



Railway and Canal Traffic Act 1888

1888 CHAPTER 25

PART II

TRAFFIC

24 Revised classification of traffic and schedule of rates

- (1) Notwithstanding any provision in any general or special Act, every railway company shall submit to the Board of Trade a revised classification of merchandise traffic, and a revised schedule of maximum rates and charges applicable thereto, proposed to be charged by such railway company, and shall fully state in such classification and schedule the nature and amounts of all terminal charges proposed to be authorised in respect of each class of traffic, and the circumstance is under which such terminal charges are proposed to be made. In the determination of the terminal charges of any railway company regard shall be had only to the expenditure reasonably necessary to provide the accommodation in respect of which such charges are made, irrespective of the outlay which may have been actually incurred by the railway company in providing that accommodation.
- (2) The classification and schedule shall be submitted within six months from the passing of this Act, or such further time as the Board of Trade may, in any particular case, permit, and shall be published in such manner as the Board of Trade may direct.
- (3) The Board of Trade shall consider the classification and schedule, and any objections thereto, which may be lodged with them on or before the prescribed time and in the prescribed manner, and shall communicate with the railway company and the persons (if any) who have lodged objections, for the purpose of arranging the differences which may have arisen.
- (4) If, after hearing all parties whom the Board of Trade consider to be entitled to be heard before them respecting the classification and schedule, the Board of Trade come to an agreement with the railway company as to the classification and schedule, they shall embody the agreed classification and schedule in a Provisional Order, and shall make a report thereon, to be submitted to Parliament, containing such observations as they think fit in relation to the agreed classification and schedule.

- (5) When any agreed classification and schedule have been embodied in a Provisional Order, the Board of Trade, as soon as they conveniently can after the making of the Provisional Order (of which the railway company shall be deemed to be the promoters), shall procure a Bill to be introduced into either House of Parliament for an Act to confirm the Provisional Order, which shall be set out at length in the schedule to the Bill.
- (6) In any case in which a railway company fails within the time mentioned in this section to submit a classification and schedule to the Board of Trade, and also in every case in which a railway company has submitted to the Board of Trade a classification and schedule, and after hearing all parties whom the Board of Trade consider to be entitled to be heard before them, the Board of Trade are unable to come to an agreement with the railway company as to the railway company's classification and schedule, the Board of Trade shall determine the classification of traffic which, in the opinion of the Board of Trade, ought to be adopted by the railway company, and the schedule of maximum rates and charges, including all terminal charges proposed to be authorised applicable to such classification which would, in the opinion of the Board of Trade, be just and reasonable, and shall make a report, to be submitted to Parliament, containing such observations as they may think fit in relation to the said classification and schedule, and calling attention to the points therein on which differences which have arisen have not been arranged.
- (7) After the commencement of the session of Parliament next after that in which the said report of the Board of Trade has been submitted to Parliament, the railway company may apply to the Board of Trade to submit to Parliament the question of the classification and schedule which ought to be adopted by the railway company, and the Board of Trade shall on such application, and in any case may, embody in a Provisional Order such classification and schedule as in the opinion of the Board of Trade ought to be adopted by the railway company, and procure a Bill to be introduced into either House of Parliament for an Act to confirm the Provisional Order, which shall be set out at length in the schedule to the Bill.
- (8) If, while any Bill to confirm a Provisional Order made by the Board of Trade under this section is pending in either House of Parliament, a petition is presented against the Bill or any classification and schedule comprised therein, the Bill, so far as it relates to the matter petitioned against, shall be referred to a Select Committee, or if the two Houses of Parliament think fit so to order, to a joint Committee of such Houses, and the petitioner shall be allowed to appear and oppose as in the case of a private Bill.
- (9) In preparing, revising, and settling the classifications and schedules of rates and charges, the Board of Trade may consult and employ such skilled persons as they may deem necessary or desirable; and they may pay to such persons such remuneration as they may think fit and as the Treasury may approve.
- (10) The Act of Parliament confirming any Provisional Order made under this section shall be a public general Act, and the rates and charges mentioned in a Provisional Order as confirmed by such Act shall, from and after the Act coming into operation, be the rates and charges which the railway company shall be entitled to charge and make.
- (11) At any time after the confirmation of any Provisional Order under this section any railway company may, and any person, upon giving not less than twenty-one days notice to the railway company may, apply in the prescribed manner to the Board of Trade to amend any classification and schedule by adding thereto any articles, matters, or things, and the Board of Trade may hear and determine such application,

and classify and deal with the articles, matters, or things referred to therein in such manner as the Board of Trade shall think right. Every determination of the Board of Trade under this sub-section shall forth-with be published in the " London Gazette, " and shall take effect as from the date of the publication thereof.

- (12) Nothing in this section shall apply to any remuneration payable by the Postmaster-General to any railway company for the conveyance of mails, letter bags, or parcels under any general or special Act relating to the conveyance of mails, or under the Post Office (Parcels) Act, 1882.
- (13) Nothing in this section shall apply to any remuneration payable by the Secretary of State for War to any railway company for the conveyance of War Office stores under the powers conferred by the Cheap Trains Act, 1883.

25 Provisions as to through traffic

Whereas by section two of the Railway and Canal Traffic Act, 1854, it is enacted that every railway company and canal company, and railway and canal company shall, according to their respective powers, afford all reasonable facilities for the receiving and forwarding and delivering of traffic upon and from the several railways and canals belonging to or worked by such companies respectively, and for the return of carriages, trucks, boats, and other vehicles; and that no such company shall make or give any undue or unreasonable preference or advantage to or in favour of any particular person or company, or any particular description of traffic, in any respect whatsoever, or shall subject any particular person or company, or any particular description of traffic, to any undue or unreasonable prejudice or disadvantage in any respect whatsoever; and that every railway company and canal company and railway and canal company having or working railways or canals which form part of a continuous line of railway, or canal or railway and canal communication, or which have the terminus station or wharf of the one near the terminus station or wharf of the other, shall afford all due and reasonable facilities for receiving and forwarding by one of such railways or canals all the traffic arriving by the other, without any unreasonable delay, and without any such preference or advantage or prejudice or disadvantage as aforesaid, and so that no obstruction may be offered to the public desirous of using such railways or canals or railways and canals as a continuous line of communication, and so that all reasonable accommodation may by means of the railways and canals of the several companies be at all times afforded to the public in that behalf:

And whereas it is expedient to explain and amend the said enactment:

Be it therefore enacted, that—

Subject as herein-after mentioned, the said facilities to be so afforded are hereby declared to and shall include the due and reasonable receiving, forwarding, and delivering by every railway company and canal company and railway and canal company, at the request of any other such company, of through traffic to and from the railway or canal of any other such company at through rates, tolls, or fares (in this Act referred to as through rates): and also the due and reasonable receiving, forwarding, and delivering by every railway company and canal company and railway and canal company, at the request of any person interested in through traffic, of such traffic at through rates : Provided that no application shall be made to the Commissioners by such person until he has made a complaint to the Board of Trade under the provisions of this Act as to complaints to the Board of Trade of unreasonable charges, and the Board of Trade have heard the complaint in the manner herein provided.

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

Provided as follows:

- (1) The company or person requiring the traffic to be forwarded shall give written notice of the proposed through rate to each forwarding company, stating both its amount and the route by which the traffic is proposed to be forwarded; and when a company gives such notice it shall also state the apportionment of the through rate. The proposed through rate may be per truck or per ton :
- (2) Each forwarding company shall, within ten days, or such longer period as the Commissioners may from time to time by general order prescribe, after the receipt of such notice, by written notice inform the company or persons requiring the traffic to be forwarded, whether they agree to the rate and route; and if they object to either, the grounds of the objection:
- (3) If at the expiration of the prescribed period no such objection has been sent by any forwarding company, the rate shall come into operation at such expiration :
- (4) If an objection to the rate or route has been sent within the prescribed period, the matter shall be referred to the Commissioners for their decision:
- (5) If an objection be made to the granting of the rate or to the route, the Commissioners shall consider whether the granting of a rate is a due and reasonable facility in the interest of the public, and whether, having regard to the circumstances, the route proposed is a reasonable route, and shall allow or refuse the rate accordingly, or fix such other rate as may seem to the Commissioners just and reasonable :
- (6) Where, upon the application of a person requiring traffic to be forwarded, a through rate is agreed to by the forwarding companies, or is made by order of the Commissioners, the apportionment of such through rate, if not agreed upon between the forwarding companies, shall be determined by the Commissioners :
- (7) If the objection be only to the apportionment of the rate, the rate shall come into operation at the expiration of the prescribed period, but the decision of the Commissioners, as to its apportionment, shall be retrospective ; in any other case the operation of the rate shall be suspended until the decision is given:
- (8) The Commissioners, in apportioning the through rate, shall take into consideration all the circumstances of the case, including any special expense incurred in respect of the construction, maintenance, or working of the route, or any part of the route, as well as any special charges which any company may have been entitled to make in respect thereof :
- (9) It shall not be lawful for the Commissioners in any case to compel any company to accept lower mileage rates than the mileage rates which such company may for the time being legally be charging for like traffic carried by a like mode of transit on any other line of communication between the same points, being the points of departure and arrival of the through route.

Where a railway company or canal company use, maintain, or work, or are party to an arrangement for using, maintaining, or working steam vessels for the purpose of carrying on a communication between any towns or ports, the provisions of this section shall extend to such steam vessels, and to the traffic carried thereby.

When any company, upon written notice being given as aforesaid, refuses or neglects without reason to agree to the proposed through rates, or to the route, or to the apportionment, the Commissioners, if an order is made by them upon an application

for through rates, may order the respondent company or companies to pay such costs to the applicants as they think fit.

26 Powers of Commissioners as to through rates

Subject to the provisions in the last preceding section contained, the Commissioners shall have full power to decide that any proposed through rate is just and reasonable, notwithstanding that a less amount may be allotted to any forwarding company out of such through rate than the maximum rate such company is entitled to charge, and to allow and apportion such through rate accordingly.

27 Undue preference in case of unequal tolls, rates, and charges, and unequal services performed

- (1) Whenever it is shown that any railway company charge one trader or class of traders, or the traders in any district, lower tolls, rates, or charges for the same or similar merchandise, or lower tolls, rates, or charges for the same or similar services, than they charge to other traders, or classes of traders, or to the traders in another district, or make any difference in treatment in respect of any such trader or traders, the burden of proving that such lower charge or difference in treatment does not amount to an undue preference shall lie on the railway company.
- (2) In deciding whether a lower charge or difference in treatment does or does not amount to an undue preference, the court having jurisdiction in the matter, or the Commissioners, as the case may be, may, so far as they think reasonable, in addition to any other considerations affecting the case, take into consideration whether such lower charge or difference in treatment is necessary for the purpose of securing in the interests of the public the traffic in respect of which it is made, and whether the inequality cannot be removed without unduly reducing the rates charged to the complainant : Provided that no railway company shall make, nor shall the court, or the Commissioners, sanction any difference in the tolls', rates, or charges made for, or any difference in the treatment of, home and foreign merchandise, in respect of the same or similar services.
- (3) The court or the Commissioners shall have power to direct that no higher charge shall be made to any person for services in respect of merchandise carried over a less distance than is made to any other person for similar services in respect of the like description and quantity of merchandise carried over a greater distance on the same line of railway.

28 Extension of enactments as to undue preference to goods carried by sea

The provisions of section two of the Railway and Canal Traffic Act, 1854, and of section fourteen of the Regulation of Railways Act, 1873, and of any enactments amending and extending those enactments, shall apply to traffic by sea in any vessels belonging to or chartered or worked by any railway company, or in which any railway company procures merchandise to be carried, in the same manner and to the like extent as they apply to the land traffic of a railway Company.

29 Group rates to be chargeable by railway companies

- (1) Notwithstanding any provision in any general or special Act, it shall be lawful for any railway company, for the purpose of fixing the rates to be charged for the carriage of

merchandise to and from any place on their railway, to group together any number of places in the same district, situated at various distances from any point of destination or departure of merchandise, and to charge a uniform rate or uniform rates of carriage for merchandise to and from all places comprised in the group from and to any point of destination or departure.

- (2) Provided that the distances shall not be unreasonable, and that the group rates charged and the places grouped together shall not be such as to create an undue preference.
- (3) Where any group rate exists or is proposed, and in any case where there is a doubt whether any rates charged or proposed to be charged by a railway company may not be a contravention of section two of the Railway and Canal Traffic Act, 1854, and any Acts amending the same, the railway company may, upon giving notice in the prescribed manner, apply to the Commissioners, and the Commissioners may, after hearing the parties interested and any of the authorities mentioned in section seven of this Act, determine whether such group rate or any rate charged or proposed to be charged as aforesaid does or does not create an undue preference. Any persons aggrieved, and any of the authorities mentioned in section seven of this Act, may, at any time after the making of any order under this section, apply to the Commissioners to vary or rescind the order, and the Commissioners, after hearing all parties who are interested, may make an order accordingly.

30 Power to dock companies and harbour boards to complain of undue preference

Any port or harbour authority or dock company which shall have reason to believe that any railway company is by its rates or otherwise placing their port, harbour, or dock, at an undue disadvantage as compared with any other port, harbour, or dock to or from which traffic is or may be carried by means of the lines of the said railway company, either alone or in conjunction with those of other railway companies, may make complaint thereof to the Commissioners, who shall have the like jurisdiction to hear and determine the subject-matter of such complaint as they have to hear and determine a complaint of a contravention of section two of the Railway and Canal Traffic Act, 1854, as amended by subsequent Acts.

31 Complaints to Board of Trade of unreasonable charges by railway companies

- (1) Whenever any person receiving or sending or desiring to send goods by any railway is of opinion that the railway company is charging him an unfair or an unreasonable rate of charge, or is in any other respect treating him in an oppressive or unreasonable manner, such person may complain to the Board of Trade.
- (2) The Board of Trade, if they think that there is reasonable ground for the complaint, may thereupon call upon the railway company for an explanation, and endeavour to settle amicably the differences between the complainant and the railway company.
- (3) For the purpose aforesaid, the Board of Trade may appoint either one of their own officers or any other competent person to communicate with the complainant and the railway company, and to receive and consider such explanations and communications as may be made in reference to the complaint; and the Board of Trade may pay to such last-mentioned person such remuneration as they may think fit, and as may be approved by the Treasury.
- (4) The Board of Trade shall from time to time submit to Parliament reports of the complaints made to them under the provisions of this section, and the results of the

proceedings taken in relation to such complaints, together with such observations thereon as the Board of Trade shall think fit.

- (5) A complaint under this section may be made to the Board of Trade by any of the authorities mentioned in section seven of this Act, in any case in which, in the opinion of any of such authorities, they or any traders or persons in their district are being charged unfair or unreasonable rates by a railway company; and all the provisions of this section shall apply to a complaint so made as if the same had been made by a person entitled to make a complaint under this section.

32 Annual returns by railway companies to contain such statistics as the Board of Trade shall require

- (1) The returns required of a railway company under section nine of the Railways Regulation Act, 1871, shall include such statements as the Board of Trade may from time to time prescribe, and the forms referred to in that section may from time to time be altered by the Board of Trade in such manner as they think expedient for giving effect to this section, and the said section nine of the Railways Regulation Act, 1871, shall apply accordingly.
- (2) The Board of Trade may from time to time alter the times fixed by the said Act or by the Railways Regulation Act (Returns of Signal Arrangements, Workings, &c), 1873, for the forwarding of any of the returns required by the said Act or this Act.

33 Classification table to be open for inspection. Copies to be sold

- (1) The book, tables, or other document in use for the time being containing the general classification of merchandise carried on the railway of any company, shall, during all reasonable hours, be open to the inspection of any person without the payment of any fee at every station at which merchandise is received for conveyance, or where merchandise is received at some other place than a station then at the station nearest such place, and the said book, tables, or other document as revised from time to time shall be kept on sale at the principal office of the company at a price not exceeding one shilling.
- (2) Printed copies of the classification of merchandise traffic, and schedule of maximum tolls, rates, and charges of every railway company authorised, as provided by this Act, shall be kept for sale by the railway company at such places and at such reasonable price as the Board of Trade may by any general or special order prescribe.
- (3) The company shall within one week after application in writing made to the secretary of any railway company by any person interested in the carriage of any merchandise which has been or is intended to be carried over the railway of such company, render an account to the person so applying in which the charge made or claimed by the company for the carriage of such merchandise shall be divided, and the charge for conveyance over the railway shall be distinguished from the terminal charges (if any), and from the dock charges (if any), and if any terminal charge or dock charge is included in such account the nature and detail of the terminal expenses or dock charges in respect of which it is made shall be specified.
- (4) Every railway company shall publish at every station at which merchandise is received for conveyance, or where merchandise is received at some other place than a station then at the station nearest to such place, a notice, in such form as may be from time to time prescribed by the Board of Trade, to the effect that such book, tables, and

document touching the classification of merchandise and the rates as they are required by this section and section fourteen of the Regulation of Railways Act, 1873, to keep at that station, are open to public inspection, and that information as to any charge can be obtained by application to the secretary or other officer at the address stated in such notice.

- (5) Where a railway company carries merchandise partly by land and partly by sea, all the books, tables, and documents, touching the rates of charge of the railway company, which are kept by the railway company at any port in the United Kingdom used by the vessels which carry the sea traffic of the railway company, shall, besides containing all the rates charged for the sea traffic, state what proportion of any through rate is appropriated to conveyance by sea, distinguishing such proportion from that which is appropriated to the conveyance by land on either side of the sea.
- (6) Where a railway company intend to make any increase in the tolls, rates, or charges published in the books required to be kept by the company for public inspection, under section fourteen of the Regulation of Railways Act, 1873, or this Act, they shall give by publication in such manner as the Board of Trade may prescribe at least fourteen days notice of such intended increase, stating in such notice the date on which the altered rate or charge is to take effect; and no such increase in the published tolls, rates, or charges of the railway company shall have effect unless and until the fourteen days notice required under this section has been given.
- (7) Any company failing to comply with the provisions of this section shall, for each offence, and in the case of a continuing offence for every day during which the offence continues, be liable, on summary conviction, to a penalty not exceeding five pounds.

34 Place of publication of rates in respect of traffic at places other than stations

When traffic is received or delivered at any place on any railway other than a station within the meaning of section fourteen of the Regulation of Railways Act, 1873, the railway company on whose line such place is, shall keep at the station nearest such place a book or books showing every rate for the time being charged for the carriage of traffic other than passengers and their luggage, from such place to any place to which they book, including any rates charged under any special contract, and stating the distance from that place of every station, wharf, siding, or place to which such rate is charged.

Every such book shall, during all reasonable hours, be open to the inspection of any person without the payment of a fee.

35 Power to make rules for purposes of this part of this Act

- (1) The Board of Trade may from time to time make, rescind, and vary rules with respect to the following matters:—
 - (a) The form and manner in which classifications and schedules under this part of this Act are to be prepared and submitted to the Board of Trade and to Parliament, and the publication, advertisement, and settlement (by the Board of Trade) of such classifications and schedules, and of Provisional Orders ;
 - (b) AH proceedings before the Board of Trade under this part of this Act;
 - (c) The fees to be paid in respect of such proceedings; and
 - (d) Any matter authorised by this Act to be prescribed.

- (2) Any rules made by the Board of Trade in pursuance of this section shall be laid before Parliament within three weeks after they are made, if Parliament be then sitting, and if Parliament be not then sitting, within three weeks after the beginning of the then next session of Parliament, and shall be judicially noticed, and shall have effect as if they were enacted by this Act.