
STATUTORY INSTRUMENTS

2001 No. 3352

The Railway Administration Order Rules 2001

PART 9

MISCELLANEOUS AND GENERAL

Power of Secretary of State to regulate certain matters

9.1.—(1) Pursuant to paragraph 27 of Schedule 8 to the 1986 Act the Secretary of State may, subject to the 1986 Act, the 1993 Act and the Rules, make regulations with respect to any matter provided for in the Rules as relates to the carrying out of the functions of a special railway administrator of a protected railway company.

(2) Regulations made pursuant to paragraph (1) may—

- (a) confer discretion on the court;
- (b) make non-compliance with any of the regulations a criminal offence;
- (c) make different provision for different cases, including different provision for different areas; and
- (d) contain such incidental, supplemental and transitional provisions as may appear to the Secretary of State necessary or expedient.

Notices

9.2.—(1) All notices required or authorised by or under the 1986 Act or the Rules to be given must be in writing, unless it is otherwise provided, or the court allows the notice to be given in some other way.

(2) Where in any railway administration proceedings a notice is required to be sent or given by the special railway administrator, the sending or giving of it may be proved by means of a certificate by him, or his solicitor, or a partner or an employee of either of them, that the notice was duly posted.

(3) In the case of a notice to be sent or given by a person other than the special railway administrator, the sending or giving of it may be proved by means of a certificate by that person that he posted the notice, or instructed another person (naming him) to do so.

(4) A certificate under this Rule may be endorsed on a copy or specimen of the notice to which it relates.

(5) This Rule is without prejudice to the provisions of section 149 of the 1993 Act.

Quorum at creditors' meetings

9.3.—(1) Any meeting of creditors called or summoned by a special railway administrator is competent to act if a quorum is present.

(2) Subject to the next paragraph, a quorum is at least one creditor entitled to vote.

(3) For the purposes of this Rule, the reference to the creditor necessary to constitute a quorum is to those persons present or represented by proxy by any person (including the chairman) and includes persons duly represented under section 375 of the Companies Act.

(4) Where at any meeting of creditors—

(a) the provisions of this Rule as to a quorum being present are satisfied by the attendance of—

(i) the chairman alone, or

(ii) one other person in addition to the chairman, and

(b) the chairman is aware, by virtue of proofs and proxies received or otherwise, that one or more additional persons would, if attending, be entitled to vote,

the meeting shall not commence until at least the expiry of 15 minutes after the time appointed for its commencement.

Evidence of proceedings at meeting

9.4.—(1) A minute of proceedings at a meeting (held under the 1986 Act or the Rules) of the creditors or the members of a protected railway company called or summoned by the special railway administrator, signed by a person describing himself as, or appearing to be, the chairman of that meeting is admissible in railway administration proceedings without further proof.

(2) The minute is prime facie evidence that—

(a) the meeting was duly convened and held,

(b) all resolutions passed at the meeting were duly passed, and

(c) all proceedings at the meeting duly took place.

Documents issuing from Secretary of State

9.5.—(1) Any document purporting to be, or to contain, any order, directions or certificate issued by the Secretary of State shall be received in evidence and deemed to be or (as the case may be) contain that order or certificate, or those directions, without further proof, unless the contrary is shown.

(2) Paragraph (1) applies whether the document is signed by the Secretary of State himself or an officer on his behalf.

(3) Without prejudice to the foregoing, a certificate signed by the Secretary of State or an officer on his behalf and confirming—

(a) the making of an order,

(b) the issuing of any document, or

(c) the exercise of any discretion, power or obligation arising or imposed under the 1986 Act, the 1993 Act or the Rules,

is conclusive evidence of the matters dealt with in the certificate.

Forms for use in railway administration proceedings

9.6.—(1) The forms contained in the Schedule to the Rules shall be used in, and in connection with, railway administration proceedings.

(2) The forms shall be used with such variations, if any, as the circumstances may require.

Special railway administrator's security

9.7.—(1) Wherever under the Rules any person has to appoint, or proposes the appointment of, a person to the office of special railway administrator, he is under a duty to satisfy himself that the person appointed or to be appointed has security for the proper performance of his functions.

(2) In any railway administration proceedings the cost of the special railway administrator's security shall be defrayed as an expense of the proceedings.

Time-limits

9.8.—(1) The provisions of CPR rule 2.8 (time) apply, as regards computation of time, to anything required or authorised to be done by the Rules.

(2) The provisions of CPR rule 3.1(2)(a) (the court's general powers of management) apply so as to enable the court to extend or shorten the time for compliance with anything required or authorised to be done by the Rules.

Service by post

9.9.—(1) Section 149 of the 1993 Act applies as regards the service of documents in railway administration proceedings.

(2) Where a document is served by post, the document is treated as served, where first class post is used on the second business day after the date of posting, and where second class post is used on the fourth business day after the date of posting, unless the contrary is shown.

(3) The date of posting is presumed, unless the contrary is shown, to be the date shown in the post-mark on the envelope in which the document is contained.

General provisions as to service and notice

9.10 Subject to section 149 of the 1993 Act, Rule 9.9 and (subject to Rule 9.11(1)) CPR Part 6 (service of documents) applies as regards any matter relating to the service of documents and the giving of notice in railway administration proceedings.

Service outside the jurisdiction

9.11.—(1) Section III of CPR Part 6 (special provisions about service out of the jurisdiction) does not apply in railway administration proceedings.

(2) Where for the purposes of railway administration proceedings any process or order of the court, or other document, is required to be served on a person who is not in England and Wales, the court may order service to be effected within such time, on such person, at such place and in such manner as it thinks fit, and may also require such proof of service as it thinks fit.

(3) An application under this Rule shall be supported by an affidavit stating—

- (a) the grounds on which the application is made, and
- (b) in what place or country the person to be served is, or probably may be found.

Confidentiality of documents

9.12.—(1) Where in railway administration proceedings the special railway administrator considers, in the case of a document forming part of the records of the proceedings, that—

- (a) it should be treated as confidential, or
- (b) it is of such a nature that its disclosure would be calculated to be injurious to the interests of the creditors or members of a protected railway company,

he may decline to allow it to be inspected by a person who would otherwise be entitled to inspect it.

(2) Where under this Rule the special railway administrator determines to refuse inspection of a document, the person wishing to inspect it may apply to the court for that determination to be overruled; and the court may either overrule it altogether, or sustain it subject to such conditions (if any), as it thinks fit to impose.

(3) Nothing in this Rule entitles the special railway administrator to decline to allow the inspection of any claim or proxy.

Notices sent simultaneously to the same person

9.13 Where under the 1986 Act, the 1993 Act or the Rules a document of any description is to be sent to a person (whether or not as a member of a class of persons to whom that same document is to be sent), it may be sent as an accompaniment to any other document or information which the person is to receive, with or without modification or adaptation of the form applicable to that document.

Right to copy documents

9.14 Where under the 1986 Act or the Rules a person has a right to inspect documents, the right includes that of taking copies of those documents, on payment—

- (a) in the case of documents on the court's file of proceedings, of the fee chargeable under any order made under section 130 of the Supreme Court Act 1981(1), and
- (b) otherwise, of the appropriate fee.

Charge for copy documents

9.15 Where in railway administration proceedings the special railway administrator is requested by a creditor or member to supply copies of any documents, he is entitled to require the payment of the appropriate fee in respect of the supply of the documents.

Non-receipt of notice of meeting

9.16 Where in accordance with the 1986 Act or the Rules a meeting of creditors is called or summoned by notice, the meeting is presumed to have been duly summoned and held, notwithstanding that not all those to whom the notice is to be given have received it.

Right to have list of creditors

9.17.—(1) In any railway administration proceedings a creditor who under the Rules has the right to inspect documents on the court file also has the right to require the special railway administrator to furnish him with a list of the creditors of the protected railway company and the amounts of their respective debts.

This does not apply if a statement of the protected railway company's affairs has been filed in court.

(2) The special railway administrator, on being required by any person to furnish that list, shall send it to him, but is entitled to charge the appropriate fee for doing so.

False claim of status as creditor

9.18.—(1) Where the Rules provide for creditors of a protected railway company a right to inspect any documents, whether on the court's file or in the hands of the special railway administrator or

(1) 1981 c. 54.

other person, it is an offence for a person, with the intention of obtaining a sight of documents which he has not under the Rules any right to inspect, falsely to claim a status which would entitle him to inspect them.

- (2) A person guilty of an offence under this Rule is liable—
- (a) in summary proceedings, to a maximum of six months' imprisonment or a fine of the statutory maximum, or both;
 - (b) on indictment, to two years' imprisonment or a fine, or both.

The Gazette

9.19.—(1) A copy of the Gazette containing any notice required by the 1986 Act or the Rules to be gazetted is evidence of any fact stated in the notice.

(2) In the case of an order of the court notice of which is required by the 1986 Act or the Rules to be gazetted, a copy of the Gazette containing the notice may in any proceedings be produced as conclusive evidence that the order was made on the date specified in the notice.

(3) Where an order of the court which is gazetted has been varied, and where any matter has been erroneously or inaccurately gazetted, the person whose responsibility it was to procure the requisite entry in the Gazette shall forthwith cause the variation of the order to be gazetted or, as the case may be, a further entry to be made in the Gazette for the purpose of correcting the error or inaccuracy.

Punishment of offences

9.20 Section 431 (summary proceedings) of the 1986 Act, as it applies to England and Wales, has effect in relation to offences under the Rules as to offences under that Act.