

*Changes to legislation: There are currently no known outstanding effects for the Railways Act 1993, Cross Heading: Report on reference. (See end of Document for details)*

## SCHEDULES

### <sup>F1</sup>SCHEDULE 4A

#### REVIEW OF ACCESS CHARGES BY [<sup>F1</sup>THE OFFICE OF RAIL AND ROAD]

##### Textual Amendments

- F1** Sch. 4A inserted (30.11.2000) by 2000 c. 38, ss. 231(2), 275(1), Sch. 24, Sch. 28 paras. 11, 17
- F1** Words in Sch. 4A substituted (16.10.2015) by The Office of Rail Regulation (Change of Name) Regulations 2015 (S.I. 2015/1682), reg. 1(2), **Sch. para. 1(cc)(i)**

##### *Report on reference*

- 11 (1) In making a report on a reference under paragraph 9 above, the [<sup>F1</sup>CMA ] shall include in the report—
- (a) definite conclusions on the questions comprised in the reference; and
  - (b) such an account of their reasons for those conclusions as in their opinion is expedient for facilitating a proper understanding of those questions and of their conclusions.
- (2) Where they conclude that any of the matters specified in the reference operate, or may be expected to operate, against the public interest, they shall specify in the report the effects adverse to the public interest which those matters have or may be expected to have.
- (3) Where they conclude that any adverse effects so specified could be remedied or prevented by the making of relevant changes, they shall in the report—
- (a) specify the relevant changes by which those effects could be remedied or prevented; and
  - (b) state, in relation to each of the relevant changes, the date on which it should come into operation.
- (4) A date stated in the report as that on which a relevant change should come into operation may be a date before the report is made, provided that it is not before the earliest date specified in the review notice for the coming into operation of a relevant change proposed in it.
- [<sup>F2</sup>(4A) For the purposes of paragraphs 12 to 14 below, a conclusion contained in a report of the [<sup>F3</sup>CMA] is to be disregarded if the conclusion is not that of at least two-thirds of the members of the group constituted [<sup>F4</sup>by the chair of the CMA for the purpose of carrying out the functions of the CMA with respect to the reference] .]
- [<sup>F2</sup>(4B) If a member of a group so constituted disagrees with any conclusions contained in a report made on a reference under paragraph 9 above as the conclusions of the [<sup>F5</sup>CMA] , the report shall, if the member so wishes, include a statement of his disagreement and of his reasons for disagreeing.]

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- [<sup>F6</sup>(5) For the purposes of the law relating to defamation, absolute privilege attaches to any report made by the [<sup>F5</sup>CMA] on a reference under paragraph 9 above.
- (5A) In making any report on a reference under paragraph 9 above the [<sup>F5</sup>CMA] must have regard to the following considerations before disclosing any information.
- (5B) The first consideration is the need to exclude from disclosure (so far as practicable) any information whose disclosure the [<sup>F5</sup>CMA] thinks is contrary to the public interest.
- (5C) The second consideration is the need to exclude from disclosure (so far as practicable)—
- (a) commercial information whose disclosure the [<sup>F5</sup>CMA] thinks might significantly harm the legitimate business interests of the undertaking to which it relates, or
  - (b) information relating to the private affairs of an individual whose disclosure the [<sup>F5</sup>CMA] thinks might significantly harm the individual's interests.
- (5D) The third consideration is the extent to which the disclosure of the information mentioned in sub-paragraph (5C)(a) or (b) above is necessary for the purposes of the report.]
- (6) A report of the [<sup>F7</sup>CMA] on a reference under paragraph 9 above shall be made to [<sup>F8</sup>the Office of Rail and Road].
- (7) [<sup>F8</sup>The Office of Rail and Road] shall, on receiving such a report, send a copy of it to the Secretary of State and the Authority.
- (8) Not less than 14 days after that copy is received by the Secretary of State, [<sup>F8</sup>the Office of Rail and Road] shall send a copy to each of the persons on whom a copy of the review notice was served.
- (9) Not less than 24 hours after complying with sub-paragraph (8) above, [<sup>F8</sup>the Office of Rail and Road] shall publish the report in such manner as [<sup>F9</sup>it] considers appropriate for bringing the report to the attention of persons likely to be affected by it.
- (10) If it appears to the Secretary of State that the publication of any matter in the report would be against the public interest or the commercial interests of any person, he may, before the end of the period of 14 days after he receives his copy of the report, direct [<sup>F8</sup>the Office of Rail and Road] to exclude that matter from—
- (a) every copy of the report sent under sub-paragraph (8) above, and
  - (b) the version of the report published under sub-paragraph (9) above.

#### Textual Amendments

- F1** Word in Sch. 4A para. 11(1) substituted (1.4.2014) by [Enterprise and Regulatory Reform Act 2013 \(c. 24\)](#), s. 103(3), [Sch. 6 para. 81\(7\)\(a\)](#); S.I. 2014/416, art. 2(1)(d) (with Sch.)
- F2** Sch. 4A para. 11(4A)(4B) inserted (20.6.2003) by [2002 c. 40](#), ss. 278, 279, [Sch. 25 para. 30\(15\)\(b\)\(i\)](#); S.I. 2003/1397, [art. 2\(1\)](#), Sch.
- F3** Word in Sch. 4A para. 11(4A) substituted (1.4.2014) by [Enterprise and Regulatory Reform Act 2013 \(c. 24\)](#), s. 103(3), [Sch. 6 para. 81\(7\)\(b\)\(i\)](#); S.I. 2014/416, art. 2(1)(d) (with Sch.)

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- F4** Words in Sch. 4A para. 11(4A) substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), **Sch. 6 para. 81(7)(b)(ii)**; S.I. 2014/416, art. 2(1)(d) (with Sch.)
- F5** Words in Sch. 4A para. 11(4B)-(5C) substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), **Sch. 6 para. 81(7)(c)**; S.I. 2014/416, art. 2(1)(d) (with Sch.)
- F6** Sch. 4A para. 11(5)-(5D) substituted (20.6.2003) for Sch. 4A para. 11(5) by 2002 c. 40, ss. 278, 279, **Sch. 25 para. 30(15)(b)(ii)**; S.I. 2003/1397, art. 2(1), **Sch.**
- F7** Word in Sch. 4A para. 11(6) substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), **Sch. 6 para. 81(7)(c)**; S.I. 2014/416, art. 2(1)(d) (with Sch.)
- F8** Words in Sch. 4A paras. 11-16 substituted (16.10.2015) by The Office of Rail Regulation (Change of Name) Regulations 2015 (S.I. 2015/1682), reg. 1(2), **Sch. para. 1(ccc)(iii)**
- F9** Word in Sch. 4A substituted (5.7.2004) by Railways and Transport Safety Act 2003 (c. 20), ss. 16, 120, **Sch. 2 para. 3(b)** Table; S.I. 2004/827, **art. 4(g)**

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