



# Transport Act 2000

## 2000 CHAPTER 38

### PART IV

#### RAILWAYS

### CHAPTER II

#### OTHER PROVISIONS ABOUT RAILWAYS

#### *Competition*

#### **242 Licence modifications following Competition Commission report**

(1) In section 15 of the Railways Act 1993 (modification of licence conditions following report of Competition Commission), after subsection (4) insert—

“(4A) Where (after considering any representations or objections which are duly made and not withdrawn) the Regulator or Authority proposes to make or require the making of modifications under this section, he or it shall give notice to the Competition Commission—

- (a) setting out the modifications he proposes to make or it proposes to require to be made; and
- (b) stating the reasons why he proposes to make the modifications or it proposes to require the making of them.

(4B) The Regulator or Authority shall include with the notice under subsection (4A) above a copy of any representations and objections which have been considered.

(4C) If the period within which a direction may be given by the Competition Commission under section 15A below expires without such a direction being given, the Regulator or Authority shall make, or require the making of, the modifications set out in the notice given under subsection (4A) above.

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*Status: This is the original version (as it was originally enacted).*

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(4D) If a direction is given by the Competition Commission under section 15A(1) (b) below, the Regulator or Authority shall make, or require the making of, such of those modifications as are not specified in the direction.”

(2) After that section insert—

**“15A Competition Commission’s power to veto modifications following report**

- (1) The Competition Commission may, within the period of four weeks beginning with the day on which they are given notice under section 15(4A) above, give a direction to the Regulator or Authority—
  - (a) not to make, or require the making of, the modifications set out in the notice; or
  - (b) not to make such of those modifications as are specified in the direction.
- (2) The Secretary of State may, if an application is made to him by the Competition Commission within that period of four weeks, extend the period within which a direction may be given under this section to one of six weeks beginning with the day on which the Competition Commission are given notice under section 15(4A) above.
- (3) The Competition Commission may give a direction under this section only if the modifications to which it relates do not appear to them requisite for the purpose of remedying or preventing the adverse effects specified in their report on the reference under section 13 above.
- (4) If the Competition Commission give a direction under this section, they shall give notice—
  - (a) setting out the modifications contained in the notice given under section 15(4A) above;
  - (b) setting out the direction; and
  - (c) stating the reasons why they are giving the direction.
- (5) A notice under subsection (4) above shall be given—
  - (a) by publishing the notice in such manner as the Competition Commission consider appropriate for the purpose of bringing the matters to which the notice relates to the attention of persons likely to be affected by the direction; and
  - (b) by serving a copy of the notice on the holder of the licence.

**15B Making of modifications by Competition Commission**

- (1) If the Competition Commission give a direction under section 15A above, they shall themselves make such modifications of the conditions of the licence as appear to them requisite for the purpose of remedying or preventing—
  - (a) the adverse effects specified in their report on the reference under section 13 above; or
  - (b) such of those adverse effects as would not be remedied or prevented by the modifications made by the Regulator, or required to be made by the Authority, under section 15(4D) above.

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*Status: This is the original version (as it was originally enacted).*

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- (2) In exercising the function conferred by subsection (1) above, the Competition Commission shall have regard to the matters as respects which duties are imposed on the Regulator by section 4 above.
- (3) Before making modifications under this section, the Competition Commission shall give notice—
  - (a) stating that they propose to make the modifications and setting out their effect,
  - (b) stating the reasons why they propose to make the modifications, and
  - (c) specifying the period (not being less than 28 days from the date of publication of the notice) within which representations or objections may be made,and shall consider any representations or objections which are duly made and not withdrawn.
- (4) A notice under subsection (3) above shall be given—
  - (a) by publishing the notice in such manner as the Competition Commission consider appropriate for the purpose of bringing the matters to which the notice relates to the attention of persons likely to be affected by the making of the modifications; and
  - (b) by serving a copy of the notice on the holder of the licence.
- (5) As soon as practicable after making any modifications under this section, the Competition Commission shall send a copy of those modifications to the Regulator, the Authority and the Health and Safety Executive.

### **15C Sections 15A and 15B: supplementary**

- (1) The provisions mentioned in subsection (2) below are to apply in relation to the exercise by the Competition Commission of their functions under sections 15A and 15B above as if—
  - (a) in section 82(1) and (2) of the 1973 Act references to a report of the Competition Commission under that Act were references to a notice under section 15A(4) or 15B(3) above;
  - (b) in section 85 of that Act references to an investigation on a reference made to the Competition Commission were references to an investigation by the Competition Commission for the purposes of the exercise of their functions under those sections; and
  - (c) in section 93B of that Act references to the functions of the Competition Commission under that Act were references to their functions under those sections.
- (2) The provisions are—
  - (a) sections 82(1) and (2) (general provisions as to reports), 85 (attendance of witnesses and production of documents) and 93B (false or misleading information) of the 1973 Act;
  - (b) Part II of Schedule 7 to the Competition Act 1998 (performance of the Competition Commission's general functions); and
  - (c) section 24 of the 1980 Act (modification of provisions about performance of such functions).

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*Status: This is the original version (as it was originally enacted).*

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- (3) For the purpose of assisting the Competition Commission in exercising their functions under sections 15A and 15B above, the Regulator and the Authority shall give to the Competition Commission any information in his or its possession which relates to matters relevant to the exercise of those functions and—
- (a) is requested by the Competition Commission for that purpose; or
  - (b) is information which, in his or its opinion, it would be appropriate for that purpose to give to the Competition Commission without any such request;
- and any other assistance which the Competition Commission may require, and which it is within his or its power to give, in relation to any such matters.
- (4) For the purpose of exercising those functions, the Competition Commission shall take account of any information given to them for that purpose under subsection (3) above.”