Railways and Transport Safety Act 2003

2003 CHAPTER 20

An Act to make provision about railways, including tramways; to make provision about transport safety; and for connected purposes. [10th July 2003]

BE IT ENACTED by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

Modifications etc. (not altering text)

C1 Act excluded (S.) (27.4.2006) by Edinburgh Tram (Line Two) Act 2006 (asp 6), **s. 62(4)** (with s. 75)

C2 Act excluded (S.) (8.5.2006) by Edinburgh Tram (Line One) Act 2006 (asp 7), **s. 62(4)** (with ss. 76, 84)

PART 1

INVESTIGATION OF RAILWAY ACCIDENTS

Modifications etc. (not altering text)

C3 Pt. 1 modified (17.10.2005 for specified purposes, 31.1.2006 for specified purposes) by Railways (Accident Investigation and Reporting) Regulations 2005 (S.I. 2005/1992), regs. 1(2), **3(3)**, 3(2)(3)(4)

Introduction

1 Meaning of "railway" and "railway property"

(1) In this Part—

"railway" means a railway or tramway within the meaning given by section 67 of the Transport and Works Act 1992 (c. 42), and

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"railway property" means anything which falls within the definition of "light maintenance depot", "network", "rolling stock", "station" or "track" in section 83 of the Railways Act 1993 (c. 43), or which falls within the equivalent of any those definitions in relation to a tramway.

(2) The Secretary of State may by regulations amend this section.

(3) This section is subject to section 14(2).

Commencement Information

I1 S. 1 in force at 17.10.2005 by S.I. 2005/1991, **art. 2(1)**(2)(i)

2 Meaning of railway accident" and railway incident"

(1) In this Part a reference to a railway accident or railway incident is a reference to an accident or incident which occurs on railway property in so far as it is or may be relevant to the operation of the railway.

(2) The Secretary of State may by regulations—

(a) make provision about what is to be or not to be treated as an accident or incident for the purposes of this Part;

(b) make provision about circumstances in which an accident or incident is to be or not to be treated as being relevant to the operation of a railway for the purposes of this Part;

(c) make provision about when an accident is to be treated as serious for the purposes of this Part.

(3) Regulations under subsection (2) may, in particular, make provision by reference to—

(a) location;

(b) the exercise of a discretion by the Chief Inspector of Rail Accidents or another specified person.

(4) Regulations under subsection (2) making provision about what is to be treated as an incident may, in particular, include an event or omission which does not cause damage or loss but which might cause damage or loss in different circumstances.

Commencement Information

I2 S. 2 in force at 17.10.2005 by S.I. 2005/1991, **art. 2(1)**(2)(ii)

The Rail Accident Investigation Branch

3 Establishment

(1) The Secretary of State shall appoint persons as inspectors of rail accidents.

(2) The Secretary of State shall appoint one of the inspectors as the Chief Inspector of Rail Accidents.

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(3) The inspectors appointed under this section may be referred to as the Rail Accident Investigation Branch (being a branch of the department of the Secretary of State who appoints them).

(4) An inspector of rail accidents shall carry out such of the functions of the Rail Accident Investigation Branch as may be assigned to him by the Chief Inspector of Rail Accidents.

Commencement Information
I3 S. 3 in force at 17.10.2005 by S.I. 2005/1991, **art. 2(1)**(2)(iii)

4 General aims

In exercising their functions the Rail Accident Investigation Branch shall, wherever relevant, aim—

(a) to improve the safety of railways, and

(b) to prevent railway accidents and railway incidents.

Commencement Information
I4 S. 4 in force at 17.10.2005 by S.I. 2005/1991, **art. 2(1)**(2)(iv)

5 Assistance to others

The Chief Inspector of Rail Accidents may arrange for the Rail Accident Investigation Branch to assist any person; in particular, assistance—

(a) may be provided with or without charge;

(b) may be provided inside or outside the United Kingdom.

Commencement Information
I5 S. 5 in force at 17.10.2005 by S.I. 2005/1991, **art. 2(1)**(2)(v)

6 Annual report

(1) The Secretary of State shall make regulations requiring the Chief Inspector of Rail Accidents to produce once in each calendar year a report in connection with the activities of the Rail Accident Investigation Branch.

(2) Regulations under subsection (1) may, in particular, make provision about—

(a) timing of reports;

(b) content of reports;

(c) publication and other treatment of reports.

Commencement Information
I6 S. 6 in force at 17.10.2005 by S.I. 2005/1991, **art. 2(1)**(2)(vi)

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Investigation by Branch

7 Investigations

(1) The Rail Accident Investigation Branch—
- (a) shall investigate any serious railway accident,
- (b) may investigate a non-serious railway accident or a railway incident, and
- (c) shall investigate a non-serious railway accident or a railway incident if required to do so by or in accordance with regulations made by the Secretary of State.

(2) For the purposes of subsection (1)(a) a tramway shall not be treated as a railway (despite section 1(1)).

(3) In investigating an accident or incident the Branch shall try to determine what caused it.

(4) On completion of an investigation the Branch shall report to the Secretary of State.

(5) In performing a function in relation to an accident or incident the Branch—
- (a) shall not consider or determine blame or liability, but
- (b) may determine and report on a cause of an accident or incident whether or not blame or liability is likely to be inferred from the determination or report.

(6) The Branch may conduct an investigation and report whether or not civil or criminal proceedings are in progress or may be instituted (but this subsection is without prejudice to the operation of the law of contempt of court).

(7) The Chief Inspector of Rail Accidents may apply to the High Court or the Crown Court for a declaration that the making of a report in connection with a specified accident or incident will not amount to a contempt of court in relation to civil or criminal proceedings which have been or may be instituted in connection with the accident or incident.

(8) The Chief Inspector of Rail Accidents may reopen an investigation if he believes that significant new evidence may be available.

Commencement Information

I7 S. 7 in force at 17.10.2005 by S.I. 2005/1991, **art. 2(1)**(2)(vii)

8 Investigator's powers

(1) For the purpose of conducting an investigation by virtue of section 7 an inspector of rail accidents may, provided that he produces evidence of his identity if asked to do so—
- (a) enter railway property;
- (b) enter land (which may include a dwelling-house) which adjoins or abuts railway property;
- (c) enter a vehicle or structure which is on railway property or which is on land which could be entered under paragraph (b);
- (d) enter land which does not fall within paragraph (a), (b) or (c) if—

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(i) it is used wholly or partly for the purposes of or in connection with anything done on or with railway property, or

(ii) the inspector reasonably believes that it may contain evidence relating to an accident or incident;

(e) in entering anything under paragraph (a), (b), (c) or (d), be accompanied by one or more persons authorised by the Chief Inspector of Rail Accidents for that purpose (whether generally or specifically);

(f) in entering anything under paragraph (a), (b), (c) or (d), make arrangements to have with him equipment or materials.

(2) For the purpose of conducting an investigation by virtue of section 7 an inspector of rail accidents may—

(a) make a written, electronic, photographic or other record;

(b) remove and retain samples;

(c) arrange for anything to be removed and retained for the purpose of analysis or other examination or for the purpose of preserving evidence;

(d) require access to a record or to recording equipment;

(e) require a person to answer a question;

(f) require a person to provide information;

(g) require a person to disclose a record;

(h) require a person to provide a copy of a record;

(i) require disclosure of the result of an examination of a person, body or thing;

(j) require a person to certify the truth, accuracy or authenticity of a statement made, of information or a document provided or of a record disclosed.

(3) A person commits an offence if without reasonable excuse he—

(a) fails to comply with a requirement imposed by an inspector of rail accidents for the purpose of an investigation by virtue of section 7,

(b) makes a statement for the purpose of an investigation by virtue of section 7 knowing or suspecting that the statement is inaccurate or misleading,

(c) provides information or a record for the purpose of an investigation by virtue of section 7 knowing or suspecting that the information or record is inaccurate or misleading,

(d) obstructs an inspector of rail accidents in the course of his conduct of an investigation by virtue of section 7,

(e) obstructs a person accompanying an inspector of rail accidents under subsection (1)(e), or

(f) obstructs a person exercising a power of an inspector by virtue of regulations under section 9(1)(d).

(4) A person who is guilty of an offence under subsection (3) shall be liable on summary conviction to—

(a) imprisonment for a term not exceeding 51 weeks,

(b) a fine not exceeding level 5 on the standard scale, or

(c) both.

(5) Subsection (6) applies where—

(a) the Rail Accident Investigation Branch is conducting an investigation by virtue of section 7 in respect of an accident or incident, and

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(b) a question arises as to the desirability of action which any other person proposes to take for the purpose of investigating the accident or incident.

(6) The question may be determined by—
(a) the Chief Inspector of Rail Accidents, or
(b) an inspector of rail accidents acting on behalf of the Chief Inspector.

Commencement Information
I8 S. 8 in force at 17.10.2005 by S.I. 2005/1991, **art. 2(1)**(2)(viii)

9 Regulations

(1) The Secretary of State may make regulations about the conduct of investigations by the Rail Accident Investigation Branch; in particular, the regulations may—
(a) confer a function on the Chief Inspector of Rail Accidents or on the Branch;
(b) make provision about the way in which a function of the Chief Inspector or the Branch is to be performed;
(c) permit or require the Chief Inspector to appoint a person to conduct or participate in an investigation;
(d) provide for a power of an inspector to be exercisable by a person conducting or participating in an investigation by virtue of paragraph (c);
(e) permit or require the Chief Inspector to request assistance from another person;
(f) permit or require another person to assist the Chief Inspector.

(2) The regulations may make provision about the preparation, form, content and publication of a report made by the Branch under section 7; in particular, the regulations may—
(a) require a report to address the question of what caused an accident or incident;
(b) require or permit a report to make, or not to make, a recommendation;
(c) require or permit the preparation and publication by the Branch of an interim report;
(d) require the Branch to give an opportunity to a person interested in an investigation to comment on a draft report or draft interim report;
(e) require the Branch to notify a person of the content of a report or interim report before publication;
(f) require the Branch to give a copy of a report or interim report to a person;
(g) make provision about the timing of publication.

(3) A reference to a report by the Branch in section 7 includes a reference to an interim report permitted or required by virtue of subsection (2) above.

(4) The Secretary of State may make regulations about the use, disclosure and destruction of information acquired by the Branch; in particular, the regulations may—
(a) prohibit the disclosure of information in specified circumstances;
(b) permit the disclosure of information in specified circumstances;
(c) require the disclosure of information in specified circumstances;
(d) make provision by reference to whether or not a person consents to a disclosure which relates to him.

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(5) Regulations under this section may—
- (a) create an offence (but not an offence punishable by imprisonment);
- (b) confer a discretionary function;
- (c) confer jurisdiction on a court or tribunal.

Commencement Information
I9 S. 9 in force at 17.10.2005 by S.I. 2005/1991, **art. 2(1)**(2)(ix)

Investigation by industry

10 Requirement to investigate

(1) The Chief Inspector of Rail Accidents may direct that any railway accident or railway incident of a specified kind or which occurs in specified circumstances shall be investigated by each person who manages or controls, or participates in managing or controlling, all or any part of railway property—
- (a) on which the accident or incident takes place, or
- (b) which is involved in the accident or incident.

(2) A direction—
- (a) shall specify the manner in which the investigation is to be conducted, and
- (b) may make provision for a case where more than one person would be required to conduct an investigation, whether by requiring a joint investigation or by requiring or enabling one or more persons to conduct an investigation on behalf of others.

(3) A person to whom a direction under subsection (1) applies commits an offence if he fails to comply with it.

(4) A person guilty of an offence under subsection (3) shall be liable—
- (a) on summary conviction, to a fine not exceeding the statutory maximum, or
- (b) on conviction on indictment, to a fine.

(5) The Chief Inspector shall publish a direction issued by him under subsection (1) in a manner which he considers will bring it to the attention of each person who is likely to be required to comply with it.

(6) But in proceedings against a person for an offence under subsection (3) of failing to comply with a direction it shall not be necessary to prove that he was aware of the direction.

(7) A direction under subsection (1)—
- (a) may make provision which applies generally or only in specified circumstances,
- (b) may make different provision for different cases or circumstances, and
- (c) may be varied or revoked by a further direction.

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Commencement Information
I10 S. 10 in force at 17.10.2005 by S.I. 2005/1991, **art. 2(1)**(2)(x)

Accident regulations

11 Accident regulations

(1) The Secretary of State may make regulations in connection with the investigation of railway accidents and railway incidents.

(2) The regulations may, in particular—
- (a) require a person to notify the Rail Accident Investigation Branch of a railway accident or railway incident, and
- (b) make provision about the timing, form and content of notice given by virtue of paragraph (a).

(3) The regulations may, in particular, require a person to take or not to take specified action following an accident or incident—
- (a) pending the commencement of an investigation, or
- (b) during the process of an investigation.

(4) The regulations may—
- (a) create an offence (but not an offence punishable by a term of imprisonment exceeding the maximum term which may be imposed by a magistrates' court in accordance with section 78 of the Powers of Criminal Courts (Sentencing) Act 2000 (c. 6));
- (b) confer a discretionary function;
- (c) confer jurisdiction on a court or tribunal.

Commencement Information
I11 S. 11 in force at 17.10.2005 by S.I. 2005/1991, **art. 2(1)**(2)(xi)

General

12 Crown application

This Part applies in relation to property irrespective of whether it belongs to or is used for the purposes of the Crown or a Duchy.

Commencement Information
I12 S. 12 in force at 17.10.2005 by S.I. 2005/1991, **art. 2(1)**(2)(xii)

13 Regulations

(1) Regulations under this Part—

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(a) may make provision which applies generally or only in specified cases or circumstances,

(b) may make different provision for different cases or circumstances, and

(c) may include transitional, consequential or incidental provision.

(2) Regulations under this Part shall be made by statutory instrument.

(3) Regulations under section 1(2) shall not be made unless a draft has been laid before and approved by resolution of each House of Parliament.

(4) Other regulations under this Part shall be subject to annulment in pursuance of a resolution of either House of Parliament.

Commencement Information

I13 S. 13 in force at 17.10.2005 by S.I. 2005/1991, **art. 2(1)**(2)(xiii)

14 Extent

(1) This Part extends to the whole of the United Kingdom.

(2) In the application of this Part in relation to Scotland any reference to a tramway shall be disregarded.

(3) In the application of this Part in relation to Northern Ireland the maximum term for the purposes of sections 8(4)(a) and 11(4)(a) shall be 12 months.

Commencement Information

I14 S. 14 in force at 17.10.2005 by S.I. 2005/1991, **art. 2(1)**(2)(xiv)

PART 2

OFFICE OF RAIL REGULATION

15 Establishment

(1) There shall be a body corporate to be known as the Office of Rail Regulation.

(2) Schedule 1 (which makes provision about the Office) shall have effect.

Commencement Information

I15 S. 15 in force at 5.7.2004 by S.I. 2004/827, **art. 4(a)**

16 Transfer of functions

(1) The functions of the Rail Regulator are hereby transferred to the Office of Rail Regulation.

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(2) Subsection (1) applies to a function whether conferred by an enactment, by an agreement or otherwise.

(3) All property, rights and liabilities to which the Rail Regulator is entitled or subject at the coming into force of this section (including rights and liabilities relating to staff) are hereby transferred to the Office of Rail Regulation.

(4) The office of the Rail Regulator is hereby abolished.

(5) Schedules 2 (consequential amendments) and 3 (savings, &c.) shall have effect.

Commencement Information
I16 S. 16 in force at 5.7.2004 by S.I. 2004/827, **art. 4(b)**

17 Extent

This Part shall extend only to—
(a) England and Wales, and
(b) Scotland.

Commencement Information
I17 S. 17 in force at 5.7.2004 by S.I. 2004/827, **art. 4(c)**

PART 3

BRITISH TRANSPORT POLICE

Police Authority

18 The British Transport Police Authority

(1) There shall be a body corporate to be known as the British Transport Police Authority.

(2) Schedule 4 (which makes provision about the Authority) shall have effect.

(3) In this Part "the Authority" means the British Transport Police Authority.

Commencement Information
I18 S. 18 in force at 1.7.2004 by S.I. 2004/1572, **art. 3(a)**

19 Exercise of functions

In performing its functions the Authority shall aim to ensure the efficient and effective policing of the railways and shall, in particular, have regard—
(a) to any objective set by the Authority under section 50,
(b) to any objective set by the Secretary of State under section 51,

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(c) to any railways policing plan issued by the Authority under section 52,

(d) to any performance target set by the Authority under section 53,**[**[F1]and **]**

(e) to any code of practice issued by the Secretary of State, or having effect in relation to the Authority, under section 47, and

[F2](f) . . . . . .

Textual Amendments

F1 Word in s. 19(d) inserted (8.11.2006) by Police and Justice Act 2006 (c. 48), s. 53(2), **Sch. 14 para. 47(a)**

F2 S. 19(f) repealed (8.11.2006) by Police and Justice Act 2006 (c. 48), s. 53(2), Sch. 14 para. 47(b), **15 Pt. 1(B)**

Commencement Information

I19 S. 19 in force at 1.7.2004 by S.I. 2004/1572, **art. 3(b)**

Police Force

20 Establishment of Police Force

(1) The Authority shall secure the maintenance of an efficient and effective police force—

(a) to be known as the British Transport Police Force, and

(b) to police the railways.

(2) In particular, the Authority shall defray the expenses of the Police Force.

(3) In this Part "the Police Force" means the British Transport Police Force.

Commencement Information

I20 S. 20 in force at 1.7.2004 by S.I. 2004/1572, **art. 3(c)**

21 Chief Constable

(1) The Authority shall appoint a Chief Constable of the Police Force.

(2) An appointment under subsection (1) may be made only—

(a) with the approval of the Secretary of State, and

(b) in accordance with regulations under section 36.

(3) In performing his functions the Chief Constable shall have regard to—

(a) any relevant code of practice issued or having effect under section 48,

(b) any relevant plan issued under section 52, and

(c) any relevant plan issued under section 55.

(4) The Secretary of State may make regulations about the suspension and removal of the Chief Constable.

(5) Regulations under subsection (4)—

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(a) may apply (with or without modification) or make provision similar to a provision made by or under the Police Act 1996 (c. 16),
(b) may confer a function on the Secretary of State (which may include a discretionary function or a function of requiring the Authority to act),
(c) may permit the Secretary of State to delegate a function or to confer a function (which may include a discretionary function) on a person or group, and
(d) may make provision about costs.

(6) Regulations under subsection (4) which deal with a matter addressed by a provision made by or under the Police Act 1996 may differ from that provision only so far as necessary to reflect the structure and circumstances of the Police Force.

(7) Before making regulations under subsection (4) the Secretary of State shall consult—
(a) the Authority,
(b) the Chief Constable, and
(c) such other persons as he thinks fit.

(8) In this Part "the Chief Constable" means the Chief Constable of the Police Force.

Commencement Information
I21 S. 21 in force at 1.7.2004 by S.I. 2004/1572, **art. 3(d)**

22 Deputy Chief Constable

(1) The Authority shall appoint a deputy Chief Constable of the Police Force.

(2) An appointment under subsection (1) may be made only—
(a) with the approval of the Secretary of State, and
(b) in accordance with regulations under section 36.

(3) The deputy Chief Constable may perform a function of the Chief Constable—
(a) while the Chief Constable is unable to act or unavailable,
(b) during a vacancy in the office of Chief Constable, or
(c) with the consent (which may be general or specific) of the Chief Constable.

(4) The power to act by virtue of subsection (3)(a) or (b) shall not be exercisable for a continuous period exceeding three months without the consent of the Secretary of State.

(5) The Secretary of State may make regulations about the suspension and removal of the deputy Chief Constable.

(6) Regulations under subsection (5)—
(a) may apply (with or without modification) or make provision similar to a provision made by or under the Police Act 1996 (c. 16),
(b) may confer a function on the Secretary of State (which may include a discretionary function or a function of requiring the Authority to act),
(c) may permit the Secretary of State to delegate a function or to confer a function (which may include a discretionary function) on a person or group, and
(d) may make provision about costs.

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(7) Regulations under subsection (5) which deal with a matter addressed by a provision made by or under the Police Act 1996 may differ from that provision only so far as necessary to reflect the structure and circumstances of the Police Force.

(8) Before making regulations under subsection (5) the Secretary of State shall consult—
- (a) the Authority,
- (b) the Chief Constable, and
- (c) such other persons as he thinks fit.

Commencement Information
I22 S. 22 in force at 1.7.2004 by S.I. 2004/1572, **art. 3(e)**

23 Assistant Chief Constables

(1) The Authority shall appoint at least one assistant Chief Constable.

(2) An appointment under subsection (1) may be made only—
- (a) with the approval of the Secretary of State, and
- (b) in accordance with regulations under section 36.

(3) The Authority may permit an assistant Chief Constable to perform a function of the Chief Constable—
- (a) while the Chief Constable and the deputy Chief Constable are unable to act or unavailable, or
- (b) during a vacancy in the offices of Chief Constable and deputy Chief Constable.

(4) Permission under subsection (3) may not have effect for a continuous period exceeding three months without the consent of the Secretary of State.

(5) The Secretary of State may make regulations about the suspension and removal of an assistant Chief Constable.

(6) Regulations under subsection (5)—
- (a) may apply (with or without modification) or make provision similar to a provision made by or under the Police Act 1996 (c. 16),
- (b) may confer a function on the Secretary of State (which may include a discretionary function or a function of requiring the Authority to act),
- (c) may permit the Secretary of State to delegate a function or to confer a function (which may include a discretionary function) on a person or group, and
- (d) may make provision about costs.

(7) Regulations under subsection (5) which deal with a matter addressed by a provision made by or under the Police Act 1996 may differ from that provision only so far as necessary to reflect the structure and circumstances of the Police Force.

(8) Before making regulations under subsection (5) the Secretary of State shall consult—
- (a) the Authority,
- (b) the Chief Constable, and
- (c) such other persons as he thinks fit.

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Commencement Information

I23 S. 23 in force at 1.7.2004 by S.I. 2004/1572, **art. 3(f)**

24 Constables

(1) The Authority shall appoint and employ constables of the Police Force.

(2) A constable of the Police Force shall be under the direction and control of the Chief Constable.

(3) Section 29 of the Police Act 1996 (attestation) shall apply to a constable of the Police Force appointed in England or Wales (with the omission of the words in paragraph (b) "having jurisdiction within the police area").

(4) Section 16 of the Police (Scotland) Act 1967 (c. 77) (declaration) shall apply to a constable of the Police Force appointed in Scotland (with the substitution of the words " faithfully to execute " for "in such terms as may be prescribed concerning the proper discharge of").

Commencement Information

I24 S. 24 in force at 1.7.2004 by S.I. 2004/1572, **art. 3(g)**

25 Special constables

(1) The Chief Constable may appoint special constables of the Police Force.

(2) A special constable of the Police Force—
- (a) shall be under the direction and control of the Chief Constable, and
- (b) may be dismissed by the Chief Constable.

(3) Section 29 of the Police Act 1996 (c. 16) (attestation) shall apply to a special constable of the Police Force appointed in England or Wales (with the omission of the words in paragraph (b) "having jurisdiction within the police area").

(4) Section 16 of the Police (Scotland) Act 1967 (c. 77) (declaration) shall apply to a special constable of the Police Force appointed in Scotland (with the substitution of the words " faithfully to execute " for "in such terms as may be prescribed concerning the proper discharge of").

(5) Section 88(1) to (5) of the Police Act 1996 (liability for wrongful act of constable) shall have effect in relation to special constables of the Police Force as if—
- (a) a reference to the chief officer of police for a police area were a reference to the Chief Constable,
- (b) a reference to a constable were a reference to a special constable,
- (c) a reference to the police fund were a reference to the British Transport Police Fund,
- (d) a reference to a police authority were a reference to the Authority, and
- (e) subsection (5) included a reference to a special constable of the Police Force.

Status: *Point in time view as at 01/04/2008. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Railways and Transport Safety Act 2003 is up to date with all changes known to be in force on or before 15 July 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)*

(6) A reference in this Part to a constable of the Police Force includes a reference to a special constable of the Police Force.

Commencement Information
I25 S. 25 in force at 1.7.2004 by S.I. 2004/1572, **art. 3(h)**

26 Cadets

(1) The Chief Constable may appoint cadets to undergo training with a view to becoming constables of the Police Force.

(2) A cadet of the Police Force—
- (a) shall be under the direction and control of the Chief Constable,
- (b) may be dismissed by the Chief Constable, and
- (c) shall be an employee of the Authority (subject to regulations under section 38).

Commencement Information
I26 S. 26 in force at 1.7.2004 by S.I. 2004/1572, **art. 3(i)**

27 Civilian employees

(1) The Authority may employ persons to assist the Police Force.

(2) A person appointed under this section shall be under the direction and control of either the Chief Constable or the Authority, in accordance with his terms of employment.

Commencement Information
I27 S. 27 in force at 1.7.2004 by S.I. 2004/1572, **art. 3(j)**

28 Exercise of powers by civilians

(1) The following provisions of the Police Reform Act 2002 (c. 30) shall apply in relation to the Police Force as they apply in relation to other police forces—
- (a) section 38 (police powers for police authority employees),
- **[**[F3](aa) section 38A (standard powers and duties of community support officers),**]**
- (b) section 39 (police powers for contracted-out staff),
- (c) section 42 (supplementary),
- (d) section 45 (code of practice),
- (e) section 46 (offences),
- (f) section 47 (interpretation), and
- (g) Schedule 4 (powers exercisable by civilians).

(2) For the purpose of subsection (1) the provisions specified in that subsection shall have effect with any necessary modifications and, in particular—

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(a) the provisions shall have effect as if a reference to a police force were a reference to the Police Force,

(b) the provisions shall have effect as if a reference to the chief officer of police of a police force were a reference to the Chief Constable,

(c) the provisions shall have effect as if a reference to a police authority were a reference to the Authority,

(d) the provisions shall have effect as if a reference to a constable were a reference to a constable of the Police Force,

(e) section 45 shall have effect, except in relation to a code which is expressed to apply for the purposes of that section in its application both by virtue of this section and otherwise, as if for subsection (3) there were substituted a requirement to consult the Authority and the Chief Constable, and

(f) Schedule 4 shall have effect as if a reference to the relevant police area or a police area were a reference to—

(i) any place in England or Wales where a constable of the Police Force has powers by virtue of section 31(1)(a) to (f) of this Act, and

(ii) for a purpose connected to a railway or to anything occurring on or in relation to a railway, any place in England and Wales.

Textual Amendments

F3 S. 28(1)(aa) inserted (1.4.2007) by Police and Justice Act 2006 (c. 48), s. 53(1), **Sch. 14 para. 48**; S.I. 2007/709, art. 3(p) (with art. 6)

Commencement Information

I28 S. 28 in force at 1.7.2004 by S.I. 2004/1572, **art. 3(k)**

29 Terms of employment

(1) In relation to the terms and conditions of employment of constables and other persons employed in the service of the Police Force, the Authority shall comply with rules or principles contained in any document issued to them for the purpose by the Secretary of State.

(2) Rules or principles under subsection (1) may, in particular—

(a) require the adoption of specified scales or ranges of pay or allowances;

(b) require a specified class of employee to be treated for specified purposes in the same way as another specified class of employee (whether of the Authority or not) or office-holder;

(c) require the approval of the Secretary of State for changes in the policy or practice of the Authority;

(d) require compliance with rules or principles specified or to be specified in another document.

Commencement Information

I29 S. 29 in force at 1.7.2004 by S.I. 2004/1572, **art. 3(l)**

Status: *Point in time view as at 01/04/2008. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Railways and Transport Safety Act 2003 is up to date with all changes known to be in force on or before 15 July 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)*

30 Trade union membership

(1) A constable or cadet of the Police Force may not be a member of a trade union (within the meaning given by section 1 of the Trade Union and Labour Relations (Consolidation) Act 1992 (c. 52)).

(2) Subsection (1) shall not prevent—
- (a) membership of the British Transport Police Federation, or
- (b) retention, with the consent of the Chief Constable, of a membership status acquired by a person before he joined the Police Force.

Commencement Information
I30 S. 30 in force at 1.7.2004 by S.I. 2004/1572, **art. 3(m)**

Jurisdiction

31 Jurisdiction

(1) A constable of the Police Force shall have all the powers and privileges of a constable—
- (a) on track,
- (b) on network,
- (c) in a station,
- (d) in a light maintenance depot,
- (e) on other land used for purposes of or in relation to a railway,
- (f) on other land in which a person who provides railway services has a freehold or leasehold interest, and
- (g) throughout Great Britain for a purpose connected to a railway or to anything occurring on or in relation to a railway.

(2) A constable of the Police Force may enter property which is or forms part of anything specified in subsection (3)—
- (a) without a warrant,
- (b) using reasonable force if necessary, and
- (c) whether or not an offence has been committed.

(3) Those things are—
- (a) track,
- (b) a network,
- (c) a station,
- (d) a light maintenance depot, and
- (e) a railway vehicle.

(4) In this section “powers” includes powers under an enactment whenever passed or made.

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Commencement Information

I31 S. 31 in force at 1.7.2004 by S.I. 2004/1572, **art. 3(n)**

32 Prosecution

Where the Police Force investigates an offence in the course of the exercise of its functions, the Chief Constable may institute criminal proceedings in England and Wales in respect of the offence.

Commencement Information

I32 S. 32 in force at 1.7.2004 by S.I. 2004/1572, **art. 3(o)**

Police Services Agreements

33 Police services agreement

(1) The Authority may enter into an agreement under this section (to be known as a police services agreement) with any person ("the customer") which provides—

(a) for the Police Force to police a railway or railway property in connection with which the customer provides railways services, in accordance with the objectives, plans, targets and directions set under sections 50 to 55,

(b) for the Police Force to provide such additional policing services as may be specified in the agreement, and

(c) for such incidental or ancillary matters as the parties think appropriate.

(2) The Authority may not enter into a police services agreement unless a draft is approved in writing by the Secretary of State.

(3) A police services agreement shall include provision requiring the customer to make payments to the Authority, which may be payments of—

(a) specified sums, or

(b) sums assessed in a specified manner (which may include reference to amounts paid, or expected to be paid, by the Authority).

(4) In determining the terms in a police services agreement of provision about payment the Authority shall aim to ensure that—

(a) in each financial year the expenses of the Authority, including those incurred in defraying the expenses of the Police Force, are as nearly as possible equivalent to the income of the Authority, and

(b) the amount of the contribution to the expenses of the Authority made by each customer in a financial year approximately reflects the nature and extent of the functions likely to be undertaken in that year in accordance with the customer's police service agreement.

(5) But subsection (4) does not prevent the Authority from setting a customer's contribution at a level which—

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(a) reflects a surplus of income over expenses in a previous financial year (whether or not relating wholly or partly to functions carried out in respect of the customer);
(b) reflects a deficit in a previous financial year (whether or not relating wholly or partly to functions carried out in respect of the customer);
(c) reflects the need to reserve funds for contingencies.

Commencement Information
I33 S. 33 in force at 1.7.2004 by S.I. 2004/1572, **art. 3(p)**

34 Compulsory police services agreement

(1) The Secretary of State may by order—
(a) require a person who provides railway services to enter into a police services agreement;
(b) require each member of a class of persons providing railway services to enter into a police services agreement.

(2) A person commits an offence if—
(a) he is subject to a requirement under subsection (1), and
(b) he provides railway services without having entered into a police services agreement in respect of the railway or railway property in connection with which he provides the services.

(3) A person who is guilty of an offence under subsection (2) shall be liable—
(a) on summary conviction, to a fine not exceeding the statutory maximum, or
(b) on conviction on indictment, to a fine.

(4) The Authority shall take reasonable steps to facilitate compliance by a person with a requirement imposed under subsection (1).

(5) Before imposing a requirement on a person or class under subsection (1) the Secretary of State shall consult the person or each member of the class.

Commencement Information
I34 S. 34(1) in force at 19.6.2004 by S.I. 2004/1572, **art. 2(a)**
I35 S. 34(2)(3)(4) in force at 1.7.2004 by S.I. 2004/1572, **art. 3(q)**
I36 S. 34(5) in force at 31.10.2004 by S.I. 2004/2759, **art. 2(1)(b)**

35 Arbitration by Secretary of State

(1) This section applies to a dispute between the Authority and a person who has entered into a police services agreement, where the dispute is about the terms, construction or operation of the agreement.

(2) Either party to the dispute may refer it to the Secretary of State.

(3) The Secretary of State may—
(a) determine the dispute, or

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(b) nominate a person to determine the dispute.

(4) The Secretary of State shall determine the procedure to be followed in determining a dispute under this section.

(5) In particular, the Secretary of State or nominated person shall give each party to the dispute an opportunity to make representations.

(6) In determining a dispute the Secretary of State or a nominated person may—
- (a) give a declaration about how a provision of a police services agreement is to be construed or operated;
- (b) vary the terms of a police services agreement;
- (c) determine that one party is obliged in accordance with a police services agreement to pay a specified sum, or a sum to be assessed in a specified manner, to the other party;
- (d) make an order about costs.

(7) Where a dispute is determined under this section—
- (a) a party may appeal to the High Court on a point of law;
- (b) the determination may, with the permission of the High Court, be enforced as if it were a judgment of the High Court (and may, in particular, be enforced by the use of powers in relation to contempt of court).

(8) Where it is agreed by the parties that Scots law applies to the police services agreement, a reference in subsection (7) to the High Court shall be treated as a reference to the Court of Session.

Commencement Information

I37 S. 35 in force at 1.7.2004 by S.I. 2004/1572, **art. 3(r)**

Regulation of Police Force

36 Police regulations: general

(1) The Authority may make regulations about the government, administration and conditions of constables or other persons employed in the service of the Police Force which—
- (a) apply with or without modification regulations under section 50 of the Police Act 1996 (c. 16) (police force regulations);
- (b) deal with matters that could be dealt with by those regulations.

(2) The Authority shall also make regulations similar to the provision made by and under sections 84 and 85 of that Act (representation at disciplinary proceedings, and appeal).

(3) Regulations under this section which deal with a matter addressed by regulations under section 50 of that Act may differ from the regulations under that section only so far as necessary to reflect the structure and circumstances of the Police Force.

(4) The Authority may make provision about the terms and conditions of employment of constables or other persons employed in the service of the Police Force otherwise than by regulations under this section—

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(a) whether or not equivalent provision is made by regulations under section 50 of the Police Act 1996 (c. 16), but

(b) subject to any regulations made under this section.

(5) This section does not apply in relation to special constables or cadets.

Commencement Information

I38 S. 36 in force at 1.7.2004 by S.I. 2004/1572, **art. 3(s)**

37 Police regulations: special constables

(1) The Authority may make regulations about the government, administration and conditions of service of special constables of the Police Force which—

(a) apply with or without modification regulations under section 51 of the Police Act 1996 (police force regulations);

(b) deal with matters that could be dealt with by those regulations.

(2) Regulations under this section which deal with a matter addressed by regulations under section 51 of that Act may differ from the regulations under that section only so far as necessary to reflect the structure and circumstances of the Police Force.

Commencement Information

I39 S. 37 in force at 1.7.2004 by S.I. 2004/1572, **art. 3(t)**

38 Police regulations: cadets

(1) The Authority may make regulations about the government, administration and conditions of service of cadets of the Police Force which—

(a) apply with or without modification regulations under section 52 of the Police Act 1996 (police force regulations);

(b) deal with matters that could be dealt with by those regulations.

(2) Regulations under this section which deal with a matter addressed by regulations under section 52 of that Act may differ from the regulations under that section only so far as necessary to reflect the structure and circumstances of the Police Force.

Commencement Information

I40 S. 38 in force at 1.7.2004 by S.I. 2004/1572, **art. 3(u)**

39 British Transport Police Federation

(1) The Authority may make regulations about a body to be known as the British Transport Police Federation and having the function of representing persons employed in the service of the Police Force in matters affecting their welfare and efficiency except for questions about—

(a) the promotion of specified persons, or

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(b) the discipline of specified persons (but this paragraph is subject to subsection (3)).

(2) Regulations under this section must make provision similar to that made by regulations under section 60 of the Police Act 1996 (police federations) subject to such modifications as may be necessary to reflect the structure and circumstances of the Police Force.

(3) Regulations under this Part may permit an official of the British Transport Police Federation to act for a person employed in the service of the Police Force in proceedings arising under the regulations.

(4) The British Transport Police Federation—

(a) may not become or remain connected with any other body without the approval of the Secretary of State (which may be given conditionally or unconditionally, and may be varied or withdrawn), but

(b) may employ in an administrative or advisory capacity a person who is not employed in the service of the Police Force.

Commencement Information

I41 S. 39 in force at 1.7.2004 by S.I. 2004/1572, **art. 3(v)**

40 Regulations: approval in draft

(1) This section applies to regulations under section 36, 37, 38 or 39.

(2) The Authority may not make regulations unless a draft has been approved by—

(a) the Chief Constable,

(b) the staff associations, and

(c) the Secretary of State.

(3) The Secretary of State may on the application of the Authority dispense with a requirement for approval under subsection (2)(a) or (b) in respect of specified draft regulations.

(4) Before dispensing under subsection (3) with a requirement for a person's approval the Secretary of State shall consult the person.

(5) In subsection (2)(b) "the staff associations" means such associations representing persons employed in the service of the Police Force as may be prescribed by order of the Secretary of State.

Commencement Information

I42 S. 40 in force at 1.7.2004 by S.I. 2004/1572, **art. 3(w)**

41 Police regulations: direction to Authority

The Secretary of State may direct the Authority to—

(a) prepare draft regulations under section 36, 37, 38 or 39 for a specified purpose,

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(b) submit them for approval under section 40(2) (whether or not as modified in accordance with section 40(3)), and

(c) make them if approved.

Commencement Information

I43 S. 41 in force at 1.7.2004 by S.I. 2004/1572, **art. 3(x)**

42 Police regulations by Secretary of State

(1) The Secretary of State may by regulations make provision in relation to the Police Force in respect of any matter about which he could make regulations under section 50, 51, 52 or 60 of the Police Act 1996 (c. 16) (general regulations, special constables, cadets and police federations).

(2) Regulations under section 36, 37, 38 or 39 above shall have no effect in so far as they are inconsistent with regulations under this section.

(3) If regulations under this section make provision for a matter specified in section 50(3) of the Police Act 1996 (disciplinary proceedings) they must also make provision similar to that made by and under sections 84 and 85 of that Act (representation at disciplinary proceedings, and appeal).

(4) Before making regulations under this section the Secretary of State shall consult—

(a) the Authority,

(b) the Chief Constable, and

(c) the staff associations (within the meaning of section 40).

Commencement Information

I44 S. 42 in force at 1.7.2004 by S.I. 2004/1572, **art. 3(y)**

43 Regulations: further appeal

(1) The Secretary of State may make regulations providing for a further appeal in connection with proceedings under regulations under section 36 or 37.

(2) Regulations under this section may, in particular, confer jurisdiction on a court or tribunal.

Commencement Information

I45 S. 43 in force at 1.7.2004 by S.I. 2004/1572, **art. 3(z)**

44 Equipment regulations

(1) The Secretary of State may make regulations under section 53 of the Police Act 1996 (c. 16) (standard of equipment) which have effect (whether wholly or partly and whether with modifications or not) in relation to the Police Force (including in relation to Scotland).

Status: *Point in time view as at 01/04/2008. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Railways and Transport Safety Act 2003 is up to date with all changes known to be in force on or before 15 July 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) Before making regulations by virtue of this section the Secretary of State shall consult (in addition to any consultation required by section 53)—
  (a) the Authority, and
  (b) the Chief Constable.

Commencement Information
I46 S. 44 in force at 1.7.2004 by S.I. 2004/1572, **art. 3(aa)**

45 Regulation of procedure and practice

(1) The Secretary of State may make regulations under section 53A of the Police Act 1996 (regulation of procedure and practice for purpose of facilitating inter-force co-operation) which have effect (whether wholly or partly and whether with modifications or not) in relation to the Police Force (including in relation to Scotland).

(2) For the purpose of regulations made by virtue of this section, section 53A shall have effect as if—
  (a) a reference to a police authority included a reference to the Authority,
  (b) a reference to chief officers of police included a reference to the Chief Constable, and
  (c) a reference to a police force included a reference to the Police Force.

Commencement Information
I47 S. 45 in force at 1.7.2004 by S.I. 2004/1572, **art. 3(bb)**

46 Conditions of service: Transport Police Conference

(1) This section applies to action of any of the following kinds—
  (a) the making by the Authority of regulations under section 36, 37 or 38 about the conditions of service of constables, special constables or cadets,
  (b) the making by the Secretary of State of regulations under section 42 about the conditions of service of constables, special constables or cadets,
  (c) the issuing by the Secretary of State of a document under section 29,
  (d) the taking by the Authority of a decision about the conditions of service of constables, special constables or cadets, and
  (e) the taking by the Secretary of State of a decision about the conditions of service of constables, special constables or cadets.

(2) Before taking action to which this section applies the Authority or the Secretary of State shall invite the British Transport Police Federation to nominate a number of individuals, not fewer than two nor more than five, to meet with an equal number of individuals nominated by the Authority to discuss the action proposed.

(3) Where a group is nominated under subsection (2) the person proposing to act shall, before acting—
  (a) give the group an opportunity to make recommendations about the proposed action, and

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(b) have regard to any recommendation made.

(4) Where the person proposing to act thinks that a group nominated under subsection (2) is unable to agree recommendations about the proposed action he shall, before acting—

(a) give the group an opportunity to nominate an individual who is not part of the group to make recommendations about the proposed action,

(b) give any person nominated by the group an opportunity to make recommendations about the proposed action, and

(c) have regard to any recommendation made.

(5) Where the person proposing to act thinks that a group nominated under subsection (2) is unable to agree a nomination under subsection (4)(a)—

(a) the Secretary of State may nominate a person to make recommendations about the proposed action, and

(b) the person proposing to act shall, before acting—

(i) give any person nominated under paragraph (a) an opportunity to make recommendations about the proposed action, and

(ii) have regard to any recommendation made.

(6) In subsections (4) and (5) a reference to agreement of a group nominated under subsection (2) is a reference to the agreement of—

(a) a majority of the individuals nominated by the British Transport Police Federation, and

(b) a majority of the individuals nominated by the Authority.

(7) In this section a reference to conditions of service includes a reference to any terms and conditions of employment (including pay and hours of duty).

Commencement Information

I48 S. 46 in force at 1.7.2004 by S.I. 2004/1572, **art. 3(cc)**

47 Code of practice: Authority

(1) The Secretary of State may issue a code of practice relating to the performance by the Authority of any of its functions.

(2) The Secretary of State may revise a code issued under subsection (1).

(3) A code of practice issued under section 39 of the Police Act 1996 (c. 16) shall have effect in relation to the Authority—

(a) with any necessary modifications, and

(b) subject to the provisions of a code issued under this section.

(4) Where the Secretary of State issues or revises a code under this section he shall lay before Parliament the code or revision.

Commencement Information

I49 S. 47 in force at 1.7.2004 by S.I. 2004/1572, **art. 3(dd)**

Status: *Point in time view as at 01/04/2008. This version of this Act contains provisions that are prospective.*
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48 Code of practice: Chief Constable

(1) The Secretary of State may issue a code of practice relating to the performance by the Chief Constable of any of his functions.

(2) The Secretary of State may revise a code issued under subsection (1).

(3) A code of practice issued under section 39A of the Police Act 1996 (c. 16) shall have effect in relation to the Chief Constable—
- (a) with any necessary modifications, and
- (b) subject to the provisions of a code issued under this section.

(4) Where the Secretary of State issues or revises a code under this section he shall lay before Parliament the code or revision.

(5) But subsection (4) shall not oblige the Secretary of State to lay before Parliament anything if he thinks that its publication—
- (a) would be against the interests of national security,
- (b) could prejudice the prevention or detection of crime or the apprehension or prosecution of offenders, or
- (c) could jeopardise a person's safety.

Commencement Information
I50 S. 48 in force at 1.7.2004 by S.I. 2004/1572, **art. 3(ee)**

49 Service outside Police Force

(1) The Secretary of State may make regulations about the treatment by the Authority of a person who—
- (a) is or was a constable of the Police Force, and
- (b) is or was engaged in service outside the Police Force of a specified kind.

(2) The regulations shall, in particular, make provision similar to that of section 97 of the Police Act 1996 (service by police officer outside his force) subject to any modification necessary to reflect the structure and circumstances of the Police Force.

Commencement Information
I51 S. 49 in force at 1.7.2004 by S.I. 2004/1572, **art. 3(ff)**

Planning

50 Policing objectives: Authority

(1) Before the beginning of each financial year the Authority shall set objectives for policing the railways during that year.

(2) The objectives—
- (a) may relate to a matter addressed by objectives set by the Secretary of State under section 51, and

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(b) must be consistent with those objectives.

(3) In setting the objectives for a year the Authority shall—

(a) consult the Chief Constable,

(b) have regard to opinions expressed in accordance with section 62,**[**[F4]and

(c) have regard to any strategic priorities determined for that year by the Secretary of State under section 37A of the Police Act 1996 (strategic priorities for police authorities).**]**

Textual Amendments

F4 S. 50(3)(c) substituted for s. 50(3)(c) (8.11.2006) by Police and Justice Act 2006 (c. 48), s. 53(2), **Sch. 14 para. 49**

Commencement Information

I52 S. 50 in force at 1.7.2004 by S.I. 2004/1572, **art. 3(gg)**

51 Policing objectives: Secretary of State

(1) The Secretary of State may by direction to the Authority set objectives for policing the railways during a financial year.

(2) The Secretary of State shall publish a direction under this section.

(3) Before giving a direction under this section the Secretary of State shall consult—

(a) the Authority, and

(b) the Chief Constable.

(4) Before giving a direction under this section the Secretary of State shall consider any representations made to him by the Scottish Ministers on the matter of objectives for policing the railways in Scotland.

Commencement Information

I53 S. 51 in force at 1.7.2004 by S.I. 2004/1572, **art. 3(hh)**

52 Railways policing plan

(1) Before the beginning of each financial year the Authority shall issue a plan setting out the proposed arrangements for policing the railways during that year.

(2) The plan for a year must include a statement of—

(a) the Authority's priorities for the year,

(b) the financial resources which the Authority expects to be available, and

(c) the proposed allocation of resources.

(3) The plan for a year must specify—

(a) any objective set by the Authority for that year under section 50,

(b) any objective by the Secretary of State for the year under section 51, and

(c) any performance target set by the Authority in relation to the achievement of an objective for that year (whether set under section 53 or otherwise).

Status: *Point in time view as at 01/04/2008. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Railways and Transport Safety Act 2003 is up to date with all changes known to be in force on or before 15 July 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)*

(4) A plan for a year must be consistent with the relevant three-year strategy plan issued by the Authority under section 55.

(5) The Chief Constable shall submit to the Authority a draft plan for each financial year.

(6) Before issuing a plan which differs from the Chief Constable's draft the Authority shall consult him.

(7) In preparing a plan the Chief Constable and the Authority shall have regard to any guidance given by the Secretary of State about local policing plans under section 8(4A) of the Police Act 1996 (c. 16).

(8) The Authority shall—

(a) publish each plan under this section, and

(b) send a copy of each plan under this section to the Secretary of State.

Commencement Information

I54 S. 52 in force at 1.7.2004 by S.I. 2004/1572, **art. 3(ii)**

53 Performance targets

(1) The Secretary of State may by direction to the Authority require it to set a target in relation to the achievement of an objective set under section 51.

(2) A direction may specify a condition which a target must satisfy.

(3) The Secretary of State shall publish a direction under this section.

(4) Before giving a direction under this section the Secretary of State shall consider any representations made to him by the Scottish Ministers on the matter of targets for policing the railways in Scotland.

Commencement Information

I55 S. 53 in force at 1.7.2004 by S.I. 2004/1572, **art. 3(jj)**

54 Performance directions

[F5(1) The Secretary of State may give a direction to the Authority—

(a) specifying factors ("performance indicators") by reference to which the Authority's performance in exercising functions can be measured;

(b) specifying standards ("performance standards") to be met by the Authority in relation to performance indicators specified under paragraph (a).

(1A) In specifying performance indicators and performance standards, and in deciding whether to do so, the Secretary of State shall aim to promote improvement of the way in which the functions of the Authority are exercised, having regard to a combination of economy, efficiency and effectiveness.

(1B) A direction under subsection (1) may specify different performance indicators or performance standards—

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(a) for different functions;
(b) to apply at different times.

(1C) The Secretary of State may give a direction to the Authority requiring the Authority to—
(a) specify performance indicators in relation to functions;
(b) set targets for the performance of functions ("performance targets") by reference to performance indicators specified under paragraph (a) or subsection (1)(a);
(c) set a plan of action to be taken for the purposes of meeting a performance target.**]**

(2) The Secretary of State shall publish a direction under this section.

(3) Before giving a direction the Secretary of State shall consult—
(a) the Authority, and
(b) any other person that he thinks appropriate.

Textual Amendments

F5 S. 54(1)-(1C) substituted for s. 54(1) (1.4.2008) by Local Government and Public Involvement in Health Act 2007 (c. 28), s. 245(5), **Sch. 8 para. 24**; S.I. 2008/917, art. 2(1)(e)

Commencement Information

I56 S. 54 in force at 1.7.2004 by S.I. 2004/1572, **art. 3(kk)**

55 Three-year strategy plan

(1) The Authority shall before the beginning of each consecutive period of three financial years issue a plan which sets out the authority's medium-term and long-term strategies for policing the railways during that period.

(2) For the purposes of this section—
(a) subsections (2) to (12), (14) and (15) of section 6A of the Police Act 1996 (c. 16) (three-year strategy plans) shall have effect (with any necessary modification), and
(b) guidance and regulations made under that section shall, in the absence of special provision, be taken to apply (with any necessary modification).

(3) In the application of section 6A(5) and (10) of that Act to this section the reference to the National Policing Plan shall be taken to include a reference to any objective or performance target set under section 51 or 53 of this Act.

Commencement Information

I57 S. 55 in force at 1.7.2004 by S.I. 2004/1572, **art. 3(ll)**

Status: *Point in time view as at 01/04/2008. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Railways and Transport Safety Act 2003 is up to date with all changes known to be in force on or before 15 July 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)*

Information, &c.

56 Reports by Chief Constable

(1) As soon as is reasonably practicable after the end of each financial year the Chief Constable shall submit to the Authority a report about the policing of the railways in that year.

(2) The Chief Constable shall publish a report submitted by him under subsection (1).

(3) The Authority may require the Chief Constable to submit a report on specified matters connected with the performance of his functions.

(4) The Authority may publish, or require the Chief Constable to publish, a report submitted under subsection (3).

(5) But if the Chief Constable thinks that publication of all or part of a report under subsection (3) would be unnecessary, or undesirable for reasons of public interest—

(a) he may require the Authority to refer to the Secretary of State the question whether that report or part should be published, and

(b) the report or part shall be published only if the Secretary of State directs that it should be published.

Commencement Information

I58 S. 56 in force at 1.7.2004 by S.I. 2004/1572, **art. 3(mm)**

57 Annual report by Authority

(1) As soon as is reasonably practicable after the end of each financial year the Authority shall issue a report about the policing of the railways in that year.

(2) The Authority's report for a year must include an assessment of the extent to which—

(a) the objectives set for the year under section 50 have been achieved,

(b) the arrangements set out in the railways policing plan for the year under section 52 have been implemented, and

(c) the strategies set out in the relevant three-year strategy plan under section 55 have been implemented.

(3) The Authority shall—

(a) publish each report under this section, and

(b) send a copy of each report under this section to the Secretary of State.

Commencement Information

I59 S. 57 in force at 1.7.2004 by S.I. 2004/1572, **art. 3(nn)**

58 Other reports to Secretary of State

(1) The Secretary of State may by direction require the Authority to submit a report on specified matters connected with the performance of its functions.

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(2) The Secretary of State may by direction require the Chief Constable to submit a report on specified matters connected with the performance of his functions.

(3) The Authority or Chief Constable shall submit a report required by direction under this section—
  (a) in such form as may be specified in the direction, and
  (b) within such period as may be specified in the direction.

(4) The Secretary of State may—
  (a) publish a report received under this section;
  (b) require the author of the report to arrange for its publication.

Commencement Information
I60 S. 58 in force at 1.7.2004 by S.I. 2004/1572, **art. 3(oo)**

59 Statistics

(1) The Secretary of State may require the Chief Constable to supply information about matters relating to crime committed on or in connection with the railways.

(2) In particular, the Secretary of State may require information about—
  (a) offences committed;
  (b) offenders;
  (c) criminal proceedings.

(3) The Chief Constable shall supply information required under this section at such times and in such form as the Secretary of State requires.

(4) Where the Secretary of State receives information under this section he shall lay it or a summary of it before Parliament.

Commencement Information
I61 S. 59 in force at 1.7.2004 by S.I. 2004/1572, **art. 3(pp)**

60 Inquiry

(1) The Secretary of State may appoint a person to inquire into a matter connected with the Police Force.

(2) The Secretary of State may require a person appointed under this section to conduct the inquiry in public or in private.

(3) A person appointed under this section may summon a person to attend at a specified time and place—
  (a) to give evidence;
  (b) to produce a document.

(4) Where the Secretary of State receives a report of an inquiry under this section he shall, in so far as he thinks it in the public interest, publish a summary of the report.

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(5) In the application of this section to an inquiry held in Scotland subsection (3) shall have effect as if for "summon" there were substituted " cite ".

Commencement Information
I62 S. 60 in force at 1.7.2004 by S.I. 2004/1572, **art. 3(qq)**

61 Inquiry: supplemental

(1) A person appointed under section 60 may—
  (a) require evidence to be given on oath, and
  (b) for that purpose, administer an oath.

(2) A person appointed under section 60 may not require the production of a document relating to the title of land which is not the property of the Authority.

(3) A person commits an offence if without reasonable excuse he—
  (a) fails to comply with a summons under section 60, or
  (b) obstructs or fails to co-operate with an inquiry under that section.

(4) A person has a reasonable excuse for failure to comply with a summons if he is not offered payment of the reasonable costs of compliance.

(5) A person who is guilty of an offence under subsection (3) shall be liable on summary conviction to—
  (a) a fine not exceeding level 3 on the standard scale,
  (b) imprisonment for a term not exceeding 51 weeks, or
  (c) both.

(6) The Secretary of State may direct the Authority to pay all or part of the costs incurred by a person in connection with an inquiry under section 60.

(7) A direction under subsection (6) may include provision for taxation of costs.

(8) In the application of this section in relation to an inquiry held in Scotland subsections (3) and (4) shall have effect as if for "summons" there were substituted " citation ".

Commencement Information
I63 S. 61 in force at 1.7.2004 by S.I. 2004/1572, **art. 3(rr)**

62 Public consultation

(1) The Authority shall make, and review from time to time, arrangements to obtain the opinions about the policing of the railways of—
  (a) passengers on the railways,
  (b) groups of persons representing passengers on the railways,
  (c) persons providing railway services,
  (d) organisations representing persons providing railway services,
  (e) employees of persons providing railway services,

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(f) organisations representing employees of persons providing railway services,
(g) the Scottish Ministers,
(h) the National Assembly for Wales,
(i) organisations representing local authorities in England,
[F6](j) . . . . . .
(k) the Office of Rail Regulation,
(l) the Rail Accident Investigation Branch,
[F7](m) . . . . . .
[F7](n) . . . . . .
(o) other persons with an interest in the railways whom the Authority thinks it appropriate to consult.

(2) The Authority shall make, and review from time to time, arrangements to invite the co-operation of the persons listed in subsection (1) in preventing crime on the railways.

(3) Before making or reviewing arrangements under this section the Authority shall—
(a) consult the Chief Constable, and
(b) have regard to any guidance issued by the Secretary of State.

(4) The Secretary of State may—
(a) issue guidance about arrangements under this section;
(b) require the Authority to report to him on arrangements under this section;
(c) require the Authority to review arrangements under this section.

Textual Amendments

F6 S. 62(1)(j) 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.

F7 S. 62(1)(m)(n) repealed (1.4.2006) 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. 2006/266, art. 2(2), Sch.; S.I. 2006/266, art. 2(2), Sch.

Commencement Information

I64 S. 62 in force at 1.7.2004 by S.I. 2004/1572, **art. 3(ss)**

Inspection

63 Inspection

(1) Her Majesty's Inspectors of Constabulary shall inspect the Police Force from time to time.

(2) Her Majesty's Inspectors of Constabulary shall also inspect the Police Force if requested by the Secretary of State to inspect the force—
(a) generally, or
(b) in respect of a particular matter.

(3) Following an inspection the inspectors shall report to the Secretary of State on the efficiency and effectiveness of the force—
(a) generally, or

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(b) in the case of an inspection under subsection (2)(b), in respect of the matters to which the inspection related.

(4) A report under subsection (3) must be in such form as the Secretary of State may direct.

(5) Where the Secretary of State receives a report under subsection (3) he shall publish it.

(6) Section 55 of the Police Act 1996 (c. 16) (inspection reports: publication and comment) shall have effect, with any necessary modifications, in relation to a report of an inspection under this section.

(7) The Authority shall pay to the Secretary of State such amounts as the Secretary of State may specify in respect of an inspection carried out under this section.

(8) In the application of this section in relation to Scotland—

(a) a reference to Her Majesty's Inspectors of Constabulary shall be treated as a reference to inspectors of constabulary appointed under section 33(1) of the Police (Scotland) Act 1967 (c. 77), and

(b) where an inspection under this section is carried out by inspectors so appointed the references to the Secretary of State in subsection (7) shall be treated as references to the Scottish Ministers.

Commencement Information

I65 S. 63 in force at 1.7.2004 by S.I. 2004/1572, **art. 3(tt)**

64 Action after adverse inspection report

(1) Sections 65 and 66 apply where a report of Her Majesty's Inspectors of Constabulary states that the Police Force is inefficient or ineffective—

(a) generally, or

(b) in a specified respect.

(2) Sections 65 and 66 also apply where a report of Her Majesty's Inspectors of Constabulary states that the Police Force is likely, unless remedial measures are taken, to become inefficient or ineffective—

(a) generally, or

(b) in a specified respect.

(3) In the application of this section in relation to Scotland a reference to Her Majesty's Inspectors of Constabulary shall be treated as a reference to inspectors of constabulary appointed under section 33(1) of the Police (Scotland) Act 1967.

Commencement Information

I66 S. 64 in force at 1.7.2004 by S.I. 2004/1572, **art. 3(uu)**

65 Remedial direction

(1) Where this section applies as a result of a report the Secretary of State may by direction require the Authority to take specified measures for the purpose of remedying a deficiency identified in the report.

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(2) Before giving a direction under this section the Secretary of State shall—
- (a) notify the Authority and the Chief Constable of his intention to give a direction and the reasons for it,
- (b) give the Chief Constable an opportunity to make representations,
- (c) give the Authority an opportunity to make representations, and
- (d) give the Authority an opportunity to propose action that would make it unnecessary for the Secretary of State to give a direction.

(3) Where the Secretary of State gives a direction under this section he shall lay before Parliament—
- (a) a copy of the direction, and
- (b) a report about it.

Commencement Information
I67 S. 65 in force at 1.7.2004 by S.I. 2004/1572, **art. 3(vv)**

66 Action plan

(1) Where this section applies as a result of a report, the Secretary of State may by direction require the Authority to submit to him a plan of action to be taken to remedy a deficiency identified in the report.

(2) A direction under this section may require a plan to include, in particular—
- (a) performance targets;
- (b) a timetable;
- (c) proposals for assessment of achievement;
- (d) proposals for reporting to the Secretary of State about progress.

(3) A direction under this section must specify a period of between four and twelve weeks within which the plan must be submitted.

(4) Before giving a direction under this section the Secretary of State shall—
- (a) notify the Authority and the Chief Constable of his intention to give a direction and the reasons for it,
- (b) give the Chief Constable an opportunity to make representations,
- (c) give the Authority an opportunity to make representations, and
- (d) give the Authority an opportunity to propose action that would make it unnecessary for the Secretary of State to give a direction.

(5) Where the Secretary of State gives a direction under this section he shall notify the Chief Constable.

(6) As soon as is reasonably practicable after receiving a direction under this section the Authority shall require the Chief Constable to submit a draft plan of action.

(7) Before submitting to the Secretary of State a plan which differs from the Chief Constable's draft the Authority shall consult him.

(8) Where the Secretary of State gives a direction under this section he shall lay before Parliament—

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(a) a copy of the direction, and
(b) a report about it.

(9) If the Secretary of State thinks that a plan of action submitted by the Authority under this section is inadequate, he may—
(a) inform the Authority of his opinion and the reasons for it, and
(b) give a new direction under this section.

Commencement Information
I68 S. 66 in force at 1.7.2004 by S.I. 2004/1572, **art. 3(vvw)**

67 Senior appointment: delegation of function

The Secretary of State may delegate to the chief inspector of constabulary appointed under section 54 of the Police Act 1996 (c. 16) or section 33 of the Police (Scotland) Act 1967 (c. 77) the function of—
(a) approving an appointment under or by virtue of a provision of this Part, or
(b) giving consent under section 22(4) or 23(4).

Commencement Information
I69 S. 67 in force at 1.7.2004 by S.I. 2004/1572, **art. 3(xx)**

Miscellaneous

68 Offences

(1) Subsections (1) and (2) of section 89 of the Police Act 1996 (c. 16) (assault on constable, &c.) shall apply in relation to a constable of the Police Force as they apply in relation to other constables in England and Wales.

(2) Section 90 of that Act (impersonation of constable) shall apply as if—
(a) a reference to a member of a police force included a reference to a constable of the Police Force, and
(b) a reference to a special constable appointed for a police area included a reference to a special constable of the Police Force.

(3) In their application in relation to the Police Force by virtue of this section, sections 89 and 90 of that Act shall have effect throughout England and Wales and Scotland.

Commencement Information
I70 S. 68 in force at 1.7.2004 by S.I. 2004/1572, **art. 3(yy)**

69 Part III of the Road Traffic Offenders Act 1988 (c. 53)

(1) Part III of Road Traffic Offenders Act 1988 (fixed penalties) shall be amended as follows.

Status: *Point in time view as at 01/04/2008. This version of this Act contains provisions that are prospective.*
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(2) In section 75 (conditional offers in Scotland) after subsection (3) insert—

"(3A) Where a constable is a constable of the British Transport Police Force subsection (3) shall have effect as if the reference to the chief constable were a reference to the chief constable of that force."

(3) In section 76(2)(b) (limitation on proceedings) after "constable" insert " or, as the case may be, the chief constable of the British Transport Police Force ".

Commencement Information
I71 S. 69 in force at 1.7.2004 by S.I. 2004/1572, **art. 3(zz)**

70 International assistance

(1) The Authority may provide advice or assistance, or arrange for the Police Force to provide advice or assistance, to a body which has responsibilities in relation to the policing of a railway outside Great Britain.

(2) Advice or assistance under subsection (1)—
- (a) may, in particular, involve the secondment of an employee,
- (b) may be provided on terms or conditions (whether as to payment or otherwise), and
- (c) may not involve the provision of financial assistance (whether or not by way of investment).

(3) The power under subsection (1) may be exercised only with the consent of the Secretary of State (which may be general or specific and conditional or unconditional).

Commencement Information
I72 S. 70 in force at 1.7.2004 by S.I. 2004/1572, **art. 3(aaa)**

71 Exercise of functions by Secretary of State

The Secretary of State shall exercise his functions in relation to the Authority under this Part for the purpose of promoting the efficiency and effectiveness of the Police Force.

Commencement Information
I73 S. 71 in force at 1.7.2004 by S.I. 2004/1572, **art. 3(bbb)**

General

72 Crown application

This Part applies in relation to property irrespective of whether it belongs to or is used for the purposes of the Crown or a Duchy.

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Commencement Information

I74 S. 72 in force at 1.7.2004 by S.I. 2004/1572, **art. 3(ccc)**

73 Consequential, transitional and incidental provision

(1) Schedule 5 (amendments consequential on this Part) shall have effect.

(2) The Secretary of State may by order make consequential, transitional or incidental provision, or savings, for the purpose of or in connection with a provision of this Part.

(3) Transitional provision under subsection (2) may, in particular, make provision in connection with the abolition of the police force comprising constables appointed under section 53 of the British Transport Commission Act 1949 (c. xxix) ("the old transport police"); and that provision may include, in particular, provision—

[F8](a) . . . . . .

(b) for the transfer to the Authority of property held [F9]... for the purpose of or in connection with the old transport police;

(c) for the transfer to the Authority of rights and liabilities arising in connection with the old transport police;

(d) for employment to be treated as continuous in the case of staff transferred;

(e) for or in relation to the continuity (with or without modifications) of a scheme in respect of pensions, which may include a scheme having effect under an instrument;

(f) for provision under paragraph (c) or (e) to be treated as having a specified effect for the purposes of an enactment about pension schemes;

(g) for a pension scheme to have effect with specified modifications (which may include the conferring of a discretionary function on the Secretary of State) for the purpose of ensuring or enhancing consistency of treatment in relation to—

(i) different classes of employee of the Authority, or

(ii) schemes appertaining to different classes of employee of the Authority;

(h) treating persons appointed to the old transport police as having been appointed under this Part;

(i) for dealing with—

(i) the termination of agreements made in respect of the old transport police;

(ii) the treatment of rights and liabilities under agreements made in respect of the old transport police by persons who enter into police services agreements with the Authority (whether or not they are required to do so);

(j) for the assignment or transfer (under paragraphs (a) to (c)) of property, rights or liabilities that would not otherwise be capable of being assigned or transferred;

(k) about the continuity of legal proceedings;

(l) to have effect in place of the provision relating to bankruptcy restrictions orders while the enactment conferring power to make those orders has not come into force;

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(m) in respect of the period (if any) between the coming into force of section 18 and the beginning of the first financial year of the Authority.

(4) An order under subsection (2) may amend an enactment or instrument.

Textual Amendments

F8 S. 73(3)(a) 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.

F9 Words in s. 73(3)(b) 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

I75 S. 73 in force at 1.7.2004 by S.I. 2004/1572, **art. 3(ddd)**

74 Regulations and orders

(1) An order or regulations under this Part—

(a) may make provision which applies generally or only in specified cases or circumstances,

(b) may make different provision for different cases or circumstances, and

(c) may make transitional, consequential or incidental provision.

(2) An order or regulations made by the Secretary of State under this Part shall be made by statutory instrument.

(3) The following shall not be made unless a draft has been laid before and approved by resolution of each House of Parliament—

(a) an order under section 73(2) which amends an enactment or instrument,

(b) an order under section 73(2) which is made by virtue of section 73(3), and

(c) an order under paragraph 24(2) of Schedule 4.

(4) Any other order or regulations made by the Secretary of State under this Part shall be subject to annulment in pursuance of a resolution of either House of Parliament.

Commencement Information

I76 S. 74 in force at 19.6.2004 by S.I. 2004/1572, **art. 2(b)**

75 Interpretation

(1) For the purposes of this Part (including, except where the context requires otherwise, subsections (2) to (5) below) "railway" means—

(a) a railway within the meaning given by section 67(1) of the Transport and Works Act 1992 (c. 42) (interpretation), and

(b) a tramway within the meaning given by that section.

(2) For the purposes of this Part "railway services" means the management or control, or participation in the management or control, of all or any part or aspect of a railway or railway property.

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(3) For the purposes of this Part "railway property" means—
- (a) a track,
- (b) a network,
- (c) a station,
- (d) a light maintenance depot,
- (e) a railway vehicle on a network or tramway,
- (f) rolling stock on a network or tramway,
- (g) a train used on a network, and
- (h) a vehicle used on a tramway.

(4) For the purposes of this Part (including subsections (1)(b) and (3) above) "tramway" has the meaning given by section 67(1) of the Transport and Works Act 1992 (c. 42).

(5) For the purposes of this Part the following expressions have the meaning given by section 82 or 83 of the Railways Act 1993 (c. 43) (interpretation) (or, where appropriate, an equivalent meaning in relation to a tramway)—
- (a) light maintenance depot,
- (b) network,
- (c) railway vehicle,
- (d) rolling stock,
- (e) station,
- (f) track, and
- (g) train.

(6) In this Part unless the context requires otherwise a reference to a constable of the Police Force includes a reference to a constable of any rank.

(7) In this Part a reference to the National Policing Plan is a reference to the plan provided for in section 36A of the Police Act 1996 (c. 16).

(8) This section is subject to section 77(2).

Commencement Information

I77 S. 75 in force at 1.7.2004 by S.I. 2004/1572, **art. 3(eee)**

76 Index of defined expressions

The following expressions are defined for the purposes of this Part by the provisions specified.

Expression	*Provision*
The Authority	Section 18
British Transport Police Federation	Section 39
The Chief Constable	Section 21
Constable	Sections 25(6) and 75
Light maintenance depot	Section 75

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National Policing Plan	Section 75
Network	Section 75
Police services agreement	Section 33
The Police Force	Section 20
Railway	Section 75
Railway property	Section 75
Railway services	Section 75
Railway vehicle	Section 75
Rolling stock	Section 75
Station	Section 75
Track	Section 75
Train	Section 75
Tramway	Section 75

Commencement Information
I78 S. 76 in force at 1.7.2004 by S.I. 2004/1572, **art. 3(fff)**

77 Extent

(1) This Part shall extend only to—
(a) England and Wales, and
(b) Scotland.

(2) In the application of this Part in relation to Scotland any reference to a tramway shall be disregarded.

(3) The powers exercisable by virtue of section 28 shall not be exercisable in relation to Scotland.

Commencement Information
I79 S. 77 in force at 1.7.2004 by S.I. 2004/1572, **art. 3(ggg)**

PART 4

SHIPPING: ALCOHOL AND DRUGS

Offences

78 Professional staff on duty

(1) This section applies to—

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(a) a professional master of a ship,
(b) a professional pilot of a ship, and
(c) a professional seaman in a ship while on duty.

(2) A person to whom this section applies commits an offence if his ability to carry out his duties is impaired because of drink or drugs.

(3) A person to whom this section applies commits an offence if the proportion of alcohol in his breath, blood or urine exceeds the prescribed limit.

(4) For the purposes of this section a master, pilot or seaman is professional if (and only if) he acts as master, pilot or seaman in the course of a business or employment.

(5) Where a person is charged with an offence under this section in respect of the effect of a drug on his ability to carry out duties on a fishing vessel, it is a defence for him to show that—
(a) he took the drug for a medicinal purpose on, and in accordance with, medical advice, or
(b) he took the drug for a medicinal purpose and had no reason to believe that it would impair his ability to carry out his duties.

Commencement Information
I80 S. 78 in force at 30.3.2004 by S.I. 2004/827, **art. 3(a)**

79 Professional staff off duty

(1) This section applies to a professional seaman in a ship at a time when—
(a) he is not on duty, but
(b) in the event of an emergency he would or might be required by the nature or terms of his engagement or employment to take action to protect the safety of passengers.

(2) A person to whom this section applies commits an offence if his ability to take the action mentioned in subsection (1)(b) is impaired because of drink or drugs.

(3) A person to whom this section applies commits an offence if the proportion of alcohol in his breath, blood or urine exceeds the prescribed limit.

(4) For the purposes of this section a seaman is professional if (and only if) he acts as seaman in the course of a business or employment.

(5) Where a person is charged with an offence under this section in respect of the effect of a drug on his ability to take action it is a defence for him to show that—
(a) he took the drug for a medicinal purpose on, and in accordance with, medical advice, or
(b) he took the drug for a medicinal purpose and had no reason to believe that it would impair his ability to take the action.

Commencement Information
I81 S. 79 in force at 30.3.2004 by S.I. 2004/827, **art. 3(b)**

Status: *Point in time view as at 01/04/2008. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Railways and Transport Safety Act 2003 is up to date with all changes known to be in force on or before 15 July 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)*

80 Non-professionals

(1) This section applies to a person who—
- (a) is on board a ship which is under way,
- (b) is exercising, or purporting or attempting to exercise, a function in connection with the navigation of the ship, and
- (c) is not a person to whom section 78 or 79 applies.

(2) A person to whom this section applies commits an offence if his ability to exercise the function mentioned in subsection (1)(b) is impaired because of drink or drugs.

(3) A person to whom this section applies commits an offence if the proportion of alcohol in his breath, blood or urine exceeds the prescribed limit.

(4) The Secretary of State may make regulations providing for subsection (3) not to apply in specified circumstances.

(5) Regulations under subsection (4) may make provision by reference, in particular—
- (a) to the power of a motor;
- (b) to the size of a ship;
- (c) to location.

Commencement Information
I82 S. 80(4)(5) in force at 30.3.2004 by S.I. 2004/827, **art. 3(c)**

81 Prescribed limit

(1) The prescribed limit of alcohol for the purposes of this Part is—
- (a) in the case of breath, 35 microgrammes of alcohol in 100 millilitres,
- (b) in the case of blood, 80 milligrammes of alcohol in 100 millilitres, and
- (c) in the case of urine, 107 milligrammes of alcohol in 100 millilitres.

(2) The Secretary of State may make regulations amending subsection (1).

Commencement Information
I83 S. 81 in force at 30.3.2004 by S.I. 2004/827, **art. 3(d)**

Enforcement

82 Penalty

A person guilty of an offence under this Part shall be liable—
- (a) on conviction on indictment, to imprisonment for a term not exceeding two years, to a fine or to both, or
- (b) on summary conviction, to a fine not exceeding the statutory maximum.

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Commencement Information

I84 S. 82 in force at 30.3.2004 by S.I. 2004/827, **art. 3(e)**

83 Specimens, &c.

(1) The provisions specified in the first column of the table below, with the modifications specified in the third column and any other necessary modifications, shall have effect in relation to an offence under this Part.

Provision	***Description***	***Modification***
***Road Traffic Act* 1988 (c. 52)**		
Section 6	Power to administer preliminary tests	In place of subsections (2) to (5) the power to require a person to co-operate with a preliminary test shall apply where— (a) a constable in uniform reasonably suspects that the person is committing an offence under section 78, 79 or 80, (b) a constable in uniform reasonably suspects that the person has committed an offence under section 78, 79 or 80 and still has alcohol or a drug in his body or is still under the influence of a drug, or (c) an accident occurs owing to the presence of a ship in a public place and a constable reasonably suspects that the person was at the time of the accident a person to whom section 78, 79 or 80 applied.
Sections 6A to 6E	Preliminary breath test, impairment test, and drug test	In place of sections 6A(2) and (3), 6B(4) and 6C(2), a preliminary breath test, preliminary impairment

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		test or preliminary drug test may be administered by a constable— (a) at or near the place where the requirement to co-operate with the test is imposed, or (b) at a police station specified by the constable. In section 6B(3) a reference to unfitness to drive shall be treated as a reference to having an impaired ability, because of drink or drugs, to do anything specified in section 78(2), 79(2) or 80(2).
Section 7	Provision of specimen	In subsection (1) the reference to an offence under section 3A, 4 or 5 of the 1988 Act shall be treated as a reference to an offence under section 78, 79 or 80 of this Act. In subsection (3)(c) the reference to an offence under section 3A or 4 of the 1988 Act shall be treated as a reference to an offence under section 78(2), 79(2) or 80(2) of this Act.
Section 7A	Specimen of blood taken from person incapable of consenting	
Section 8	Choice of specimen of breath	
Section 9	Protection for hospital patient	
Section 10	Detention of person affected by alcohol or drug	In subsection (1)— (a) the reference to driving or attempting to drive a mechanically propelled vehicle on a road shall be treated as a reference to

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		exercising a function in connection with the navigation of a ship, and (b) the reference to an offence under section 4 or 5 of the 1988 Act shall be treated as a reference to an offence under section 78, 79 or 80 of this Act. In subsection (2) the reference to driving a mechanically propelled vehicle shall be treated as a reference to exercising a function in connection with the navigation of a ship. In subsection (3) the reference to driving properly shall be treated as a reference to exercising a function in connection with the navigation of a ship.
Section 11	Interpretation	For the definition of "the prescribed limit" there shall be substituted the definition given in this Part.
***Road Traffic Offenders Act* 1988 (c. 53)**		
Section 15	Use of specimens	In subsection (1), the reference to an offence under section 3A, 4 or 5 of the Road Traffic Act 1988 shall be treated as a reference to an offence under section 78, 79 or 80 of this Act. The relevant time for the consumption of alcohol for the purpose of subsection (3)(a) shall be before providing the specimen and after the time of the alleged offence. In subsection (3)(b) the reference to driving shall be treated as a reference

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		to exercising a function in connection with the navigation of a ship.

(2) The Secretary of State may by regulations amend the table in subsection (1) so as—
- (a) to add a provision relating to an offence which concerns alcohol or drugs in relation to road traffic;
- (b) to add, remove or amend a modification (whether or not in connection with an amendment of a provision specified in the table).

(3) For the purpose of the application by subsection (1) of a provision listed in the table in that subsection—
- (a) the provision shall extend to the whole of the United Kingdom, and
- (b) a reference to the provision shall be treated, unless the context otherwise requires, as including a reference to the provision as applied.

Commencement Information

I85 S. 83 in force at 29.3.2004 for specified purposes by S.I. 2004/827, **art. 2(a)**

I86 S. 83 in force at 30.3.2004 in so far as not already in force by S.I. 2004/827, **art. 3(f)**

84 Detention pending arrival of police

(1) A marine official may detain a ship if he reasonably suspects that a person who is or may be on board the ship—
- (a) is committing an offence under section 78, 79 or 80, or
- (b) has committed an offence under section 78, 79 or 80.

(2) The power of detention under subsection (1)—
- (a) is conditional upon the marine official making a request, either before the detention or as soon as possible after its commencement, for a constable in uniform to attend, and
- (b) lapses when a constable in uniform has decided whether or not to exercise a power by virtue of section 83 and has informed the marine official of his decision.

(3) In this section “marine official” means—
- (a) a harbour master, or an assistant of a harbour master, appointed by a harbour authority,
- (b) a person listed in section 284(1)(a) to (d) of the Merchant Shipping Act 1995 (c. 21)(detention of ship), and
- (c) a person falling within a class designated by order of the Secretary of State.

(4) In construing section 284(1)(b) of the Merchant Shipping Act 1995 (detention by person authorised by Secretary of State) for the purpose of subsection (3)(b) above, the reference to authorisation to exercise powers under that section shall be taken as a reference—
- (a) to general authorisation to exercise powers under that section, and
- (b) to general or particular authorisation to exercise powers under this section.

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Commencement Information
I87 S. 84 in force at 30.3.2004 by S.I. 2004/827, **art. 3(g)**

85 Arrest without warrant

(1) A constable may arrest a person without a warrant if the constable reasonably suspects that the person—
  (a) is committing an offence under section 78(2), 79(2) or 80(2), or
  (b) has committed one of those offences and is still under the influence of drink or drugs.

(2) But a person may not be arrested under this section while he is at a hospital as a patient.

(3) In subsection (2) "hospital" means an institution which—
  (a) provides medical or surgical treatment for in-patients or out-patients, and
  (b) is not on a ship.

(4) Arrest under this section shall be treated as arrest for an offence for the purposes of—
  (a) Part IV of the Police and Criminal Evidence Act 1984 (c. 60) (detention), and
  (b) Part V of the Police and Criminal Evidence (Northern Ireland) Order 1989 (S.I. 1989/1341 (N.I. 12)) (detention).

Commencement Information
I88 S. 85 in force at 30.3.2004 by S.I. 2004/827, **art. 3(h)**

86 Right of entry

(1) A constable in uniform may board a ship if he reasonably suspects that he may wish to exercise a power by virtue of section 83 or under section 85 in respect of a person who is or may be on the ship.

(2) A constable in uniform may enter any place if he reasonably suspects that he may wish to exercise a power by virtue of section 83 or under section 85 in respect of a person who is or may be in that place.

(3) For the purposes of boarding a ship or entering a place under this section a constable—
  (a) may use reasonable force;
  (b) may be accompanied by one or more persons.

Commencement Information
I89 S. 86 in force at 30.3.2004 by S.I. 2004/827, **art. 3(i)**

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General

87 Consequential repeal

Section 117 of the Merchant Shipping Act 1995 (c. 21) (drunkenness on duty) shall cease to have effect.

Commencement Information
I90 S. 87 in force at 30.3.2004 by S.I. 2004/827, **art. 3(j)**

88 Orders and regulations

(1) An order or regulations under this Part may—
- (a) make transitional, supplemental and incidental provision;
- (b) make provision generally or for specified purposes only;
- (c) make different provision for different purposes.

(2) The power under section 84(3)(c) for the Secretary of State to designate a class of person includes a power for him to designate—
- (a) himself, or
- (b) one or more persons employed in his Department.

(3) An order or regulations under this Part shall be made by statutory instrument.

(4) Regulations under this Part shall not be made unless a draft has been laid before and approved by resolution of each House of Parliament.

(5) An order under section 84(3)(c) shall be subject to annulment in pursuance of a resolution of either House of Parliament.

(6) Before making regulations under section 81(2) the Secretary of State shall consult such organisations as he thinks fit.

Commencement Information
I91 S. 88 in force at 30.3.2004 by S.I. 2004/827, **art. 3(k)**

89 Interpretation

(1) In this Part—
- (a) "ship" includes every description of vessel used in navigation, and
- (b) a reference to the navigation of a vessel includes a reference to the control or direction, or participation in the control or direction, of the course of a vessel.

(2) Section 313 of the Merchant Shipping Act 1995 (c. 21) (interpretation) shall apply to the following expressions used in this Part—
- (a) fishing vessel,
- (b) foreign ship,
- (c) harbour authority,
- (d) master,

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(e) registered,
(f) seaman,
(g) United Kingdom ship, and
(h) United Kingdom waters.

(3) In this Part "pilot" has the meaning given by section 31(1) of the Pilotage Act 1987 (c. 21) (interpretation).

(4) Regulations under section 267(4)(a) of the Merchant Shipping Act 1995 (power to define "accident" for the purposes of provisions about marine accident investigations) shall, so far as is practicable, apply to the word "accident" as used in relation to this Part.

(5) In this Part "drug" includes any intoxicant other than alcohol.

Commencement Information
I92 S. 89 in force at 30.3.2004 by S.I. 2004/827, **art. 3(l)**

90 Crown application, &c.

(1) This Part shall not apply to a member of Her Majesty's naval forces, military forces or air forces, within the meaning given by section 225(1) of the Army Act 1955 (c. 18), while acting in the course of his duties.

(2) Subject to subsection (1), this Part shall apply to a person in the service of the Crown.

(3) But section 84 shall not have effect in relation to a ship which—
(a) is being used for a purpose of Her Majesty's forces, or
(b) forms part of the Royal Fleet Auxiliary Service.

(4) This Part shall not apply to—
(a) a member of a visiting force, within the meaning which that expression has in section 3 of the Visiting Forces Act 1952 (c. 67) by virtue of section 12(1) of that Act, while acting in the course of his duties, or
(b) a member of a civilian component of a visiting force, within that meaning, while acting in the course of his duties.

Commencement Information
I93 S. 90 in force at 30.3.2004 by S.I. 2004/827, **art. 3(m)**

91 Territorial application

(1) This Part shall have effect in relation to—
(a) United Kingdom ships,
(b) foreign ships in United Kingdom waters, and
(c) un-registered ships in United Kingdom waters.

(2) Section 86 shall not extend to Scotland.

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(3) Subsection (2) does not affect any rule of law or enactment concerning the right of a constable in Scotland to board a ship or enter any place for any purpose.

Commencement Information
I94 S. 91 in force at 30.3.2004 by S.I. 2004/827, **art. 3(n)**

PART 5

AVIATION: ALCOHOL AND DRUGS

Offences

92 Being unfit for duty

(1) A person commits an offence if—
- (a) he performs an aviation function at a time when his ability to perform the function is impaired because of drink or drugs, or
- (b) he carries out an activity which is ancillary to an aviation function at a time when his ability to perform the function is impaired because of drink or drugs.

(2) In this section "drug" includes any intoxicant other than alcohol.

(3) Section 94 defines "aviation function" and "ancillary activity" for the purposes of this Part.

Commencement Information
I95 S. 92 in force at 30.3.2004 by S.I. 2004/827, **art. 3(o)**

93 Prescribed limit

(1) A person commits an offence if—
- (a) he performs an aviation function at a time when the proportion of alcohol in his breath, blood or urine exceeds the prescribed limit, or
- (b) he carries out an activity which is ancillary to an aviation function at a time when the proportion of alcohol in his breath, blood or urine exceeds the prescribed limit.

(2) The prescribed limit of alcohol is (subject to subsection (3))—
- (a) in the case of breath, 9 microgrammes of alcohol in 100 millilitres,
- (b) in the case of blood, 20 milligrammes of alcohol in 100 millilitres, and
- (c) in the case of urine, 27 milligrammes of alcohol in 100 millilitres.

(3) In relation to the aviation function specified in section 94(1)(h) the prescribed limit is—
- (a) in the case of breath, 35 microgrammes of alcohol in 100 millilitres,
- (b) in the case of blood, 80 milligrammes of alcohol in 100 millilitres, and

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(c) in the case of urine, 107 milligrammes of alcohol in 100 millilitres.

(4) The Secretary of State may make regulations amending subsection (2) or (3).

(5) Section 94 defines "aviation function" and "ancillary activity" for the purposes of this Part.

Commencement Information

I96 S. 93 in force at 30.3.2004 by S.I. 2004/827, **art. 3(p)**

94 Aviation functions

(1) For the purposes of this Part the following (and only the following) are aviation functions—

(a) acting as a pilot of an aircraft during flight,

(b) acting as flight navigator of an aircraft during flight,

(c) acting as flight engineer of an aircraft during flight,

(d) acting as flight radio-telephony operator of an aircraft during flight,

(e) acting as a member of the cabin crew of an aircraft during flight,

(f) attending the flight deck of an aircraft during flight to give or supervise training, to administer a test, to observe a period of practice or to monitor or record the gaining of experience,

(g) acting as an air traffic controller in pursuance of a licence granted under or by virtue of an enactment (other than a licence granted to a student), and

(h) acting as a licensed aircraft maintenance engineer.

(2) For the purposes of subsection (1)(h) a person acts as a licensed aircraft maintenance engineer if—

(a) he issues a document relating to the maintenance, condition or use of an aircraft or equipment in reliance on a licence granted under or by virtue of an enactment relating to aviation, or

(b) he carries out or supervises work on an aircraft or equipment with a view to, or in connection with, the issue by him of a document of the kind specified in paragraph (a).

(3) For the purposes of this Part a reference to an activity which is ancillary to an aviation function is a reference to anything which falls to be treated as such by virtue of subsections (4) to (6).

(4) An activity shall be treated as ancillary to an aviation function if it is undertaken—

(a) by a person who has reported for a period of duty in respect of the function, and

(b) as a requirement of, for the purpose of or in connection with the performance of the function during that period of duty.

(5) A person who in accordance with the terms of an employment or undertaking holds himself ready to perform an aviation function if called upon shall be treated as carrying out an activity ancillary to the function.

(6) Where a person sets out to perform an aviation function, anything which he does by way of preparing to perform the function shall be treated as an activity ancillary to it.

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(7) For the purposes of this Part it is immaterial whether a person performs a function or carries out an activity in the course of an employment or trade or otherwise.

(8) The Secretary of State may by regulations—
- (a) amend this section;
- (b) make an amendment of this Part which is consequential on an amendment under paragraph (a).

Commencement Information
I97 S. 94 in force at 30.3.2004 by S.I. 2004/827, **art. 3(q)**

Enforcement

95 Penalty

A person guilty of an offence under this Part shall be liable—
- (a) on conviction on indictment, to imprisonment for a term not exceeding two years, to a fine or to both, or
- (b) on summary conviction, to a fine not exceeding the statutory maximum.

Commencement Information
I98 S. 95 in force at 30.3.2004 by S.I. 2004/827, **art. 3(r)**

96 Specimens, &c.

(1) The provisions specified in the first column of the table below, with the modifications specified in the third column and any other necessary modifications, shall have effect in relation to an offence under this Part.

Provision	***Description***	***Modification***
***Road Traffic Act* 1988 (c. 52)**		
Section 6	Power to administer preliminary tests	In place of subsections (2) to (5) the power to require a person to co-operate with a preliminary test shall apply where— (a) a constable in uniform reasonably suspects that the person is committing an offence under section 92 or 93, (b) a constable in uniform reasonably suspects that the person has

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		committed an offence under section 92 or 93 and still has alcohol or a drug in his body or is still under the influence of a drug, (c) an aircraft is involved in an accident and a constable reasonably suspects that the person was undertaking an aviation function, or an activity ancillary to an aviation function, in relation to the aircraft at the time of the accident, or (d) an aircraft is involved in an accident and a constable reasonably suspects that the person has undertaken an aviation function, or an activity ancillary to an aviation function, in relation to the aircraft.
Sections 6A to 6E	Preliminary breath test, impairment test, and drug test	In place of sections 6A(2) and (3), 6B(4) and 6C(2), a preliminary breath test, preliminary impairment test or preliminary drug test may be administered by a constable— (a) at or near the place where the requirement to co-operate with the test is imposed, or (b) at a police station specified by the constable. In section 6B(3) a reference to unfitness to drive shall be treated as a reference to having an

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		impaired ability, because of drink or drugs, to perform an aviation function or to carry out an activity which is ancillary to an aviation function.
Section 7	Provision of specimen	In subsection (1) the reference to an offence under section 3A, 4 or 5 of the 1988 Act shall be treated as a reference to an offence under section 92 or 93 of this Act. In subsection (3)(c) the reference to an offence under section 3A or 4 of the 1988 Act shall be treated as a reference to an offence under section 92 of this Act.
Section 7A	Specimen of blood taken from person incapable of consenting	
Section 8	Choice of specimen of breath	In subsection (2) the reference to 50 microgrammes of alcohol shall, except in relation to the aviation function specified in section 94(1)(h), be treated as a reference to 15 microgrammes of alcohol.
Section 9	Protection for hospital patient	
Section 10	Detention of person affected by alcohol or drug	In subsection (1)— (a) the reference to driving or attempting to drive a mechanically propelled vehicle on a road shall be treated as a reference to performing an aviation function of the kind in respect of which the requirement to provide a specimen was imposed, and

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		(b) the reference to an offence under section 4 or 5 of the 1988 Act shall be treated as a reference to an offence under section 92 or 93 of this Act. In subsection (2) the reference to driving a mechanically propelled vehicle shall be treated as a reference to performing an aviation function. In subsection (3) the reference to driving properly shall be treated as a reference to performing an aviation function.
Section 11	Interpretation	For the definition of "the prescribed limit" there shall be substituted the definition given in this Part.
***Road Traffic Offenders Act* 1988 (c. 53)**		
Section 15	Use of specimens	In subsection (1), the reference to an offence under section 3A, 4 or 5 of the Road Traffic Act 1988 shall be treated as a reference to an offence under section 92 or 93 of this Act. The relevant time for the consumption of alcohol for the purpose of subsection (3)(a) shall be before providing the specimen and after the time of the alleged offence. In subsection (3)(b) the reference to driving shall be treated as a reference to undertaking an aviation function or an activity ancillary to an aviation function.
Section 16	Documentary evidence	

(2) The Secretary of State may by regulations amend the table in subsection (1) so as—

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(a) to add a provision relating to an offence which concerns alcohol or drugs in relation to road traffic;

(b) to add, remove or amend a modification (whether or not in connection with an amendment of a provision specified in the table).

(3) For the purpose of the application by subsection (1) of a provision listed in the table in that subsection—

(a) the provision shall extend to the whole of the United Kingdom, and

(b) a reference to the provision shall be treated, unless the context otherwise requires, as including a reference to the provision as applied.

Commencement Information

I99 S. 96 in force at 29.3.2004 for specified purposes by S.I. 2004/827, **art. 2(a)**

I100 S. 96 in force at 30.3.2004 in so far as not already in force by S.I. 2004/827, **art. 3(s)**

97 Arrest without warrant

(1) A constable may arrest a person without a warrant if the constable reasonably suspects that the person—

(a) is committing an offence under section 92, or

(b) has committed an offence under that section and is still under the influence of drink or drugs.

(2) But a person may not be arrested under this section while he is at a hospital as a patient.

(3) In subsection (2) "hospital" means an institution which provides medical or surgical treatment for in-patients or out-patients.

(4) Arrest under this section shall be treated as arrest for an offence for the purposes of—

(a) Part IV of the Police and Criminal Evidence Act 1984 (c. 60) (detention), and

(b) Part V of the Police and Criminal Evidence (Northern Ireland) Order 1989 (S.I. 1989/1341 (N.I. 12)) (detention).

Commencement Information

I101 S. 97 in force at 30.3.2004 by S.I. 2004/827, **art. 3(t)**

98 Right of entry

(1) A constable in uniform may board an aircraft if he reasonably suspects that he may wish to exercise a power by virtue of section 96 or under section 97 in respect of a person who is or may be on the aircraft.

(2) A constable in uniform may enter any place if he reasonably suspects that he may wish to exercise a power by virtue of section 96 or under section 97 in respect of a person who is or may be in that place.

(3) For the purposes of boarding an aircraft or entering a place under this section a constable—

(a) may use reasonable force;

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(b) may be accompanied by one or more persons.

Commencement Information
I102 S. 98 in force at 30.3.2004 by S.I. 2004/827, **art. 3(u)**

General

99 Regulations

(1) Regulations under this Part may—
(a) make transitional, supplemental and incidental provision;
(b) make provision generally or for a specified purpose only;
(c) make different provision for different purposes.

(2) Regulations under this Part—
(a) shall be made by statutory instrument, and
(b) may not be made unless a draft has been laid before and approved by resolution of each House of Parliament.

(3) Before making regulations under section 93 or 94 the Secretary of State shall consult such organisations as he thinks appropriate.

Commencement Information
I103 S. 99 in force at 30.3.2004 by S.I. 2004/827, **art. 3(v)**

100 Crown application

(1) This Part shall apply to a function or activity performed or carried out in relation to an aircraft which belongs to or is employed in the service of the Crown.

(2) This section is subject to section 101.

Commencement Information
I104 S. 100 in force at 30.3.2004 by S.I. 2004/827, **art. 3(w)**

101 Military application

(1) This Part shall not apply to a function or activity which is performed or carried out by a member of Her Majesty's air forces, military forces or naval forces, within the meaning given by section 225(1) of the Army Act 1955 (c. 18), acting in the course of his duties.

(2) This Part shall not apply to a function or activity which is performed or carried out by—

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(a) a member of a visiting force, within the meaning which that expression has in section 3 of the Visiting Forces Act 1952 (c. 67) by virtue of section 12(1) of that Act, acting in the course of his duties, or

(b) a member of a civilian component of a visiting force, within that meaning, acting in the course of his duties.

(3) This Part shall not apply to a function or activity which is performed or carried out by a military or civilian member of a headquarters, within the meaning given by paragraphs 1 and 2 of the Schedule to the International Headquarters and Defence Organisations Act 1964 (c. 5), acting in the course of his duties.

Commencement Information

I105 S. 101 in force at 30.3.2004 by S.I. 2004/827, **art. 3(x)**

102 Territorial application

(1) This Part applies in relation to—

(a) a function or activity performed or carried out in the United Kingdom, and

(b) a flight function performed or flight activity carried out on a United Kingdom aircraft.

(2) In subsection (1)—

"flight function" means a function falling within section 94(1)(a) to (f),

"flight activity" means an activity which for the purposes of this Part is ancillary to a flight function, and

"United Kingdom aircraft" means an aircraft which is registered, in accordance with an enactment about aircraft, in the United Kingdom.

(3) Her Majesty may by Order in Council direct that a provision of this Part shall apply (with or without modification)—

(a) to a function or activity performed or carried out in any of the Channel Islands or a British overseas territory;

(b) to a function performed or activity carried out on an aircraft which is registered, in accordance with an enactment about aircraft, in any of the Channel Islands or a British overseas territory.

(4) Section 98 shall not extend to Scotland.

(5) Subsection (4) does not affect any rule of law or enactment concerning the right of a constable in Scotland to board an aircraft or enter any place for any purpose.

Commencement Information

I106 S. 102 in force at 30.3.2004 by S.I. 2004/827, **art. 3(y)**

Status: *Point in time view as at 01/04/2008. This version of this Act contains provisions that are prospective.*
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PART 6

MISCELLANEOUS

103 Convention on International Carriage by Rail

(1) The Secretary of State may make regulations for the purpose of giving effect to the Convention concerning International Carriage by Rail signed at Berne on 9th May 1980 as set out in the Annex to the modifying Protocol signed at Vilnius on 3rd June 1999.

(2) Schedule 6 shall have effect (provision which may be made by regulations in connection with that Convention made under subsection (1) above or under section 2 of the European Communities Act 1972 (c. 68) (implementation of Community obligations)).

(3) Regulations made under or by virtue of this section shall bind the Crown except in so far as they provide to the contrary.

(4) Regulations made under this section shall be made by statutory instrument.

(5) Regulations made under or by virtue of this section may not be made unless a draft has been laid before and approved by resolution of each House of Parliament.

(6) This section extends to the whole of the United Kingdom.

Commencement Information

I107 S. 103 in force at 30.3.2004 by S.I. 2004/827, **art. 3(z)**

F10 104 Office of Rail Regulation: general duties

. . . . . .

Textual Amendments

F10 S. 104 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.

105 Railways safety levy

(1) The following shall be inserted after section 43 of the Health and Safety at Work etc. Act 1974 (c. 37) (financial provision)—

"**43A Railway safety levy**

(1) The Secretary of State may make regulations requiring persons who provide railway services to pay railway safety levy.

(2) Railway safety levy shall be applied only for the purpose of meeting expenses incurred—

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(a) in respect of activity undertaken by the Executive in reliance on section 117 of the Railways Act 1993 (safety of railways, &c.), or

(b) in respect of activity undertaken by the Executive, under or by virtue of any other enactment, in relation to a transport system to which that section applies.

(3) The railway safety levy shall not be used to meet—

(a) an expense in respect of which a fee is payable under regulations made under section 43, or

(b) an expense in respect of a matter specified by the regulations for the purpose of this paragraph.

(4) Where an expense is incurred partly in respect of activity within subsection (2)(a) or (b) and partly in respect of other activity, the railway safety levy may be used to meet a part of that expense which is reasonably referable to activity within subsection (2)(a) or (b).

(5) Regulations under subsection (1) may, in particular, determine or enable the Commission or the Executive to determine—

(a) the total amount of the railway safety levy to be imposed in respect of a specified period;

(b) the persons by whom the levy is to be paid;

(c) the criteria for assessing the proportion of the levy to be paid by a particular person (which may, in particular, refer to the size of a person's income or provide for an amount to be reduced or waived in specified circumstances);

(d) the periods in respect of which the levy is to be paid;

(e) the manner in which the levy is to be paid;

(f) the person to whom the levy is to be paid;

(g) when the levy is to be paid.

(6) Regulations under subsection (1) may, in particular, enable the Commission or the Executive—

(a) to require a person who provides railway services to supply information for the purposes of the consideration of a matter specified in subsection (5);

(b) where information requested is not supplied, to make assumptions;

(c) to revise a determination of a matter specified in subsection (5) (whether before, during or after the period to which it relates);

(d) to make refunds.

(7) Regulations by virtue of subsection (6)(a) may, in particular, make provision—

(a) about the manner and timing of the supply of information;

(b) about certification of the accuracy of information supplied;

(c) creating a criminal offence in connection with the supply of inaccurate or misleading information (but not an offence punishable with imprisonment).

(8) Regulations under subsection (1) may enable payment to be enforced by civil proceeding.

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(9) For the purposes of this section a person provides railway services if he manages or controls, or participates in managing or controlling, a transport system to which section 117 of the Railways Act 1993 applies."

(2) In section 28(1)(a) of that Act (restriction on disclosure of information) after "27A above" insert " , by virtue of section 43A(6) below ".

(3) In section 82 of that Act (general provisions)—

(a) in subsection (3)(b) after "which" insert " (unless subsection (4) applies) ", and

(b) after subsection (3) insert—

"(4) The first regulations under section 43A(1) shall not be made unless a draft has been laid before and approved by resolution of each House of Parliament."

106 Railway security services

The following shall be inserted after section 121 of the Railways Act 1993 (c. 43) (security: inspection)—

"**121A Railway security services: approved providers**

(1) In this section "railway security service" means a process or activity carried out for the purpose of—

(a) complying with a requirement of an instruction under section 119, or

(b) facilitating a person's compliance with a requirement of an instruction under section 119.

(2) Regulations may provide for the Secretary of State to maintain a list of persons who are approved by him for the provision of a particular railway security service.

(3) The regulations may—

(a) prohibit the provision of a railway security service by a person who is not listed in respect of that service;

(b) prohibit the use or engagement for the provision of a railway security service of a person who is not listed in respect of that service;

(c) create a criminal offence;

(d) make provision about application for inclusion in the list (including provision about fees);

(e) make provision about the duration and renewal of entries on the list (including provision about fees);

(f) make provision about training or qualifications which persons who apply to be listed or who are listed are required to undergo or possess;

(g) make provision about removal from the list which shall include provision for appeal;

(h) make provision about the inspection of activities carried out by listed persons;

(i) confer functions on the Secretary of State or on a specified person;

(j) confer jurisdiction on a court.

Status: *Point in time view as at 01/04/2008. This version of this Act contains provisions that are prospective.*
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(4) Regulations under subsection (3)(c)—

(a) may not provide for a penalty on summary conviction greater than a fine not exceeding the statutory maximum,

(b) may not provide for a penalty of imprisonment on conviction on indictment greater than imprisonment for a term not exceeding two years (whether or not accompanied by a fine), and

(c) may create a criminal offence of purporting, with intent to deceive, to do something as a listed person or of doing something, with intent to deceive, which purports to be done by a listed person.

(5) An instruction under section 119 may—

(a) include a requirement to use a listed person for the provision of a railway security service;

(b) provide for all or part of the instruction not to apply or to apply with modified effect where a listed person provides a railway security service.

(6) Regulations under this section—

(a) may make different provision for different cases,

(b) may include incidental, supplemental or transitional provision,

(c) shall be made by the Secretary of State by statutory instrument,

(d) shall not be made unless the Secretary of State has consulted organisations appearing to him to represent persons affected by the regulations, and

(e) shall be subject to annulment in pursuance of resolution of either House of Parliament."

Commencement Information

I108 S. 106 in force at 30.3.2004 by S.I. 2004/827, **art. 3(aa)**

107 Road traffic: testing for drink and drugs

Schedule 7 shall have effect.

Commencement Information

I109 S. 107 in force at 29.3.2004 for specified purposes by S.I. 2004/827, **art. 2(a)**

I110 S. 107 in force at 30.3.2004 in so far as not already in force by S.I. 2004/827, **art. 3(bb)**

PROSPECTIVE

108 Traffic regulation on long distance routes

The following shall be inserted after section 22A of the Road Traffic Regulation Act 1984 (c. 27) (traffic regulation for purpose of conserving natural beauty)—

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"**22B Traffic regulation on long distance routes**

(1) This section applies where the Secretary of State thinks that, because of the use of a long distance route by vehicular traffic, members of the public cannot safely and conveniently—

(a) enjoy the amenities of any part of the route or of the area through which the route runs;

(b) take advantage of opportunities for recreation in any part of that area;

(c) study nature in any part of that area.

(2) The Secretary of State may make an order preventing the use of the route or a specified part of the route—

(a) by vehicular traffic, or

(b) by vehicular traffic of a specified kind.

(3) An order under this section may have effect only in relation to a long distance route which is, or in so far as it is, in England.

(4) An order under this section shall be treated for all purposes as if it were a traffic regulation order made by the Secretary of State in relation to a road for which he is the traffic authority (and, in particular, any provision of this Act about the making or effect of such an order shall apply).".

109 Road traffic: fixed penalty

(1) In section 76(2)(a) of the Road Traffic Offenders Act 1988 (c. 53) (fixed penalty) the words "of police" shall cease to have effect.

(2) This section shall extend only to England and Wales.

Commencement Information

I111 S. 109 in force at 30.3.2004 by S.I. 2004/827, **art. 3(cc)**

110 Seat belts: delivery drivers

The following shall be substituted for section 14(2)(b)(i) of the Road Traffic Act 1988 (c. 52) (seat belts: exceptions: delivery drivers)—

"(i) the driver of or a passenger in a motor vehicle constructed or adapted for carrying goods, while on a journey which does not exceed the prescribed distance and which is undertaken for the purpose of delivering or collecting any thing,".

Commencement Information

I112 S. 110 in force at 1.3.2005 by S.I. 2004/2759, **art. 2(2)**

Status: *Point in time view as at 01/04/2008. This version of this Act contains provisions that are prospective.*
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111 Highways: snow and ice

After section 41(1) of the Highways Act 1980 (c. 66) (duty of highway authority to maintain highway) insert—

"(1A) In particular, a highway authority are under a duty to ensure, so far as is reasonably practicable, that safe passage along a highway is not endangered by snow or ice."

Commencement Information

I113 S. 111 in force at 31.10.2003 by S.I. 2003/2681, **art. 2(a)**

112 Shipping legislation: application to structures, craft, &c.

(1) The Secretary of State may by order—

(a) provide for a shipping provision to apply (with or without modification) in relation to specified things which are used, navigated or situated wholly or partly in or on water;

(b) provide for a shipping provision not to apply in relation to specified things which are used, navigated or situated wholly or partly in or on water;

(c) modify a shipping provision in its application in relation to specified things which are used, navigated or situated wholly or partly in or on water.

(2) In this section "shipping provision" means a provision which—

(a) is made by or by virtue of an Act (including this Act), and

(b) is expressed to apply in relation to ships, vessels or boats (or a specified class or description of ship, vessel or boat).

(3) An order under subsection (1) may, in particular, be made in respect of a provision which—

(a) confers power to legislate, or

(b) creates an offence.

(4) An order under subsection (1) shall have effect despite (and may amend) any provision which—

(a) forms part of or relates to the shipping provision concerned, and

(b) defines "ship", "vessel" or "boat" or in any other way limits or determines the application of the shipping provision concerned.

(5) An order under subsection (1) may—

(a) make different provision for different purposes;

(b) make provision for an individual case;

(c) make provision which applies only in specified circumstances;

(d) make transitional provision.

(6) An order under subsection (1)(a) or (c) may provide for the shipping provision not to apply, or to apply with specified modifications, where it would conflict with a specified provision or class of provision made by or by virtue of an enactment.

(7) An order under subsection (1)—

(a) shall be made by statutory instrument,

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(b) shall be subject to annulment in pursuance of a resolution of either House of Parliament, and

(c) shall not be made unless the Secretary of State has consulted with organisations in the United Kingdom which appear to him to be representative of persons who will be affected by the order.

(8) Section 311 of the Merchant Shipping Act 1995 (c. 21) (application of Act to structures, &c.) shall cease to have effect.

(9) This section extends to the whole of the United Kingdom.

113 Maritime security services

The following shall be inserted after section 36 of the Aviation and Maritime Security Act 1990 (c. 31) (security directions: inspection)—

"**36A Maritime security services: approved providers**

(1) In this section "maritime security service" means a process or activity carried out for the purpose of—

(a) complying with a requirement of a direction under any of sections 21 to 24, or

(b) facilitating a person's compliance with a requirement of a direction under any of those sections.

(2) Regulations may provide for the Secretary of State to maintain a list of persons who are approved by him for the provision of a particular maritime security service.

(3) The regulations may—

(a) prohibit the provision of a maritime security service by a person who is not listed in respect of that service;

(b) prohibit the use or engagement for the provision of a maritime security service of a person who is not listed in respect of that service;

(c) create a criminal offence;

(d) make provision about application for inclusion in the list (including provision about fees);

(e) make provision about the duration and renewal of entries on the list (including provision about fees);

(f) make provision about training or qualifications which persons who apply to be listed or who are listed are required to undergo or possess;

(g) make provision about removal from the list which shall include provision for appeal;

(h) make provision about the inspection of activities carried out by listed persons;

(i) confer functions on the Secretary of State or on a specified person;

(j) confer jurisdiction on a court.

(4) Regulations under subsection (3)(c)—

(a) may not provide for a penalty on summary conviction greater than a fine not exceeding the statutory maximum,

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(b) may not provide for a penalty of imprisonment on conviction on indictment greater than imprisonment for a term not exceeding two years (whether or not accompanied by a fine), and

(c) may create a criminal offence of purporting, with intent to deceive, to do something as a listed person or of doing something, with intent to deceive, which purports to be done by a listed person.

(5) A direction under any of sections 21 to 24 may—

(a) include a requirement to use a listed person for the provision of a maritime security service;

(b) provide for all or part of the direction not to apply or to apply with modified effect where a listed person provides a maritime security service.

(6) Regulations under this section—

(a) may make different provision for different cases,

(b) may include incidental, supplemental or transitional provision,

(c) shall be made by the Secretary of State by statutory instrument,

(d) shall not be made unless the Secretary of State has consulted organisations appearing to him to represent persons affected by the regulations, and

(e) shall be subject to annulment in pursuance of resolution of either House of Parliament.”

Commencement Information

I114 S. 113 in force at 30.3.2004 by S.I. 2004/827, **art. 3(dd)**

114 Railways in London: transfers

(1) A scheme under section 409(1) or (2) of the Greater London Authority Act 1999 (c. 29) (transfer schemes) which transfers property, rights or liabilities—

(a) from London Regional Transport or a subsidiary of London Regional Transport, and

(b) to Transport for London or a subsidiary of Transport for London,

may provide that section 412(3) of that Act (transfer not to trigger or breach contractual provision) shall not apply in relation to the transfer.

(2) A transfer scheme within the meaning of paragraph 1 of Schedule 12 to that Act (schemes made by Transport for London) which transfers property, rights or liabilities may provide that paragraph 2(3) of that Schedule (transfer not to trigger or breach contractual provision) shall not apply in relation to the transfer.

(3) Provision included in a scheme by virtue of subsection (1) or (2) may disapply section 412(3) of, or paragraph 2(3) of Schedule 12 to, that Act—

(a) generally,

(b) only in relation to a specified contract or instrument, or class of contract or instrument,

(c) only in relation to a specified right, class of right, provision or class of provision,

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(d) only in relation to a specified transfer, or
(e) by reference to a combination of matters mentioned in paragraphs (b) to (d).

(4) Paragraph 2(3) of Schedule 12 to that Act shall not apply in respect of the transfer of property, rights or liabilities which—
(a) have been transferred under a scheme which provided for section 412(3) not to apply in relation to the transfer in reliance on subsection (1) above, or
(b) arise out of property, rights or liabilities transferred as described in paragraph (a).

(5) Before the date on which London Underground Limited becomes a subsidiary of Transport for London—
(a) section 217 of that Act (transfer of key system assets) shall have effect as if—
(i) the reference to Transport for London in subsection (1) included a reference to London Regional Transport, and
(ii) the list of bodies in subsection (2) included London Underground Limited and any subsidiary,
(b) section 221 of that Act (Public-Private Partnership administration order) shall have effect as if a reference to the Mayor were a reference to London Regional Transport,
(c) section 222 of that Act (restriction on winding-up Public-Private Partnership company) shall have effect as if a reference to the Mayor were a reference to London Regional Transport, and
(d) Schedules 14 and 15 to that Act (Public-Private Partnership administration order) shall have effect (including in so far as they modify another enactment) as if a reference to the Mayor were a reference to London Regional Transport.

(6) Section 425(3) of that Act (restriction on commencement of sections 220 to 224) shall cease to have effect.

115 Railways in London: information

(1) The enactments listed in subsection (2) shall not prevent or restrict the provision of information to the Public-Private Partnership Agreement Arbiter appointed under section 225(1) of the Greater London Authority Act 1999 (c. 29).

(2) Those enactments are—
(a) section 133 of the Fair Trading Act 1973 (c. 41),
(b) section 174 of the Consumer Credit Act 1974 (c. 39),
(c) section 10 of the Estate Agents Act 1979 (c. 38),
(d) section 19 of the Competition Act 1980 (c. 21),
(e) section 101 of the Telecommunications Act 1984 (c. 12),
(f) section 74 of the Airports Act 1986 (c. 31),
(g) section 38 of the Consumer Protection Act 1987 (c. 43),
(h) section 206 of the Water Industry Act 1991 (c. 56),
(i) section 204 of the Water Resources Act 1991 (c. 57),
(j) section 145 of the Railways Act 1993 (c. 43),
(k) section 55 of the Competition Act 1998 (c. 41),
(l) section 105 of the Utilities Act 2000 (c. 27), and
(m) section 237 of the Enterprise Act 2002 (c. 40).

Status: *Point in time view as at 01/04/2008. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Railways and Transport Safety Act 2003 is up to date with all changes known to be in force on or before 15 July 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
I115 S. 115 in force at 31.10.2003 by S.I. 2003/2681, **art. 2(b)**

PART 7

GENERAL

116 Schedules 1 and 4: sequestration, &c. in Scotland

Where a person becomes, under paragraph 2(d) of Schedule 1, liable to dismissal or, under paragraph 7(4) of Schedule 4, ineligible for appointment—

(a) by reason that his estate has been sequestrated, he shall cease to be so liable or ineligible—

(i) in the case of the sequestration of his estate being recalled or reduced, on the date of that event; and

(ii) in any other case, on his obtaining a discharge;

(b) by reason of his having made a composition or arrangement with, or granted a trust deed for, his creditors, he shall cease to be so liable or ineligible—

(i) in the case of his paying his debts in full, on the date on which the payment is completed; and

(ii) in any other case, at the end of the period of five years beginning with the date on which the terms of the deed of composition or arrangement or trust deed are fulfilled.

Commencement Information
I116 S. 116 in force at 5.7.2004 for specified purposes by S.I. 2004/827, **art. 4(d)**
I117 S. 116 in force at 31.10.2004 in so far as not already in force by S.I. 2004/2759, **art. 2(1)(a)**

117 Interpretation: enactment

In this Act "enactment" includes—

(a) an Act of the Scottish Parliament,

(b) an instrument made under an Act of the Scottish Parliament, and

(c) Northern Ireland legislation.

Commencement Information
I118 S. 117 in force at 30.3.2004 by S.I. 2004/827, **art. 3(ee)**

118 Repeals

The enactments listed in Schedule 8 are hereby repealed to the extent specified.

Status: *Point in time view as at 01/04/2008. This version of this Act contains provisions that are prospective.*
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Commencement Information

I119 S. 118 in force at 30.3.2004 for specified purposes by S.I. 2004/827, **art. 3(ff)**

I120 S. 118 in force at 1.7.2004 for specified purposes by S.I. 2004/1572, **art. 3(hhh)**

I121 S. 118 in force at 5.7.2004 for specified purposes by S.I. 2004/1572, **art. 4(a)**

I122 S. 118 in force at 5.7.2004 for specified purposes by S.I. 2004/827, **art. 4(e)**

119 Money

Expenditure of the Secretary of State in consequence of this Act shall be paid out of money provided by Parliament.

Commencement Information

I123 S. 119 in force at 30.3.2004 by S.I. 2004/827, **art. 3(gg)**

120 Commencement

(1) Subject to subsections (5) to (8), the preceding provisions of this Act shall come into force in accordance with provision made by the Secretary of State by order.

(2) An order under this section—

(a) may make provision which applies only for a specified purpose;

(b) may make different provision for different purposes;

(c) may make transitional, consequential or incidental provision.

(3) An order under this section in respect of Schedule 1 may, in particular, make provision to have effect in place of the provision relating to bankruptcy restrictions orders while the enactment conferring power to make those orders has not come into force.

(4) An order under this section shall be made by statutory instrument.

(5) Section 104 (and the relevant entry in Schedule 8) shall come into force on the passing of this Act.

(6) Section 105 shall come into force at the end of the period of two months beginning with the date on which this Act is passed.

(7) Section 112 (and the relevant entry in Schedule 8) shall come into force at the end of the period of two months beginning with the date on which this Act is passed.

(8) Section 114 (and the relevant entry in Schedule 8) shall come into force on the passing of this Act.

Subordinate Legislation Made

P1 S. 120(1) power partly exercised: 31.10.2003 appointed for specified provisions by {S.I. 2003/2681}, art. 2

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121 Extent

(1) The following provisions of this Act make provision about extent or territorial application—

(a) section 14 (in relation to Part 1),

(b) section 17 (in relation to Part 2),

(c) section 77 (in relation to Part 3),

(d) section 91 (in relation to Part 4),

(e) section 102 (in relation to Part 5), and

(f) sections 103(6), 109(2) and 112(9) (in Part 6).

(2) An amendment or repeal of an enactment effected by this Act shall have the same extent as the enactment (or the relevant part of the enactment) amended or repealed.

(3) Subsection (2)—

(a) has effect despite any of the provisions listed in subsection (1), but

(b) does not apply to section 109.

122 Short title

This Act may be cited as the Railways and Transport Safety Act 2003.

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SCHEDULES

SCHEDULE 1

Section 15

OFFICE OF RAIL REGULATION

Constitution

1 (1) The Office of Rail Regulation 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

I124 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 (or interim order),

(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.

Commencement Information

I125 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

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(b) obtain the Treasury's approval of the terms and conditions of appointment.

Commencement Information
I126 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
I127 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
I128 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
I129 Sch. 1 para. 6 in force at 5.7.2004 by S.I. 2004/827, **art. 4(f)**

7 The Office may delegate a function to—
(a) the Chief Executive or another employee, or
(b) a committee.

Commencement Information
I130 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
I131 Sch. 1 para. 8 in force at 5.7.2004 by S.I. 2004/827, **art. 4(f)**

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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
I132 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
I133 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.

Commencement Information
I134 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
I135 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
I136 Sch. 1 para. 13 in force at 5.7.2004 by S.I. 2004/827, **art. 4(f)**

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

Commencement Information
I137 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
I138 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
I139 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 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
I140 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.

Status: *Point in time view as at 01/04/2008. This version of this Act contains provisions that are prospective.*
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Commencement Information
I141 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
I142 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.

Commencement Information
I143 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 ”.

Section	*Description*	*Section*	*Description*
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
F11 . . .	F11 . . .	Section 26	Invitations to tender
Section 8	Licences	F11 . . .	F11 . . .

Status: *Point in time view as at 01/04/2008. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Railways and Transport Safety Act 2003 is up to date with all changes known to be in force on or before 15 July 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)*

Section 9	Conditions of licences	F11 . . .	F11 . . .
Section 11	Assignment of licences	F11 . . .	F11 . . .
Section 12	Modification by agreement	F11 . . .	F11 . . .
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
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	F11 . . .	F11 . . .
Section 16G	Directions	Section 76	Rail Passengers' Council
Section 16H	Code of Practice	F11 . . .	F11 . . .
Section 16I	Supplementary	F11 . . .	F11 . . .

Status: *Point in time view as at 01/04/2008. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Railways and Transport Safety Act 2003 is up to date with all changes known to be in force on or before 15 July 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)*

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	F11 . . .	F11 . . .
Section 20	Exemption	F11 . . .	F11 . . .
Section 21	Model clauses	Schedule 4	Access agreements
Section 22	Amendment	Schedule 4A	Review of access charges
Section 22A	Directions to amend		

Textual Amendments

F11 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

I144 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

I145 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

I146 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 ”.

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Commencement Information
I147 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
I148 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
I149 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 ".

Commencement Information
I150 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
I151 Sch. 2 para. 10 in force at 5.7.2004 by S.I. 2004/827, **art. 4(g)**

[F12] 11 . . . . . .

Textual Amendments
F12 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
I152 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 ".

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Commencement Information
I153 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
I154 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
I155 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 ".

Commencement Information
I156 Sch. 2 para. 15 in force at 5.7.2004 by S.I. 2004/827, **art. 4(g)**

F13 16 . . . . . .

Textual Amendments
F13 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
I157 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
I158 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 ".

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Commencement Information

I159 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),

(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),

(r) Schedule 7 to the Postal Services Act 2000 (c. 26) (disclosure of information),

(s) section 105 of the Utilities Act 2000 (c. 27) (disclosure of information),

(t) the following provisions of the Transport Act 2000 (c. 38)—

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(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).

Commencement Information
I160 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
I161 Sch. 2 para. 20 in force at 5.7.2004 by S.I. 2004/827, **art. 4(g)**

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
I162 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
I163 Sch. 2 para. 22 in force at 5.7.2004 by S.I. 2004/827, **art. 4(g)**

Status: *Point in time view as at 01/04/2008. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Railways and Transport Safety Act 2003 is up to date with all changes known to be in force on or before 15 July 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)*

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
I164 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."

Commencement Information
I165 Sch. 2 para. 24 in force at 5.7.2004 by S.I. 2004/827, **art. 4(g)**

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
I166 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 Office of Rail Regulation.

Commencement Information
I167 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 Office of Rail Regulation.

Status: *Point in time view as at 01/04/2008. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Railways and Transport Safety Act 2003 is up to date with all changes known to be in force on or before 15 July 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
I168 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 Office of Rail Regulation.

Commencement Information
I169 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.

(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
I170 Sch. 3 para. 5 in force at 5.7.2004 by S.I. 2004/827, **art. 4(h)**

[F14]6 . . . . . .

Textual Amendments
F14 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
I171 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
I172 Sch. 3 para. 7 in force at 5.7.2004 by S.I. 2004/827, **art. 4(h)**

Status: *Point in time view as at 01/04/2008. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Railways and Transport Safety Act 2003 is up to date with all changes known to be in force on or before 15 July 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 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.

Commencement Information
I173 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,
[F15](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.

Status: *Point in time view as at 01/04/2008. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Railways and Transport Safety Act 2003 is up to date with all changes known to be in force on or before 15 July 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)*

Textual Amendments

F15 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

I174 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,

(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

I175 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

I176 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

I177 Sch. 4 para. 5 in force at 1.7.2004 by S.I. 2004/1572, **art. 3(iii)**

Status: *Point in time view as at 01/04/2008. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Railways and Transport Safety Act 2003 is up to date with all changes known to be in force on or before 15 July 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)*

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, [F16]...

[F16](b) . . . . . .

Textual Amendments

F16 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

I178 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.

(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,

(c) is an officer or employee of a police authority within the meaning of section 101 of the Police Act 1996 (c. 16) (interpretation), or

(d) is an officer or employee of a police authority within the meaning of section 50 of the Police (Scotland) Act 1967 (c. 77) (interpretation).

(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 (or interim order),

(b) a disqualification order under the Company Directors Disqualification Act 1986 (c. 46) or under Part II of the Companies (Northern Ireland) Order 1989 (S.I. 1989/2404 (N.I. 18)), 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.

Commencement Information

I179 Sch. 4 para. 7 in force at 1.7.2004 by S.I. 2004/1572, **art. 3(iii)**

Status: *Point in time view as at 01/04/2008. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Railways and Transport Safety Act 2003 is up to date with all changes known to be in force on or before 15 July 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)*

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

Commencement Information
I180 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
I181 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
I182 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) **[**[F17]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 01/04/2008. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Railways and Transport Safety Act 2003 is up to date with all changes known to be in force on or before 15 July 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
I183 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
I184 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
I185 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
I186 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
I187 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 01/04/2008. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Railways and Transport Safety Act 2003 is up to date with all changes known to be in force on or before 15 July 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
I188 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

[F18(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
I189 Sch. 4 para. 17 in force at 1.7.2004 by S.I. 2004/1572, **art. 3(iii)**

[F19 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
I190 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
I191 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
I192 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 01/04/2008. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Railways and Transport Safety Act 2003 is up to date with all changes known to be in force on or before 15 July 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
I193 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
I194 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
I195 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 01/04/2008. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Railways and Transport Safety Act 2003 is up to date with all changes known to be in force on or before 15 July 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)*

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

I196 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.

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Changes to legislation: *Railways and Transport Safety Act 2003 is up to date with all changes known to be in force on or before 15 July 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
I197 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
I198 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
I199 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
I200 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
I201 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 01/04/2008. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Railways and Transport Safety Act 2003 is up to date with all changes known to be in force on or before 15 July 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)*

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

Commencement Information
I202 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
I203 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
I204 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
I205 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 01/04/2008. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Railways and Transport Safety Act 2003 is up to date with all changes known to be in force on or before 15 July 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
I206 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
I207 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
I208 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.),

Status: *Point in time view as at 01/04/2008. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Railways and Transport Safety Act 2003 is up to date with all changes known to be in force on or before 15 July 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)*

(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, 44, 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).

Commencement Information

I209 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

"legal proceedings" includes arbitration.

Status: *Point in time view as at 01/04/2008. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Railways and Transport Safety Act 2003 is up to date with all changes known to be in force on or before 15 July 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
I210 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
I211 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—

(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;

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Changes to legislation: *Railways and Transport Safety Act 2003 is up to date with all changes known to be in force on or before 15 July 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)*

(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
I212 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
I213 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
I214 Sch. 6 para. 5 in force at 30.3.2004 by S.I. 2004/827, **art. 3(hh)**

Status: *Point in time view as at 01/04/2008. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Railways and Transport Safety Act 2003 is up to date with all changes known to be in force on or before 15 July 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)*

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

I215 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

I216 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

I217 Sch. 6 para. 8 in force at 30.3.2004 by S.I. 2004/827, **art. 3(hh)**

Status: *Point in time view as at 01/04/2008. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Railways and Transport Safety Act 2003 is up to date with all changes known to be in force on or before 15 July 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)*

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

I218 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

I219 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.

Status: *Point in time view as at 01/04/2008. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Railways and Transport Safety Act 2003 is up to date with all changes known to be in force on or before 15 July 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)*

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

I220 Sch. 7 para. 1 in force at 29.3.2004 for specified purposes by S.I. 2004/827, **art. 2(b)**

I221 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".

Status: *Point in time view as at 01/04/2008. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Railways and Transport Safety Act 2003 is up to date with all changes known to be in force on or before 15 July 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
I222 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
I223 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
I224 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
I225 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
I226 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
I227 Sch. 7 para. 7 in force at 30.3.2004 by S.I. 2004/827, **art. 3(ii)**

Status: *Point in time view as at 01/04/2008. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Railways and Transport Safety Act 2003 is up to date with all changes known to be in force on or before 15 July 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)*

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
I228 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
I229 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
I230 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
I231 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
I232 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
I233 Sch. 7 para. 13 in force at 30.3.2004 by S.I. 2004/827, **art. 3(ii)**

Status: *Point in time view as at 01/04/2008. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Railways and Transport Safety Act 2003 is up to date with all changes known to be in force on or before 15 July 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 8

Section 118

REPEALS

Commencement Information

I234 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

I235 Sch. 8 in force at 30.3.2004 for specified purposes by S.I. 2004/827, **art. 3(jj)**

I236 Sch. 8 in force at 1.7.2004 for specified purposes by S.I. 2004/1572, **art. 3(kkk)**

I237 Sch. 8 in force at 5.7.2004 for specified purposes by S.I. 2004/827, **art. 4(i)**

I238 Sch. 8 in force at 5.7.2004 for specified purposes by S.I. 2004/1572, **art. 4(b)**

Short title and chapter	***Extent of repeal***
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).

Status: *Point in time view as at 01/04/2008. This version of this Act contains provisions that are prospective.*
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	In Schedule 18, paragraphs 7 to 10. In Schedule 27, paragraph 45.
Anti-terrorism, Crime and Security Act 2001 (c. 24)	In Schedule 7, paragraphs 6 and 25.

Status:
Point in time view as at 01/04/2008. This version of this Act contains provisions that are prospective.

Changes to legislation:
Railways and Transport Safety Act 2003 is up to date with all changes known to be in force on or before 15 July 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.