



Railway and Canal Traffic Act 1888

1888 CHAPTER 25

PART II

TRAFFIC

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

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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.

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

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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.