



Government of India Act 1935

1935 CHAPTER 2

PART VIII

THE FEDERAL RAILWAY AUTHORITY.

181 Executive authority in respect of railways to be exercised by Federal Railway Authority.

- (1) The executive authority of the Federation in respect of the regulation and the construction, maintenance and operation of railways shall be exercised by a Federal Railway Authority (hereinafter referred to as " the Authority ").
- (2) The said executive authority extends to the carrying on in connection with any Federal railways of such undertakings as, in the opinion of the Authority, it is expedient should be carried on in connection therewith and to the making and carrying into effect of arrangements with other persons for the carrying on by those persons of such undertakings :

Provided that, as respects their powers under this subsection, the Authority shall be subject to any relevant provisions of any Federal, Provincial or existing Indian law, and to the relevant provisions of the law of any Federated State, but nothing in this subsection shall be construed as limiting the provisions of Part VI of this Act regulating the relations of the Federation with Provinces and States.

- (3) Notwithstanding anything in this section, the Federal Government or its officers shall perform in regard to the construction, equipment, and operation of railways such functions for securing the safety both of members of the public and of persons operating the railways, including the holding of inquiries into the causes of accidents, as in the opinion of the Federal Government should be performed by persons independent of the Authority and of any railway administration.

So much of Part X of this Act as provides that powers in relation to railway services of the Federation shall be exercised by the Authority shall not apply in relation to officers of the Federal Government employed in the performance of any of the functions mentioned in this subsection.

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182 Composition, &c, of Railway Authority.

- (1) Not less than three - sevenths of the members of the Authority shall be persons appointed by the Governor-General in his discretion, and the Governor - General shall in his discretion appoint a member of the Authority to be the President thereof.
- (2) Subject as aforesaid, the provisions of the Eighth Schedule to this Act, as supplemented or amended by any Act of the Federal Legislature for the time being in force, shall have effect with respect to the appointment, qualifications and conditions of service of members of the Authority, and with respect to the Authority's proceedings, executive staff and liability to income tax :

Provided that, except with the previous sanction of the Governor-General in his discretion, there shall not be introduced into, or moved in, either Chamber of the Federal Legislature any Bill or any amendment for supplementing or amending the provisions of the said Schedule.

183 Directions and principles to be observed by Railway Authority.

- (1) The Authority in discharging their functions under this Act shall act on business principles, due regard being had by them to the interests of agriculture, industry, commerce and the general public, and in particular shall make proper provision for meeting out of their receipts on revenue account all expenditure to which such receipts are applicable under the provisions of this Part of this Act.
- (2) In the discharge of their said functions the Authority shall be guided by such instructions on questions of policy as may be given to them by the Federal Government.

If any dispute arises under this subsection between the Federal Government and the Authority as to whether a question is or is not a question of policy, the decision of the Governor-General in his discretion shall be final.

- (3) The provisions of subsection (1) of this section shall apply in relation to the discharge by the Federal Government of their functions with respect to railways as they apply in relation to the functions of the Authority, but nothing in this subsection shall be construed as hunting the powers of the Governor-General under the next succeeding subsection.
- (4) The provisions of this Act relating to the special responsibilities of the Governor-General, and to his duty as regards certain matters to exercise his functions in his discretion or to exercise his individual judgment, shall apply as regards matters entrusted to the Authority as if the executive authority of the Federation in regard to those matters were vested in him, and as if the functions of the Authority as regards those matters were the functions of ministers, and the Governor-General may issue to the Authority such directions as he may deem necessary as regards any matter which appears to him to involve any of his special responsibilities, or as regards which he is by or under this Act required to act in his discretion or to exercise his individual judgment, and the Authority shall give effect to any directions so issued to them.

184 Conduct of business between Railway Authority and Federal Government.

- (1) The Governor-General exercising his individual judgment, but after consultation with the Authority, may make rules for the more convenient transaction of business arising out of the relations between the Federal Government and the Authority.

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- (2) The rules shall include provisions requiring the Authority to transmit to the Federal Government all such information with respect to their business as may be specified in the rules, or as the Governor-General may otherwise require to be so transmitted, and in particular provisions requiring the Authority and their chief executive officer to bring to the notice of the Governor-General any matter under consideration by the Authority or by that officer which involves, or appears to them or him likely to involve, any special responsibility of the Governor-General.

185 Acquisition and sale of land, contracts and working agreements.

- (1) Except in such classes of case as may be specified in regulations to be made by the Federal Government, the Authority shall not acquire or dispose of any land, and, when it is necessary for the Authority to acquire compulsorily any land for the purposes of their functions, the Federal Government shall cause that land to be acquired on their behalf and at their expense.
- (2) Contracts made by or on behalf of the Authority shall be enforceable by or against the Authority and not by or against the Federation, and, subject to any provision which may hereafter be made by Act of the Federal Legislature, the Authority may sue and be sued in the like manner and in the like cases as a company operating a railway may sue and be sued:
- Provided that this subsection does not apply in relation to any contract declared by its terms to be supplemental to a contract made before the establishment of the Authority, and any such supplemental contract may be enforced in any manner in which the principal contract may be enforced.
- (3) The Authority may make working agreements with, and carry out working agreements made with, any Indian State or person owning or operating any railway in India, or in territories adjacent to India, with respect to the persons by whom and the terms on which any of the railways with which the parties are respectively concerned shall be operated.

186 Finance of the Railway Authority.

- (1) The Authority shall establish, maintain and control a fund (which shall be known as the "Railway Fund") and all moneys received by the Authority, whether on revenue account or on capital account, in the discharge of their functions and all moneys provided, whether on revenue account or on capital account, out of the revenues of the Federation to enable them to discharge those functions shall be paid into that Fund, and all expenditure, whether on revenue account or on capital account, required for the discharge of their functions shall be defrayed out of that Fund:
- Provided that nothing in this subsection shall prevent the Authority from establishing and maintaining separate provident funds for the benefit of persons who are or have been employed in connection with railways.
- (2) The receipts of the Authority on revenue account in any financial year shall be applied in—
- (a) defraying working expenses;
 - (b) meeting payments due under contracts or agreements to railway undertakings;
 - (c) paying pensions, and contributions to provident funds;

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- (d) repaying to the revenues of the Federation so much of any pensions and contributions to provident funds charged by this Act on those revenues as is attributable to service on railways in India;
 - (e) making due provision for maintenance, renewals, improvements and depreciation;
 - (f) making to the revenues of the Federation any payments by way of interest which they are required by this Part of this Act to make; and
 - (g) defraying other expenses properly chargeable against revenue in that year.
- (3) Any surpluses on revenue account shown in the accounts of the Authority shall be apportioned between the Federation and the Authority in accordance with a scheme to be prepared, and from time to time reviewed, by the Federal Government, or, until such a scheme has been prepared, in accordance with the principles which immediately before the establishment of the Authority regulated the application of surpluses in railway accounts, and any sum apportioned to the Federation under this subsection shall be transferred accordingly and shall form part of the revenues of the Federation.
- (4) The Federation may provide any moneys, whether on revenue account or capital account, for the purposes of the Railway Authority, but, where any moneys are so provided, the provision thereof shall be deemed to be expenditure and shall accordingly be shown as such in the estimates of expenditure laid before the Chambers of the Legislature.

187 Provisions as to certain obligations of the Railway Authority.

- (1) There shall be deemed to be owing from the Authority to the Federation such sum as may be agreed or, in default of agreement, determined by the Governor-General in his discretion, to be equivalent to the amount of the moneys provided, whether before or after the passing of this Act, out of the revenues of India or of the Federation for capital purposes in connection with railways in India (exclusive of Burma) and the Authority shall out of their receipts on revenue account pay to the Federation interest on that amount at such rate as may be so agreed or determined, and also make payments in reduction of the principal of that amount in accordance with a repayment scheme so agreed or determined.

For the purposes of this subsection, where the Secretary of State in Council has assumed or incurred any obligation in connection with any such railways, he shall be deemed to have provided for the said purposes an amount equal to the capital value of that obligation as shown in the accounts of the Government of India immediately before the establishment of the Authority.

Nothing in this subsection shall be construed as preventing the Authority from making payments to the Federation in reduction of the principal of any such amount as aforesaid out of moneys other than receipts on revenue account.

- (2) It shall be an obligation of the Authority to repay to the Federation any sums defrayed out of the revenues of the Federation in respect of any debt, damages, costs, or expenses in, or in connection with, any proceedings brought or continued by or against the Federation or against the Secretary of State under Part VII of this Act in respect of railways in India.
- (3) It shall be an obligation of the Authority to pay to any Province or Indian State such sums as may be equivalent to the expenses incurred by that Province or State in the provision of police required for the maintenance of order on Federal railway premises,

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and any question which may arise between the Authority and a Province or State as to the amount of any expenses so incurred shall be determined by the Governor-General in his discretion.

188 Investment of funds of Railway Authority.

Subject to such conditions, if any, as may be prescribed by the Federal Government, the Authority may from time to time invest any moneys in the railway fund or any provident fund which are not for the time being required to meet expenses properly defrayable out of that fund, and may, subject as aforesaid, from time to time transfer and realise investments made by them.

189 Special provisions as to certain existing funds.

- (1) Nothing in the foregoing provisions of this Part of this Act shall be construed as entitling the Authority to require that any moneys which immediately before the establishment of the Authority were held by the Governor-General in Council on account of any railway depreciation fund, reserve fund or provident fund shall be transferred to the Authority for investment by them, but the Authority may from time to time require the transfer to themselves of so much of any such fund as they require to defray expenditure chargeable against that fund, and the Federal Government shall credit each such fund with interest on the untransferred balance thereof at such rate as may be agreed, or, in default of agreement, determined by the Governor-General in his discretion.
- (2) In this section references to any such fund as aforesaid shall be construed as references to so much of that fund as is not attributable to the railways of Burma.

190 Audit and annual reports.

- (1) The accounts of the receipts and expenditure of the Authority shall be audited and certified by, or on behalf of, the Auditor-General of India.
- (2) The Authority shall publish annually a report of their operations during the preceding year and a statement of accounts in a form approved by the Auditor-General.

191 Railway Rates Committee.

The Governor-General may from time to time appoint a Railway Rates Committee to give advice to the Authority in connection with any dispute between persons using, or desiring to use, a railway and the Authority as to rates or traffic facilities which he may require the Authority to refer to the committee.

192 Bills and amendments for regulating rates and fares to require recommendation of Governor-General.

A Bill or amendment making provision for regulating the rates or fares to be charged on any railway shall not be introduced or moved in either Chamber of the Federal Legislature except on the recommendation of the Governor-General.

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193 Obligation of Railway Authority and Federated States to afford mutual traffic facilities and to avoid unfair discrimination, &c.

- (1) It shall be the duty of the Authority and every Federated State so to exercise their powers in relation to the railways with which they are respectively concerned as to afford all reasonable facilities for the receiving, forwarding, and delivering of traffic upon and from those railways, including the receiving, forwarding, and delivering of through traffic at through rates, and as to secure that there shall be between one railway system and another no unfair discrimination, by the granting of undue preferences or otherwise, and no unfair or uneconomic competition.
- (2) Any complaint by the Authority against a Federated State or by a Federated State against the Authority on the ground that the provisions of the preceding subsection have not been complied with shall be made to and determined by the Railway Tribunal.

194 Appeal by State to Railway Tribunal from certain directions of Railway Authority.

If the Authority, in the exercise of any executive authority of the Federation in relation to interchange of traffic, or maximum or minimum rates and fares, or station or service terminal charges, give any direction to a Federated State, the State may complain that the direction discriminates unfairly against the railways of the State, or imposes on the State an obligation to afford facilities which are not in the circumstances reasonable, and any such complaint shall be determined by the Railway Tribunal.

195 Construction and reconstruction of railways.

- (1) The Governor-General acting in his discretion shall make rules requiring the Authority and any Federated State to give notice in such cases as the rules may prescribe of any proposal for constructing a railway or for altering the alignment or gauge of a railway, and to deposit plans.
- (2) The rules so made shall contain provisions enabling objections to be lodged by the Authority or by a Federated State on the ground that the carrying out of the proposal will result in unfair or uneconomic competition with a Federal railway or a State railway, as the case may be, and, if an objection so lodged is not withdrawn within the prescribed time, the Governor-General shall refer to the Railway Tribunal the question whether the proposal ought to be carried into effect, either without modification or with such modification as the Tribunal may approve, and the proposal shall not be proceeded with save in accordance with the decision of the Tribunal.
- (3) This section shall not apply in any case where the Governor-General in his discretion certifies that for reasons connected with defence effect should, or should not, be given to a proposal.

196 Railway Tribunal.

- (1) There shall be a Tribunal (in this Act referred to as " the Railway Tribunal ") consisting of a President and two other persons to be selected to act in each case by the Governor-General in his discretion from a panel of eight persons appointed by him in his discretion, being persons with railway, administrative, or business experience.
- (2) The President shall be such one of the judges of the Federal Court as may be appointed for the purpose by the Governor-General in his discretion after consultation with the

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Chief Justice of India and shall hold office for such period of not less than five years as may be specified in the appointment, and shall be eligible for re-appointment for a further period of five years or any less period :

Provided that, if the President ceases to be a judge of the Federal Court, he shall thereupon cease to be President of the Tribunal and, if he is for any reason temporarily unable to act, the Governor-General in his discretion may after the like consultation appoint another judge of the Federal Court to act for the time being in his place.

- (3) It shall be the duty of the Railway Tribunal to exercise such jurisdiction as is conferred on it by this Act, and for that purpose the Tribunal may make such orders, including interim orders, orders varying or discharging a direction or order of the Authority, orders for the payment of compensation or damages and of costs and orders for the production of documents and the attendance of witnesses, as the circumstances of the case may require, and it shall be the duty of the Authority and of every Federated State and of every other person or authority affected thereby to give effect to any such order.
- (4) An appeal shall lie to the Federal Court from any decision of the Railway Tribunal on a question of law, but no appeal shall lie from the decision of the Federal Court on any such appeal.
- (5) The Railway Tribunal or the Federal Court, as the case may be, may, on application made for the purpose, if satisfied that in view of an alteration in the circumstances it is proper so to do, vary or revoke any previous order made by it.
- (6) The President of the Railway Tribunal may, with the approval of the Governor-General in his discretion, make rules regulating the practice and procedure of the Tribunal and the fees to be taken in proceedings before it.
- (7) Subject to the provisions of this section relating to appeals to the Federal Court, no court shall have any jurisdiction with respect to any matter with respect to which the Railway Tribunal has jurisdiction.
- (8) There shall be paid out of the revenues of the Federation to the members of the Railway Tribunal other than the President such remuneration as may be determined by the Governor-General in his discretion, and the administrative expenses of the Railway Tribunal, including any such remuneration as aforesaid, shall be charged on the revenues of the Federation, and any fees or other moneys taken by the Tribunal shall form part of those revenues.

The Governor-General shall exercise his individual judgment as to the amount to be included in respect of the administrative expenses of the Railway Tribunal in any estimates of expenditure laid by him before the Chambers of the Federal Legislature.

197 Rights of railway companies in respect of arbitration under contracts.

- (1) Without prejudice to the general provisions of this Act with respect to rights and liabilities under contracts made by or on behalf of the Secretary of State in Council, the provisions of this section shall have effect with respect to any contract so made with a railway company which immediately before the commencement of Part III of this Act was operating a railway in British India.
- (2) If a dispute arises under any such contract between the railway company concerned and either the Authority or the Federal Government, and if the matter in dispute is of such a nature that under the contract the company might require, or, but for some provision of this Act, might have required, it to be submitted to arbitration, the dispute

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shall be deemed to have arisen between the company and the Secretary of State, and the provisions of the contract relating to the determination of such a dispute shall have effect with the substitution of the Secretary of State for the Secretary of State in Council.

Any award made in an arbitration under the foregoing provisions of this section and any settlement of the dispute agreed to by the Secretary of State with the concurrence of his advisers shall be binding on the Federal Government and the Authority, and any sum which the Secretary of State may become liable or may so agree to pay by way of debt, damage or costs, and any costs or expenses incurred by him in connection with the matter, shall be paid out of the revenues of the Federation and shall be charged on those revenues but shall be a debt due to the Federation from the Authority.

198 Railways in Indian States which have not federated.

If and in so far as His Majesty's Representative for the exercise of the functions of the Crown in its relations with Indian States may entrust to the Authority the performance of any functions hi relation to railways in an Indian State which is not a Federated State, the Authority shall undertake the performance of those functions.

199 Official directors of Indian railway companies.

Any powers of the Secretary of State in Council with respect to the appointment of directors and deputy directors of Indian railway companies shall be exercised by the Governor-General in his discretion after consultation with the Authority.