



Railways Clauses Act 1863

1863 CHAPTER 92

PART I

CONSTRUCTION OF A RAILWAY

3 Application of Part I., and Interpretation of Terms.

This Part of this Act shall apply to the Railway authorized to be constructed by any Special Act hereafter passed and incorporating this Part of this Act.

In this Part of this Act—

All Terms used have the same Meanings as the same Terms have when used in the Railways Clauses Consolidation Act, 1845, and The Railways Clauses Consolidation (*Scotland*) Act, 1845, respectively :

The Term " Tidal River " means any Part of a River within the Flow and Ebb of the Tide at ordinary Spring Tides :

The Term " Tidal Water " means any Part of the Sea or any Part of a River within the Flow and Ebb of the Tide at ordinary Spring Tides :

The Term " Tidal Lands " means such Parts of the Bed, Shore, or Banks of a Tidal Water as are covered and uncovered" by the Flow and Ebb of the Tide at ordinary Spring Tides.

The Provisions respecting the Recovery of Penalties contained in the said Railways Clauses Consolidation Acts respectively, as the Case may require, shall be incorporated with this Part of this Act.

Alteration of Engineering Works

4 Power to alter Engineering Works.

Notwithstanding anything in the said Railways Clauses Consolidation Acts, respectively, contained,—the Company, in the Construction of the Railway, may deviate from the Line or Level of any Arch, Tunnel, or Viaduct, described on the

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deposited Plans or Sections, so as the Deviation be made within the Limits of Deviation shown on those Plans, and subject to the Limitations contained in Sections Eleven, Twelve, and Fifteen of those Acts respectively, and so as the Nature of the Work described be not altered,—and may also substitute any Engineering Work not shown on the deposited Plans or Sections, for an Arch, Tunnel, or Viaduct, as shown thereon; provided that every such Substitution be authorized by a Certificate of the Board of Trade; and the Board of Trade may grant such Certificate in case it appears to them, on due Inquiry, that the Company has acted in the Matter with good Faith, and that the Owners, Lessees, and Occupiers of the Lands in which the Substitution is intended to be made consent thereto, and also that the Safety and Convenience of the Public will not be diminished thereby.

Provided, that nothing in the present Section shall affect any Power given to the Company or to the Board of Trade by Section Eleven, Twelve, Fourteen, or Fifteen of the last-mentioned Acts respectively.

Level Crossings

5 Trains not to be shunted over level Crossings.

Where the Company is authorized by the Special Act to carry the Railway across a Turnpike Road or Public Carriageroad on a Level, it shall not be lawful for the Company in shunting Trains to pass any Train over the Level Crossing, or at any Time to allow any Train, Engine, Carriage, or Truck to stand across the same.

6 Company to erect Lodge at Point of Crossing.

For the greater Convenience and Security of the Public, the Company shall erect and permanently maintain a Lodge at the Point where the Railway crosses on the Level the Turnpike Road or Public Carriage Road ; and the Company shall be subject to and shall abide by all such Regulations with regard to the crossing thereof on the Level, or with regard to the Speed at which Trains may pass the level Crossing, as may from Time to Time be made by the Board of

If the Company fails to erect, or to maintain, such Lodge, or to appoint or keep a proper Person to watch or superintend the level Crossing, or to observe or abide by any such Regulation as aforesaid, they shall for every such Offence be liable to a Penalty not exceeding-Twenty Pounds, and also to a Penalty of Ten Pounds for every Day during which the Offence continues after the Penalty of Twenty Pounds is incurred.

7 Board of Trade may require Bridge instead of level Crossing.

The Board of Trade may, if it appears to them necessary for the Public Safety, at any Time after the passing of the Special Act, require the Company, within such Time as the Board of Trade directs, and at the Expense of the Company, to carry the Turnpike Road or Public Carriageroad either under or over the Railway by means of a Bridge or Arch, instead of crossing the same on the Level, or to execute such other Works as, under the Circumstances of the Case, may appear to the Board of Trade best adapted for removing or diminishing the Danger arising from the level Crossing.

Where the Road is so carried either under or over the Railway, it shall not be necessary for the Company to erect or maintain a Lodge at the Point where the Road is crossed,

or to appoint a Person to watch or superintend the Crossing thereat, nor shall they be liable to any Penalty for Failure so to do.

8 Power to Company to take additional Land for such Work.

If the Board of Trade certifies that the Public Safety requires that additional Lands be taken by the Company for the Purpose of the Work directed by the Board of Trade to be executed, the Company may, subject to the Provisions of The Lands Clauses Consolidation Act, 1845, or The Lands Clauses Consolidation (*Scotland*) Act, 1845, as the case may require, enter upon, take, and use, all or any Part of the Lands specified in the Certificate of the Board of Trade as being necessary for the Purpose of the Work; and the Board of Trade before issuing the Certificate shall cause at least Three Months Notice to be given to any Person who may be entitled to claim under the last-mentioned Acts, or otherwise, Compensation in respect of the taking of such Lands or in respect of such Work.

Junctions

9 Communications, with other Railways to be made under the Direction of the Engineer of those Railways.

Where the Company is authorized by the Special Act to make a Junction between the Railway and any other Railway, then and in every such Case all Interferences with the Works of the other Railway necessary or convenient for effecting the Junction, shall be made under the Superintendence and to the reasonable Satisfaction of the Engineer for the Time being of the Company or Person to whom the other Railway belongs ; and in case of any Difference arising as to the Mode of effecting the Junction, the same shall be determined by a Referee to be appointed by the Board of Trade, on the Application of either Party, at the Cost of the Company making the Junction.

10 Company to acquire only Easements in Land of other Railway Company.

With respect to any Lands belonging to the Company or Person to whom the other Railway belongs, which the Company are by the Special Act authorized to use, enter upon, or interfere with, for the Purposes of the Junction, the Company shall not, except by Agreement, or unless otherwise provided in the Special Act, purchase and take the same, but the Company may purchase and take, and such other Railway Company or Person may and shall sell and grant accordingly, an Easement or Right of using the same for the Purposes of the Junction.

11 Not to take Lands or interfere with Works of other Company further than necessary.

Nothing relative to the Junction in this Act contained shall be deemed to authorize the Company for the Purposes of the Junction to take or enter upon any Lands belonging to the Company or Person to whom the other Railway belongs, or to alter or interfere with any Railway, or any of the Works thereof, further or otherwise than is necessary for making the Junction and Inter-communication between the Railways, as shown on the deposited Plans and Sections of the Railway to which the Special Act relates, without the previous Consent in Writing in every Instance of such other Railway Company or such Person.

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12 As to Expense of Signals, Watchmen, &c.

The Company or Person with whose Railway the Junction is made may from Time to Time erect such Signals and Conveniences incident to the Junction, either on their or his own Lands or on the Lands of the Company making the Junction, and may from Time to Time appoint and remove such Watchmen, Switchmen, or other Persons as may be necessary for the Prevention of Danger to, or Interference with, the Traffic at and near the Junction. The working and Management of such Signals and Conveniences, wherever situate, shall be under the exclusive Regulation of the Company or Person with whose Railway the Junction is made ; and all the Expenses of erecting and maintaining those Signals and Conveniences, and of employing those Watchmen, Switchmen, and other Persons, and all incidental current Expenses, shall, at the End of every Half Year, be repaid by the Company making the Junction, and in default thereof may be recovered from them in any Court of competent Jurisdiction.

Protection of Navigation

13 Lights on Works.

Where the Company is authorized by the Special Act to construct, alter, or extend any Work on, in, over, through, or across Tidal Lands or a Tidal Water, the Company shall, on or near the Work, during the whole Time of the constructing, altering, or extending thereof, exhibit and keep burning at their own Expense, every Night from Sunset to Sunrise, such Lights (if any) as the Board of Trade from Time to Time requires or approves ; and (notwithstanding the Enactments for the Time being in force respecting Lighthouses) shall also on or near the Work, when completed, always maintain, exhibit, and keep burning, at their own Expense, every Night from Sunset to Sunrise, such Lights (if any) for the Guidance of Ships as the Board of Trade from Time to Time requires or approves.

If the Company fails to comply in any respect with the Provisions of the present Section, they shall for each Night in which they so fail be liable to a Penalty not exceeding Twenty Pounds.

14 Construction of Bridges.

Where the Company is authorized or required by the Special Act to construct a Bridge over a navigable Tidal Water, and the-Special Act does not make express Provision respecting the Span or Spans thereof, then the Company shall construct the same with a Span or Spans of such Headway and Waterway, and with such opening Span or Spans (if any), and according to such Plan, as the Board of Trade directs or approves.

15 User of Bridges.

Where the Company constructs a Bridge with an opening Span, it shall not be lawful for the Company to detain any Vessel, Barge, or Boat at the Bridge for a longer Time that may be necessary for admitting a Carriage or Engine traversing the Railway and approaching the Bridge to cross the Bridge, and for opening the Bridge to admit the Vessel, Barge, or Boat to pass ;, and the Company shall be subject to and shall abide by such Regulations with regard to the User of the Bridge as may from Time to Time be made by the Board of Trade.

If the Company detains a Vessel, Barge, or Boat longer than the Time aforesaid, or fails in any respect to abide by any such Regulation as aforesaid, they shall for every such Offence be liable to a Penalty not exceeding Twenty Pounds, without Prejudice to any Remedy against them for any Loss or Damage sustained by any Person.

16 Access to the shore under or across the Railway.

Where the Railway cuts off Access between the Land and a Tidal Water or Tidal Lands, then and in every such Case the Company shall, during the Construction of the Railway and from Time to Time thereafter, make, and shall permanently maintain, and allow to be used by all Persons, at all Times, free of Toll or other Charge all such Footways and Carriageways over, under, or across the Railway, or on a Level therewith, as the Board of Trade from Time to Time directs or approves : Provided always, as follows:

- (1) The Company shall not, be obliged to make a Footway or Carriageway over Lands for the Use of an Owner or Occupier who has agreed to receive and has been paid Compensation for the Severance thereof from the Tidal Water or Tidal Lands :
- (2) The Company shall not be obliged to make or to allow to be made a Footway or Carriageway in such Manner as. would interfere with the working or using of the Railway :
- (3) The Expense of the making and Maintenance of a Footway or Carriageway required to be made after the Construction of the Railway shall be defrayed by the Persons or Body interested in the Tidal Water or Tidal Lands for whose-Benefit or Convenience the same is required.

Where the Footway or Carriageway is made across the Railway on the Level, then the Manner of the making and watching of the level Crossing shall be subject to the Approval of the Board of Trade; and where the level Crossing is made after the Construction of the Railway, then all Expenses attending the watching thereof shall be defrayed by the Persons or Body interested in the Tidal Water or Tidal Lands for whose Benefit or Convenience the same is required.

17 Prohibition of Deviation of certain Works without Consent of Board of Trade.

Where the Company is authorized by the Special Act to construct a Railway skirting a public navigable Tidal River or Channel, the Company shall not make any Deviation of the Railway from the continuous centre Line thereof marked on the Plan deposited by them at the Board of Trade, even within the Limits of Deviation shown on that Plan, in such Manner as to diminish the navigable "Space, without the previous Consent of the Board of Trade, or otherwise than in such Manner as is expressly authorized by the Board of Trade.

If any Deviation is made in contravention of the present Section the Board of Trade may abate and remove the Work in the Construction whereof the Deviation is made, or any Part thereof, and restore the Site thereof to its former Condition at the Expense of the Company ; and the Amount of such Expense shall be a Debt due from the Company to the Crown, and be recoverable accordingly with Costs, or the same may be recovered, with Costs, as a Penalty is recoverable from the Company.

18 Abatement of Work abandoned or decayed.

If a Work constructed by the Company on, in, over, through, or across Tidal Lands or a Tidal Water is abandoned, or suffered to fall into Decay, the Board of Trade may abate and remove the Work, or any Part of it, and restore the Site thereof to its former Condition, at the Expense of the Company ; and the Amount of such Expense shall be a Debt due from the Company to the Crown, and be recoverable accordingly, with Costs, or the same may be recovered, with Costs, as a Penalty is recoverable from the Company.

19 Survey of Works by Board of Trade.

If at any Time the Board of Trade deems it expedient, for the Purposes of the Special Act or of this Part of this Act, to order a Survey and Examination of a Work constructed by the Company on, in, over, through, or across Tidal Lands or Tidal Water, or of the intended Site of any such Work, the Company shall defray the Expense of the Survey and Examination ; and the Amount thereof shall be a Debt due from the Company to the Crown, and be recoverable accordingly, with Costs, or the same may be recovered, with Costs, as a Penalty is recoverable from the Company.