj)

#### *General*

- 4 (1) In the enactments specified in sub-paragraph (2) and, in so far as necessary in consequence of Part 3 of this Act, in any other enactment, legislative or other instrument or document—
- (a) a reference (whether or not as the “British Transport Police Force”) to constables appointed under section 53 of the British Transport Commission Act 1949 shall be treated as a reference to the British Transport Police Force established by Part 3 of this Act, and
  - (b) a definition of the “British Transport Police Force” or the “British Transport Police” shall cease to have effect.
- (2) The enactments referred to in sub-paragraph (1) are—
- (a) sections 11, 12, 17, 42 and 51 of the Police (Scotland) Act 1967 (c. 77) (general provisions, &c.),
  - (b) sections 54 and 57 of the Firearms Act 1968 (c. 27) (Crown application),
  - (c) sections 35, 36, 63A and 118 of the Police and Criminal Evidence Act 1984 (c. 60) (custody, &c.),

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- (d) sections 2, 2A and 2B of the Ministry of Defence Police Act 1987 (c. 4) (jurisdiction),
- (e) sections 54, 75, 87 and 89 of the Road Traffic Offenders Act 1988 (c. 53) (fixed penalty),
- (f) sections 60 and 60AA of the Criminal Justice and Public Order Act 1994 (c. 33) (stop and search, &c.),
- (g) section 64 of the Disability Discrimination Act 1995 (c. 50) (Crown application),
- (h) sections 23, 24, 25, 30, 91 and 101 of the Police Act 1996 (c. 16) (jurisdiction, &c.),
- (i) sections 6, 9, 46, 55, 90, 93 and 94 of the Police Act 1997 (c. 50) (appointments, &c.),
- (j) sections 1 and 16 of the Crime and Disorder Act 1998 (c. 37) (anti-social behaviour and truancy),
- (k) sections 34, <sup>F20</sup>...121 and 122 of the Terrorism Act 2000 (c. 11) (powers),
- (l) section 100 of the Anti-terrorism, Crime and Security Act 2001 (c. 24) (jurisdiction of transport police), and
- (m) sections 26, 43, 82 and 106 of the Police Reform Act 2002 (c. 30) (co-operation, safety and nationality).

#### Textual Amendments

**F20** Word in Sch. 5 para. 4(2)(k) repealed (10.7.2012) by Protection of Freedoms Act 2012 (c. 9), s. 120, Sch. 10 Pt. 4 (with s. 97); S.I. 2012/1205, art. 4(l)

#### Commencement Information

**I86** Sch. 5 para. 4 in force at 1.7.2004 by S.I. 2004/1572, art. 3(jjj)

## SCHEDULE 6

Section 103

### CONVENTION ON INTERNATIONAL CARRIAGE BY RAIL

#### **PROVISION WHICH MAY BE INCLUDED IN REGULATIONS MADE UNDER OR BY VIRTUE OF SECTION 103**

##### *Introduction*

- 1 (1) In this Schedule “regulations” means regulations which are made—
  - (a) in connection with the Convention specified in section 103(1), and
  - (b) under section 103(1) or section 2 of the European Communities Act 1972 (c. 68) (implementation of Community obligations).
- (2) An expression used in this Schedule and in the Convention has the same meaning in this Schedule as in the Convention.
- (3) In this Schedule—

“court” includes “tribunal”, and

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“legal proceedings” includes arbitration.

**Commencement Information**

**187** Sch. 6 para. 1 in force at 30.3.2004 by S.I. 2004/827, art. 3(hh)

*General*

- 2 Regulations may—
- (a) make provision enabling a right or duty arising under the Convention to be enforced;
  - (b) deal with any matter arising out of or related to the Convention;
  - (c) supplement or amplify a provision of the Convention;
  - (d) amend an enactment;
  - (e) apply, disapply or modify the effect of an enactment;
  - (f) confer jurisdiction on a court;
  - (g) confer a function (which may include a discretionary function) on the Secretary of State or a person appointed in accordance with the regulations;
  - (h) impose a duty to co-operate with a person exercising a function under the Convention or the regulations;
  - (i) enable a fee to be charged in connection with an inspection or the exercise of another function under the Convention or the regulations;
  - (j) require a person to provide information to the Secretary of State or another person;
  - (k) make provision about the disclosure of information;
  - (l) make provision about the admission of railway vehicles or other railway material to international traffic, which may include provision—
    - (i) which concerns the movement or treatment of vehicles or other material following admission;
    - (ii) which concerns the movement or treatment of passengers following admission;
  - (m) make provision which applies generally or only in specific circumstances;
  - (n) make different provision for different circumstances;
  - (o) include consequential provision (which may include provision amending or repealing an enactment);
  - (p) include transitional, supplemental or incidental provision.

**Commencement Information**

**188** Sch. 6 para. 2 in force at 30.3.2004 by S.I. 2004/827, art. 3(hh)

*Changes to Convention*

- 3 (1) Regulations may make provision about modification of the Convention in accordance with its provisions.
- (2) In particular, the regulations may—

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- (a) provide for a reference to the Convention to be treated following modification (whether occurring before or after the reference first takes effect) as a reference to the Convention as modified;
  - (b) make different provision in respect of modification by decision of a committee and modification by decision of the General Assembly;
  - (c) provide for a suspension under Article 35(4) of the Convention to be disregarded except in so far as it relates to the United Kingdom;
  - (d) give effect to a transitional provision made by or under the Convention;
  - (e) make transitional provision in relation to a modification of the Convention.
- (3) In this paragraph a reference to modification of the Convention includes a reference to—
- (a) the validation of a technical standard, and
  - (b) the adoption of a uniform technical prescription.

**Commencement Information**

**I89** Sch. 6 para. 3 in force at 30.3.2004 by S.I. 2004/827, art. 3(hh)

- 4 Regulations may make provision about the publication of—
- (a) a change to the list of parties to the Convention;
  - (b) a declaration, objection or reservation by a party to the Convention;
  - (c) the suspension of part of the Convention in relation to a party;
  - (d) a modification of the Convention (including the validation of a technical standard or the adoption of a uniform technical prescription).

**Commencement Information**

**I90** Sch. 6 para. 4 in force at 30.3.2004 by S.I. 2004/827, art. 3(hh)

*Imposition of conditions*

- 5 (1) Regulations may specify conditions which must be satisfied before a person may—
- (a) exercise a right under the Convention, or
  - (b) do something to which the Convention applies.
- (2) The conditions may, in particular, relate to—
- (a) the making of an application;
  - (b) the determination of an application by the Secretary of State or another person;
  - (c) the payment of a fee;
  - (d) the provision of information;
  - (e) the display of a sign on a rail vehicle;
  - (f) the attendance of a constable.

**Commencement Information**

**I91** Sch. 6 para. 5 in force at 30.3.2004 by S.I. 2004/827, art. 3(hh)

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### *Sanctions*

- 6 (1) Regulations may provide a criminal or other sanction in connection with a duty arising under the Convention or the regulations.
- (2) But regulations may not create a criminal offence which—
- (a) is punishable with imprisonment, or
  - (b) is punishable on summary conviction with a fine exceeding the statutory maximum or level 5 on the standard scale.
- (3) Sub-paragraph (2) shall not apply to an offence created in reliance on section 2(2) of the European Communities Act 1972 (c. 68).
- (4) Sub-paragraph (2) shall also not apply to an offence created by way of or in connection with a provision which—
- (a) applies (with or without modification) a provision made in reliance on an Act other than this Act,
  - (b) is similar to provision made in reliance on an Act other than this Act, or
  - (c) is made partly in reliance on this Act and partly in reliance on another Act.

#### **Commencement Information**

**I92** Sch. 6 para. 6 in force at 30.3.2004 by S.I. 2004/827, art. 3(hh)

### *Related legal proceedings*

- 7 (1) Regulations may make provision designed to prevent double recovery.
- (2) In particular, regulations may require or enable a court to—
- (a) have regard to the result or possible result of other proceedings, whether in the United Kingdom or elsewhere and whether actual or potential;
  - (b) make an award wholly or partly conditional on the result of other proceedings.

#### **Commencement Information**

**I93** Sch. 6 para. 7 in force at 30.3.2004 by S.I. 2004/827, art. 3(hh)

### *Enforcement of judgments*

- 8 (1) Regulations may make provision about the enforcement of judgments.
- (2) The regulations may, in particular, make provision about the application of Part I of the Foreign Judgments (Reciprocal Enforcement) Act 1933 (c. 13).

#### **Commencement Information**

**I94** Sch. 6 para. 8 in force at 30.3.2004 by S.I. 2004/827, art. 3(hh)

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### *Special drawing rights*

- 9 (1) Regulations may make provision for the conversion of special drawing rights into sterling in connection with the application of the Convention or the regulations to legal proceedings.
- (2) Regulations may, in particular—
- (a) make provision by reference to determinations of the International Monetary Fund;
  - (b) require or enable a matter to be certified by or on behalf of the Treasury;
  - (c) provide for the proof and treatment of a certificate under paragraph (b);
  - (d) enable a fee to be charged for the issue of a certificate under paragraph (b).

#### **Commencement Information**

**I95** Sch. 6 para. 9 in force at 30.3.2004 by S.I. 2004/827, art. 3(hh)

### *Saving*

- 10 This Schedule is without prejudice to the generality of—
- (a) section 103(1), or
  - (b) section 2 of the European Communities Act 1972 (c. 68).

#### **Commencement Information**

**I96** Sch. 6 para. 10 in force at 30.3.2004 by S.I. 2004/827, art. 3(hh)

## SCHEDULE 7

Section 107

### ROAD TRAFFIC: TESTING FOR DRINK AND DRUGS

- 1 For section 6 of the Road Traffic Act 1988 (c. 52) (testing for drink or drugs) substitute—

#### **“6 Power to administer preliminary tests**

- (1) If any of subsections (2) to (5) applies a constable may require a person to co-operate with any one or more preliminary tests administered to the person by that constable or another constable.
- (2) This subsection applies if a constable reasonably suspects that the person—
  - (a) is driving, is attempting to drive or is in charge of a motor vehicle on a road or other public place, and
  - (b) has alcohol or a drug in his body or is under the influence of a drug.
- (3) This subsection applies if a constable reasonably suspects that the person—
  - (a) has been driving, attempting to drive or in charge of a motor vehicle on a road or other public place while having alcohol or a drug in his body or while unfit to drive because of a drug, and

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- (b) still has alcohol or a drug in his body or is still under the influence of a drug.
- (4) This subsection applies if a constable reasonably suspects that the person—
  - (a) is or has been driving, attempting to drive or in charge of a motor vehicle on a road or other public place, and
  - (b) has committed a traffic offence while the vehicle was in motion.
- (5) This subsection applies if—
  - (a) an accident occurs owing to the presence of a motor vehicle on a road or other public place, and
  - (b) a constable reasonably believes that the person was driving, attempting to drive or in charge of the vehicle at the time of the accident.
- (6) A person commits an offence if without reasonable excuse he fails to co-operate with a preliminary test in pursuance of a requirement imposed under this section.
- (7) A constable may administer a preliminary test by virtue of any of subsections (2) to (4) only if he is in uniform.
- (8) In this section—
  - (a) a reference to a preliminary test is to any of the tests described in sections 6A to 6C, and
  - (b) “traffic offence” means an offence under—
    - (i) a provision of Part II of the Public Passenger Vehicles Act 1981 (c. 14),
    - (ii) a provision of the Road Traffic Regulation Act 1984 (c. 27),
    - (iii) a provision of the Road Traffic Offenders Act 1988 (c. 53) other than a provision of Part III, or
    - (iv) a provision of this Act other than a provision of Part V.

### **6A Preliminary breath test**

- (1) A preliminary breath test is a procedure whereby the person to whom the test is administered provides a specimen of breath to be used for the purpose of obtaining, by means of a device of a type approved by the Secretary of State, an indication whether the proportion of alcohol in the person’s breath or blood is likely to exceed the prescribed limit.
- (2) A preliminary breath test administered in reliance on section 6(2) to (4) may be administered only at or near the place where the requirement to co-operate with the test is imposed.
- (3) A preliminary breath test administered in reliance on section 6(5) may be administered—
  - (a) at or near the place where the requirement to co-operate with the test is imposed, or
  - (b) if the constable who imposes the requirement thinks it expedient, at a police station specified by him.



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## **6B Preliminary impairment test**

- (1) A preliminary impairment test is a procedure whereby the constable administering the test—
  - (a) observes the person to whom the test is administered in his performance of tasks specified by the constable, and
  - (b) makes such other observations of the person's physical state as the constable thinks expedient.
- (2) The Secretary of State shall issue (and may from time to time revise) a code of practice about—
  - (a) the kind of task that may be specified for the purpose of a preliminary impairment test,
  - (b) the kind of observation of physical state that may be made in the course of a preliminary impairment test,
  - (c) the manner in which a preliminary impairment test should be administered, and
  - (d) the inferences that may be drawn from observations made in the course of a preliminary impairment test.
- (3) In issuing or revising the code of practice the Secretary of State shall aim to ensure that a preliminary impairment test is designed to indicate—
  - (a) whether a person is unfit to drive, and
  - (b) if he is, whether or not his unfitness is likely to be due to drink or drugs.
- (4) A preliminary impairment test may be administered—
  - (a) at or near the place where the requirement to co-operate with the test is imposed, or
  - (b) if the constable who imposes the requirement thinks it expedient, at a police station specified by him.
- (5) A constable administering a preliminary impairment test shall have regard to the code of practice under this section.
- (6) A constable may administer a preliminary impairment test only if he is approved for that purpose by the chief officer of the police force to which he belongs.
- (7) A code of practice under this section may include provision about—
  - (a) the giving of approval under subsection (6), and
  - (b) in particular, the kind of training that a constable should have undergone, or the kind of qualification that a constable should possess, before being approved under that subsection.

## **6C Preliminary drug test**

- (1) A preliminary drug test is a procedure by which a specimen of sweat or saliva is—
  - (a) obtained, and

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- (b) used for the purpose of obtaining, by means of a device of a type approved by the Secretary of State, an indication whether the person to whom the test is administered has a drug in his body.

(2) A preliminary drug test may be administered—

- (a) at or near the place where the requirement to co-operate with the test is imposed, or
- (b) if the constable who imposes the requirement thinks it expedient, at a police station specified by him.

### 6D Arrest

(1) A constable may arrest a person without warrant if as a result of a preliminary breath test the constable reasonably suspects that the proportion of alcohol in the person's breath or blood exceeds the prescribed limit.

(2) A constable may arrest a person without warrant if—

- (a) the person fails to co-operate with a preliminary test in pursuance of a requirement imposed under section 6, and
- (b) the constable reasonably suspects that the person has alcohol or a drug in his body or is under the influence of a drug.

(3) A person may not be arrested under this section while at a hospital as a patient.

### 6E Power of entry

(1) A constable may enter any place (using reasonable force if necessary) for the purpose of—

- (a) imposing a requirement by virtue of section 6(5) following an accident in a case where the constable reasonably suspects that the accident involved injury of any person, or
- (b) arresting a person under section 6D following an accident in a case where the constable reasonably suspects that the accident involved injury of any person.

(2) This section—

- (a) does not extend to Scotland, and
- (b) is without prejudice to any rule of law or enactment about the right of a constable in Scotland to enter any place.”

#### Commencement Information

**I97** Sch. 7 para. 1 in force at 29.3.2004 for specified purposes by S.I. 2004/827, art. 2(b)

**I98** Sch. 7 para. 1 in force at 30.3.2004 in so far as not already in force by S.I. 2004/827, art. 3(ii)

2 In section 7(3) of that Act (provision of specimen for analysis) after the word “or” after subsection (bb) insert—

- “(bc) as a result of the administration of a preliminary drug test, the constable making the requirement has reasonable cause to believe that the person required to provide a specimen of blood or urine has a drug in his body, or”.

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**Commencement Information**

**I99** Sch. 7 para. 2 in force at 30.3.2004 by S.I. 2004/827, art. 3(ii)

- 3 In section 9(1) of that Act (protection for hospital patients)—
- (a) for “to provide a specimen of breath for a breath test” substitute “ to co-operate with a preliminary test ”, and
  - (b) in paragraph (a), for “it shall be for the provision of a specimen at the hospital” substitute “ it shall be for co-operation with a test administered, or for the provision of a specimen, at the hospital ”.

**Commencement Information**

**I100** Sch. 7 para. 3 in force at 30.3.2004 by S.I. 2004/827, art. 3(ii)

- 4 In section 10(1) of that Act (detention of persons affected by alcohol or drugs) in subsection (1) after “a person required” insert “ under section 7 or 7A ”.

**Commencement Information**

**I101** Sch. 7 para. 4 in force at 30.3.2004 by S.I. 2004/827, art. 3(ii)

- 5 In section 11 of that Act (interpretation)—
- (a) in subsection (2), omit the definition of “breath test”, and
  - (b) in subsection (3) for “A person does not provide a specimen of breath for a breath test or for analysis unless the specimen” substitute “ A person does not co-operate with a preliminary test or provide a specimen of breath for analysis unless his co-operation or the specimen ”.

**Commencement Information**

**I102** Sch. 7 para. 5 in force at 30.3.2004 by S.I. 2004/827, art. 3(ii)

- 6 In section 184(1)(f) of that Act (application of sections 5 to 10 to military personnel) for “in section 6(1) the reference to a traffic offence” substitute “ in section 6 a reference to a traffic offence ”.

**Commencement Information**

**I103** Sch. 7 para. 6 in force at 30.3.2004 by S.I. 2004/827, art. 3(ii)

- 7 In Schedule 1 to the Road Traffic Offenders Act 1988 (c. 53) (offences to which certain provisions apply), in the entry for section 6 of the Road Traffic Act 1988 (c. 52) for the description of the general nature of the offence substitute “ Failing to co-operate with a preliminary test ”.

**Commencement Information**

**I104** Sch. 7 para. 7 in force at 30.3.2004 by S.I. 2004/827, art. 3(ii)

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- 8 In Schedule 2 to that Act (prosecution and punishment of offenders), in the entry for section 6 of the Road Traffic Act 1988 (c. 52) for the description of the general nature of the offence substitute “ Failing to co-operate with a preliminary test ”.

**Commencement Information**

**I105** Sch. 7 para. 8 in force at 30.3.2004 by S.I. 2004/827, art. 3(ii)

- 9 In section 34A(1D)(a) of the Army Act 1955 (c. 18) (testing for drugs) for sub-paragraph (i) substitute—  
“(i) any provision of the Road Traffic Act 1988 (c. 52),”.

**Commencement Information**

**I106** Sch. 7 para. 9 in force at 30.3.2004 by S.I. 2004/827, art. 3(ii)

- 10 In section 34A(1D)(a) of the Air Force Act 1955 (c. 19) (testing for drugs) for sub-paragraph (i) substitute—  
“(i) any provision of the Road Traffic Act 1988 (c. 52),”.

**Commencement Information**

**I107** Sch. 7 para. 10 in force at 30.3.2004 by S.I. 2004/827, art. 3(ii)

- 11 In section 12A(1D)(a) of the Naval Discipline Act 1957 (c. 53) (testing for drugs) for sub-paragraph (i) substitute—  
“(i) any provision of the Road Traffic Act 1988 (c. 52),”.

**Commencement Information**

**I108** Sch. 7 para. 11 in force at 30.3.2004 by S.I. 2004/827, art. 3(ii)

- 12 In section 34(6) of the Police and Criminal Evidence Act 1984 (c. 60) (arrest) for “section 6(5) of the Road Traffic Act 1988” substitute “ section 6D of the Road Traffic Act 1988 ”.

**Commencement Information**

**I109** Sch. 7 para. 12 in force at 30.3.2004 by S.I. 2004/827, art. 3(ii)

- 13 In section 32(8)(a) of the Armed Forces Act 2001 (c. 19) (testing for drink or drugs) for sub-paragraph (i) substitute—  
“(i) any provision of the Road Traffic Act 1988 (c. 52),”.

**Commencement Information**

**I110** Sch. 7 para. 13 in force at 30.3.2004 by S.I. 2004/827, art. 3(ii)

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## SCHEDULE 8

Section 118

### REPEALS

#### Commencement Information

- I111** Sch. 8 partly in force; Sch. 8 in force for specified purposes at Royal Assent and in force for other specified purposes at 10.9.2003, see s. 120
- I112** Sch. 8 in force at 30.3.2004 for specified purposes by S.I. 2004/827, art. 3(jj)
- I113** Sch. 8 in force at 1.7.2004 for specified purposes by S.I. 2004/1572, art. 3(kkk)
- I114** Sch. 8 in force at 5.7.2004 for specified purposes by S.I. 2004/827, art. 4(i)
- I115** Sch. 8 in force at 5.7.2004 for specified purposes by S.I. 2004/1572, art. 4(b)

<i>Short title and chapter</i>	<i>Extent of repeal</i>
British Transport Commission Act 1949 (c. xxix)	Section 53.
House of Commons Disqualification Act 1975 (c. 24)	In Part III of Schedule 1, the entry relating to the Rail Regulator.
Road Traffic Act 1988 (c. 52)	In section 11(2), the definition of “breath test”.
Road Traffic Offenders Act 1988 (c. 53)	In section 76(2)(a), the words “of police”.
Railways Act 1993 (c. 43)	Section 1. In section 4(5)(c), the words “under this Part”. In section 15(4A)— the words “he or”, and in paragraphs (a) and (b), the words “it proposes to”. In section 15C(3), in each place, the words “his or”. In section 21(5), the words “of his”. In section 57B— in subsection (3), the words “or his”, and in subsection (4)(a), the words “his or”. In section 74(8)— the definition of “first relevant financial year”, and the word “or” immediately preceding it. Sections 132 and 133. In section 151(1), the definition of “the Regulator”. Schedule 1. Schedule 10.
Merchant Shipping Act 1995 (c. 21)	Section 117. Section 311.
Greater London Authority Act 1999 (c. 29)	Section 425(3).
Transport Act 2000 (c. 38)	Section 251(2).

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In Schedule 18, paragraphs 7 to 10.

In Schedule 27, paragraph 45.

Anti-terrorism, Crime and Security Act 2001 In Schedule 7, paragraphs 6 and 25.  
(c. 24)

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**Status:**

Point in time view as at 20/10/2015.

**Changes to legislation:**

Railways and Transport Safety Act 2003 is up to date with all changes known to be in force on or before 10 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations.