

SCHEDULE 3

Regulation 14

APPLICATION AND MODIFICATION OF STATUTORY PROVISIONS IN RELATION TO SNRPS AND SNRP HOLDERS

PART 1

APPLICATION AND MODIFICATION OF STATUTORY PROVISIONS

Application and modification of statutory provisions to SNRPs and SNRP holders

1. Subject to the following paragraphs of this Schedule, the following provisions have effect in relation to SNRPs and SNRP holders as they have effect in relation to licences and holders of licences and as if any reference to a licence or a holder of a licence included a reference to a SNRP or a SNRP holder respectively—

- (a) section 27 of the Insolvency Act 1986⁽¹⁾ (protection of interests of creditors and members), as that section is applied by paragraph 10 of Part 1 of Schedule 6 to the 1993 Act;
- (b) sections 13 to 16 of the 1993 Act⁽²⁾ (modification references to the Competition Commission and modifications by order);
- (c) sections 55 to 58 of the 1993 Act⁽³⁾ (orders for securing compliance);
- (d) section 68 of the 1993 Act⁽⁴⁾ (investigatory functions);
- (e) subsections (1), (2)(a) (other than sub-paragraphs (ii), (iv) and (viii)), (3), (4), (7), (8) and (11) of section 72 of the 1993 Act⁽⁵⁾ (keeping of register by the ORR);
- (f) section 168 of the Enterprise Act 2002⁽⁶⁾ (adverse effects on competition);
- (g) subsections (2) to (5) of section 59 of the Railways Act 2005⁽⁷⁾ (consequential amendments, transitional provisions and repeals); and
- (h) paragraph 24(2) of Schedule 1 to that Act (non publication of statement of policy under section 57B of the 1993 Act).

(1) 1986 c. 45.

(2) 1993 c. 43; sections 13 to 16 were amended by: S.I. 1999/506; the Transport Act 2000 (c. 38), section 242, Schedule 17, Part 1, paragraphs 1 and 7 to 9, and Schedule 31, Part 4; the Enterprise Act 2002 (c. 40), sections 86(5) and 164(2), Schedule 9, Part 1, paragraph 10, Schedule 25, paragraph 30, and Schedule 26; the Communications Act 2003 (c. 21), Schedule 16, paragraph 4; the Competition Act 1998 (c. 41), Schedule 10, paragraph 15(3), and Schedule 14, Part 1; the Railways and Transport Safety Act 2003 (c. 20), Schedule 2, Part 1, paragraphs 1 and 3, and Schedule 8; and the Railways Act 2005 (c. 14), Schedule 1, paragraphs 6 to 10 and Schedule 13, Part 1.

(3) Sections 55 to 58 were amended by the Transport Act 2000 (c. 38), sections 225 and 226, Schedule 16, paragraphs 8, 35, 36 and 38, Schedule 17, Part 1, paragraphs 1, 11 and 12, and Part 2, paragraphs 17 and 26, Schedule 27, paragraphs 17, 30 to 33, and Schedule 31, Part 4; the Competition Act 1998 (c. 41), Schedule 10, paragraph 15(6); the Railways and Transport Safety Act 2003 (c. 20), Schedule 2, Part 1, paragraphs 1, 3 and 12; and the Railways Act 2005 (c. 14) Schedule 1, paragraphs 21 to 26. Sections 57A to 57F were inserted by the Transport Act 2000 (c. 38), section 225(1).

(4) Section 68 was amended by the Railways and Transport Safety Act 2003 (c. 20), Schedule 2, Part 1, paragraphs 1 and 3; the Transport Act 2000, section 234, Schedule 22, Part 1, paragraphs 1 and 7, and Schedule 31, Part 4; and the Railways Act 2005, Schedule 13.

(5) Section 72(2) was amended by the Railways and Transport Safety Act 2003 (c. 20), Schedule 2, Part 1, paragraphs 1 and 3; and the Transport Act 2000 (c. 38), Schedule 17, Part 1, paragraphs 1 and 15, and Schedule 27, paragraphs 17 and 36.

(6) 2002 c. 40; section 168 was amended by the Railways Act 2005 (c. 14), Schedule 13.

(7) 2005 c. 14.

PART 2

OTHER MODIFICATIONS OF STATUTORY PROVISIONS

Railway administration orders

2. Subsection (1B)(b) of section 27 of the Insolvency Act 1986 (protection of interests of creditors and members), as that section is applied by paragraph 10 of Part 1 of Schedule 6 to the 1993 Act, has effect as if the reference to a licence under Part 1 of the Railways Act 1993 included a reference to a SNRP issued pursuant to the Railway (Licensing of Railway Undertakings) Regulations 2005.

Modification references to the Competition Commission

3. In section 13 of the 1993 Act (modification references to the Competition Commission), subsection (1)(a)(i) has effect as if the reference to a railway asset, or railway assets of a class or description, whose operator acts as such by virtue of a licence included a reference to a railway asset which is, or railway assets of a class or description which are, used for the provision of train services in respect of which a SNRP is held.

4. In section 15 of that Act (modification following report), subsection (1A) has effect as if the reference to section 15A of that Act included a reference to regulation 11 of the Railway (Licensing of Railway Undertakings) Regulations 2005.

5. In section 15B of that Act (making of modifications by Competition Commission), subsection (2) has effect as if at the end there were added “and shall be bound by paragraph (3) of regulation 11 of the Railway (Licensing of Railway Undertakings) Regulations 2005 as to the requirements which conditions may impose and by paragraph (4) of that regulation”.

Orders for securing compliance

6. In section 55 of the 1993 Act (orders for securing compliance), subsection (5)(a) has effect as if the reference to section 4 of that Act included a reference to regulation 11 of the Railway (Licensing of Railway Undertakings) Regulations 2005.

Keeping of register by the ORR

7. In section 72 of the 1993 Act (keeping of register by the ORR), subsection (2)(a)(i) has effect as if the reference to every licence exemption were omitted.

Enterprise Act 2002: regulated markets

8. In section 168 of the Enterprise Act 2002 (regulated markets)—

- (a) subsections (3)(h) and (4)(h) have effect as if the reference to a licence granted under section 8 of the Railways Act 1993 (c. 43) included a reference to a SNRP issued pursuant to the Railway (Licensing of Railway Undertakings) Regulations 2005; and
- (b) subsection (4)(h) has effect as if the reference to section 4 of that Act included a reference to regulation 11 of those Regulations.

Amendment of access agreements

9. In its application in relation to SNRPs or SNRP holders, subsection (1) of section 22C of the 1993 Act⁽⁸⁾ (amendment of access agreements, and supplementary provisions relating to such agreements) has effect as if the reference to the conditions of a licence, in both places where it occurs, were to the conditions of a SNRP.

⁽⁸⁾ Section 22C(1) was inserted by the Transport Act 2000 (c. 38), section 232(2), and amended by the Railways and Transport Safety Act 2003 (c. 20), Schedule 2, Part 1, paragraphs 1 and 3.