

SCHEDULES

SCHEDULE 28

Section 37

APPLICATION OF OTHER RAILWAY LEGISLATION ETC

Highway (Railway Crossings) Act 1839 (c. 45)

- 1 The Highway (Railway Crossings) Act 1839 does not apply to a railway authorised by this Act.

Railway Regulation Act 1840 (c. 97)

- 2 (1) In its application to Phase 2a of High Speed 2, or a train all or part of whose journey is on Phase 2a of High Speed 2, section 16 of the Railway Regulation Act 1840 (obstruction of officers of railway company or trespass upon railway) has effect as if—
- (a) the maximum fine which may be imposed on summary conviction of the offence for which it provides were level 3 on the standard scale (instead of level 1), and
 - (b) the court had, as an alternative to imposing a fine, the power to award imprisonment for a period not exceeding 51 weeks (in the case of an offence committed in England and Wales) or 12 months (in the case of an offence committed in Scotland).
- (2) In relation to an offence committed in England and Wales before the commencement of section 281(5) of the Criminal Justice Act 2003, the reference in sub-paragraph (1) (b) to 51 weeks is to be read as a reference to one month.

Railway Regulation Act 1842 (c. 55)

- 3 Section 9 of the Railway Regulation Act 1842 does not apply to a railway authorised by this Act.

Railways Clauses Consolidation Act 1845 (c. 20)

- 4 (1) The following provisions only of the Railways Clauses Consolidation Act 1845 are incorporated with this Act, in so far as they are applicable for the purposes of this Act and not inconsistent with its provisions—
- sections 2 to 4, 6, 16, 18, 21, 24, 30, 31, 37 and 38 (so far as relating to section 31), 46, 67 to 70, 73, 86, 97, 103, 105, 140, 142, 144, 145 and 162 to 164.
- (2) In their application by virtue of sub-paragraph (1)—
- (a) section 2 has effect with the substitution for “so incorporated as aforesaid” of “incorporated”;
 - (b) section 6 has effect with the omission of “and to take lands for that purpose”, “taken or” and “for the value of the lands so taken or used, and”;

Status: This is the original version (as it was originally enacted).

- (c) sections 18 and 21 do not apply in any case where the relations between the nominated undertaker and any other person are regulated by sections 84 and 85 of the New Roads and Street Works Act 1991 or Part 2 of Schedule 32 (protective provisions relating to utility undertakers);
- (d) section 46 has effect with the omission of the words from “of the height” to “in that behalf provided”;
- (e) section 68 has effect with the omission of the words from “Such and” to “formation thereof” and from “together with all necessary gates” to “all necessary stiles”.

Regulation of Railways Act 1889 (c. 57)

- 5 In its application to Phase 2a of High Speed 2, or a train all or part of whose journey is on Phase 2a of High Speed 2, section 5 of the Regulation of Railways Act 1889 has effect as follows—
- (a) section 5(1) (failure to produce ticket, pay fare or give name and address) has effect as if the maximum fine which may be imposed on summary conviction of the offence for which it provides were level 2 on the standard scale (instead of level 1);
 - (b) section 5(2) (power to arrest passenger who fails to produce ticket and refuses to give name and address) has effect as if after “refuses” there were inserted “or fails”;
 - (c) section 5(3) (travel with intent to avoid payment of fare) has effect as if the maximum fine which may be imposed on summary conviction of the offence for which it provides were level 3 on the standard scale (instead of level 2).

British Transport Commission Act 1949 (c xxix)

- 6 (1) Section 55 of the British Transport Commission Act 1949 (penalty for trespass on railways etc) also applies in relation to any railway, siding, tunnel, railway embankment, cutting or similar work constructed in exercise of the powers conferred by this Act.
- (2) Section 56 of that Act (penalty for stone throwing etc on railways) also applies in relation to any railway or siding constructed in exercise of the powers conferred by this Act.