

*Changes to legislation: There are currently no known outstanding effects for the Railways Act 1993, Cross
Heading: References under paragraph 9: application of Enterprise Act 2002. (See end of Document for details)*

SCHEDULES

^{F1}SCHEDULE 4A

REVIEW OF ACCESS CHARGES BY [^{F1}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)**

[^{F1}References under paragraph 9: application of Enterprise Act 2002

Textual Amendments

- F1** Sch. 4A paras. 10, 10A substituted (20.6.2003) for Sch. 4A para. 10 by 2002 c. 40, ss. 278, 279, **Sch. 25 para. 30(15)(a)**; S.I. 2003/1397, art. 2(1), **Sch.** (with arts. 8, 12)

- 10A (1) The following sections of Part 3 of the Enterprise Act 2002 shall apply, with the modifications mentioned in sub-paragraphs [^{F2}(1A),] (2) and (3) below, for the purposes of references under paragraph 9 above as they apply for the purposes of references under that Part—
- section 109 (attendance of witnesses and production of documents etc.);
 - section 110 (enforcement of powers under section 109: general);
 - section 111 (penalties);
 - section 112 (penalties: main procedural requirements);
 - section 113 (payments and interest by instalments);
 - section 114 (appeals in relation to penalties);
 - section 115 (recovery of penalties); and
 - section 116 (statement of policy).

[Section 109 shall, in its application by virtue of sub-paragraph (1) above, have effect ^{F3}(1A) as if—

- for subsection (A1), there were substituted—

“(A1) For the purposes of this section, a permitted purpose is assisting the CMA in carrying out any functions exercisable by it in connection with a reference under paragraph 9 of Schedule 4A to the Railways Act 1993.”, and

- subsection (8A) were omitted.]

(2) Section 110 shall, in its application by virtue of sub-paragraph (1) above, have effect as if—

- subsection (2) were omitted; ^{F4}...

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- [after subsection (3), there were inserted—
- ^{F5}(aa) “(3A) No penalty shall be imposed by virtue of subsection (1) or (3) if more than 4 weeks have passed since the publication of the report of the CMA on the reference concerned; but this subsection shall not apply in relation to any variation or substitution of the penalty which is permitted by virtue of this Part.”; and]
- (b) in subsection (9) the words from “or section” to “section 65(3)” were omitted.
- [^{F6}(3) Section 111(5)(b) shall, in its application by virtue of sub-paragraph (1) above, have effect as if for sub-paragraph (ii) there were substituted—
- “(ii) if earlier, the day on which the report of the CMA on the reference concerned is made or, if no such report is made within the period permitted for that purpose, the latest day on which the report may be made within the permitted period.”.]
- (4) Section 117 of the Enterprise Act 2002 (false or misleading information) shall apply in relation to functions of the [^{F7}CMA] in connection with references under paragraph 9 above as it applies in relation to its functions under Part 3 of that Act but as if, in subsections (1)(a) and (2), [^{F8}—
- (a) the words “, OFCOM or the Secretary of State” were omitted; and
- (b) for the words “their functions” there were substituted “ its functions ”.]
- (5) Provisions of Part 3 of the Enterprise Act 2002 which have effect for the purposes of sections 109 to 117 of that Act (including, in particular, provisions relating to offences and the making of orders) shall, for the purposes of the application of those sections by virtue of sub-paragraph (1) or (4) above, have effect in relation to those sections as applied by virtue of those sub-paragraphs.
- (6) Accordingly, corresponding provisions of this Act shall not have effect in relation to those sections as applied by virtue of those sub-paragraphs.]

Textual Amendments

- F2** Word in Sch. 4A para. 10A(1) inserted (1.4.2014) by [The Enterprise and Regulatory Reform Act 2013 \(Competition\) \(Consequential, Transitional and Saving Provisions\) Order 2014 \(S.I. 2014/892\)](#), **Sch. 1 para. 111(2)** (with art. 3, Sch. 2 para. 2 Table)
- F3** Sch. 4A para. 10A(1A) inserted (1.4.2014) by [The Enterprise and Regulatory Reform Act 2013 \(Competition\) \(Consequential, Transitional and Saving Provisions\) Order 2014 \(S.I. 2014/892\)](#), **Sch. 1 para. 111(3)** (with art. 3, Sch. 2 para. 2 Table)
- F4** Word in Sch. 4A para. 10A(2)(a) omitted (1.4.2014) by virtue of [The Enterprise and Regulatory Reform Act 2013 \(Competition\) \(Consequential, Transitional and Saving Provisions\) Order 2014 \(S.I. 2014/892\)](#), **Sch. 1 para. 111(4)(a)** (with art. 3, Sch. 2 para. 2 Table)
- F5** Sch. 4A para. 10A(2)(aa) inserted (1.4.2014) by [The Enterprise and Regulatory Reform Act 2013 \(Competition\) \(Consequential, Transitional and Saving Provisions\) Order 2014 \(S.I. 2014/892\)](#), **Sch. 1 para. 111(4)(b)** (with art. 3, Sch. 2 para. 2 Table)
- F6** Sch. 4A para. 10A(3) substituted (1.4.2014) by [The Enterprise and Regulatory Reform Act 2013 \(Competition\) \(Consequential, Transitional and Saving Provisions\) Order 2014 \(S.I. 2014/892\)](#), **Sch. 1 para. 111(5)** (with art. 3, Sch. 2 para. 2 Table)
- F7** Word in Sch. 4A para. 10A(4) substituted (1.4.2014) by [Enterprise and Regulatory Reform Act 2013 \(c. 24\), s. 103\(3\)](#), **Sch. 6 para. 81(6)(a)**; S.I. 2014/416, art. 2(1)(d) (with Sch.)

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F8 Words in Sch. 4A para. 10A(4) substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), **Sch. 6 para. 81(6)(b)**; S.I. 2014/416, art. 2(1)(d) (with Sch.)

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