



Railways Act 1921

1921 CHAPTER 55

PART III

RAILWAY CHARGES.

Miscellaneous Provisions as to Charges.

46 Owner's risk rates.

- (1) When settling a schedule of charges, or within twelve months or such longer period thereafter as in any case the Minister may allow, the rates tribunal shall determine what reductions shall be made from the standard charges where damageable merchandise is carried by railway under owner's risk conditions, and such reductions shall be shown or indicated in the schedules in such manner as the tribunal prescribe.
- (2) Where an exceptional rate is in operation and the conditions applicable to that rate are the company's risk conditions, or, as the case may be, the owner's risk conditions, and the difference in the company's liability under the two sets of conditions in respect of the merchandise in question is not insignificant, the company shall, on request in writing by a trader, quote a corresponding rate under the other conditions, and, if within twenty-eight days from such request the company fails to quote such a rate to the satisfaction of the trader, the trader may apply to the rates tribunal, and the tribunal shall settle such corresponding rate and determine the date as from which it is to come into operation.
- (3) The difference between an ordinary rate and an owner's risk rate shall be such as in the opinion of the rates tribunal is fairly equivalent to the amount by which the risk of the company in the case of the merchandise in question differs under the two sets of conditions.
- (4) A railway company shall be under no obligation to carry livestock at owner's risk rates in cases in which livestock is not at the date of the passing of this Act carried at reduced rates under owner's risk conditions.

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47 Through rates and fares.

- (1) Where on or after the appointed day in pursuance of section twenty-five of the Railway and Canal Traffic Act, 1888, a railway company or person requires traffic to be forwarded at through rates or fares the company or person shall give written notice of the proposed through rate or fare to each company owning any part of the through route (hereinafter called "the forwarding company") stating both its amount and the route by which the traffic is proposed to be forwarded, and, where a company gives such notice, it shall also state the apportionment of the through rate or fare.

Each forwarding company shall, within ten days or such longer period as the rates tribunal prescribe after the receipt of such notice, by written notice inform the company or person requiring the through rate or fare whether it agrees to the rate or fare and the route, and, if it objects to either, the grounds of the objection.

- (2) The rate or fare shall come into operation at the expiration of the said ten days or other prescribed period:

Provided that, if before that expiration any such objection as aforesaid has been sent, or if, in the case of a rate, the rate is less than five per cent. or more than forty per cent. below the combined standard charges of all the forwarding companies, the matter shall be referred to the rates tribunal for their decision.

- (3) If an objection is made to the granting of the rate or fare or to the, route, the rates tribunal shall consider whether the granting of the rate or fare 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 or fare accordingly or fix such other rate or fare as may seem to the rates tribunal just and reasonable.
- (4) Where upon the application of a railway company or person requiring traffic to be forwarded a through rate or fare is agreed to by the forwarding companies or is made by order of the rates tribunal, the apportionment of such through rate or fare, if not agreed upon between the forwarding companies, shall be determined by the rates tribunal.
- (5) If there is no objection except as to the apportionment of the rate or fare, the rate or fare shall come into operation as provided by subsection (2) of this section in the case where no objection has been sent by a forwarding company, but the decision of the rates tribunal as to its apportionment shall be retrospective; in any other case the operation of the rate or fare shall be suspended until the decision is given.
- (6) In apportioning a through rate or fare between the railway companies concerned the rates tribunal shall take all the circumstances into account, including any special charges, fixed allowances, and minimum mileage amounts, which any company may have been entitled to make or receive in respect of the route or any part of the route over which such through rate or fare applies.
- (7) For the purpose of calculating the through rate or fare, the standard, charge for each portion of the through route shall be that which would have been applicable to such portion had the conveyance for the entire distance of the through route been upon the railway of the company owning such portion, and as if throughout the through route the mileage had been continuously upon one railway, and shall be calculated on the shortest working distance between the two points over the railways of the forwarding companies :

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Provided that in such a calculation effect shall be given to any statutory provision whereby a special mileage is allotted in respect of any portion of railway.

- (8) The rates tribunal shall have power to decide that any proposed through rate or fare is just and reasonable, notwithstanding that a less amount may be allotted to any forwarding company out of the through rate or fare than the standard rate or fare which the company is entitled to charge, and to allow and apportion the through rate or fare accordingly.
- (9) Where a railway company uses, maintains, or works, or is a party to an arrangement for using, maintaining, or working, vessels for the purpose of carrying on a communication between any towns or ports, the provisions of this section shall extend to such vessels and to the traffic carried thereby.
- (10) Where part of the through route is over a railway of a light railway company or of a railway company to which no schedule of standard charges applies, or is by sea, this section shall have effect as if the ordinary rate or fare for the time being chargeable for the conveyance of the traffic over that railway or by the sea route were the standard charge.
- (11) This section shall not apply where part of the through route is over a canal.

48 Minimum rates.

An amalgamated company or a railway company to which a schedule of standard charges has been applied shall be entitled to charge for the conveyance of merchandise as for a minimum distance of such number of miles as the rates tribunal may determine, or such minimum sum as the rates tribunal may determine, and the rates tribunal may fix greater minimum distances or higher minimum sums where the conveyance is over the railways of two or more such companies, but such minimum distances shall not vary according to whether charges for station terminals are or are not made.

49 Collection and delivery charges.

- (1) On and after the appointed day a railway company may collect and deliver by road any merchandise which is to be or has been carried by railway and may make reasonable charges therefor in addition to the charges for carriage by railway, and shall publish in the rate book kept at the station where it undertakes the services of collection and delivery the charges in force for the collection and delivery of merchandise ordinarily collected and delivered.
- (2) Any such company may, and upon being required to do so and upon payment of the proper charges shall, at any place where the company holds itself out to collect and deliver merchandise, perform the services of collection and delivery in respect of such merchandise as is for the time being ordinarily collected and delivered by the company at that place:

Provided that the company shall not be required to make delivery to any person who is unwilling to enter into an agreement terminable by him on reasonable notice for the delivery by the company at the charges included in the rate book of the whole of his traffic, or the whole of his perishable traffic, from the station at which those charges apply.

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- (3) Where any person does not so agree, the company shall not be required to deliver any of his merchandise, but, if such person fails to take delivery of any merchandise within a reasonable time, the company may deliver such merchandise and make such reasonable charges therefor as it thinks fit.
- (4) Any dispute as to whether or not any charge for the services of collection and delivery is reasonable, or whether the length of notice for the termination of an agreement under this section is reasonable, shall be determined by the rates tribunal.

50 Dangerous goods.

- (1) Nothing contained in this Act shall impose any obligation on any railway company to accept dangerous goods for conveyance, or shall prejudice or derogate from the powers of His Majesty in Council, or of any Government department, under the Explosives Act, 1875, or affect the validity or operation of any Order in Council, order, rule, or byelaw made under the powers contained in that Act.
- (2) If on or after the appointed day any such company accepts dangerous goods for conveyance, the goods shall be conveyed subject to such byelaws, regulations and conditions as the company may think fit to make in regard to the conveyance or storage thereof, and the owner or consignor of such goods shall indemnify the company from and against all loss or damage which may result to the company or to which the company may be or become liable owing to non-compliance with the before-mentioned byelaws, regulations, and conditions as to such goods and will pay full compensation for all injury to the company's servants and damage to its property so arising unless it be proved that the injury or damage is due to the wilful misconduct of the company's servants, but, subject as aforesaid, the provisions of this Part of this Act as to ordinary rates and owner's risk rates shall apply,
- (3) Any question as to whether goods are dangerous goods shall be determined by the rates tribunal:

Provided that, where a railway company has declared any article to be dangerous, it shall lie on the person requiring the article to be carried to show that it is not dangerous.

51 Charges on jointly owned lines.

Where a railway is owned jointly by two or more railway companies (being amalgamated companies or railway companies to which a schedule of standard charges has been applied) then, for the purposes of this Part of this Act—

- (a) if the route lies wholly on the railway of one of the owning companies and the jointly owned railway, the charges shall be the charges which would have been chargeable if the whole route had been over the railway of that owning company; and
- (b) in any other case, the charges in respect of the jointly owned railway shall be the charges appearing in the schedule of charges applied to that railway.

52 Charges for competitive traffic.

- (1) Where any two places are connected by routes belonging to or operated by two or more railway companies (being amalgamated companies or railway companies to which a schedule of standard charges has been applied) and the standard rate for the carriage of merchandise by one such route is less than the standard rate by another such route, the

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standard rate for the carriage of merchandise by the first mentioned route may, subject to the provisions of this section as to circuitous routes, be charged as the standard rate for the carriage of merchandise by such other route.

- (2) For the purposes of this section, a circuitous route means a route which is longer by thirty per cent. or more than the shortest route between the two places.
- (3) Within six months after the date of amalgamation or such longer time as the Minister may allow every amalgamated company and every company liable to have applied to it a schedule of standard charges shall submit to the Minister in such form as he may direct a schedule of the circuitous routes to which it is desired that this section shall be applied. The Minister shall refer to the rates tribunal the schedules so submitted to him, and the tribunal shall, after giving all parties whom they consider entitled to be heard before them an opportunity of being heard, consider whether the routes contained in the said schedules are, having regard to all the circumstances, including the public interest, desirable and adequate, and shall settle the schedules accordingly, and this section shall apply to the circuitous routes contained in the schedules as settled, but, save as hereinafter provided, to no other circuitous routes.
- (4) After the settlement of such schedules any such company may apply this section to a new circuitous route not included in its schedule, but the company shall, within fourteen days, report the route to the Minister in such manner as he may direct, and, if the Minister considers that the proposal involves unreasonable competition or is not in the public interest, he may refer the matter to the rates tribunal who may, after giving all parties whom they consider entitled to be heard before them an opportunity of being heard, cancel the route :

Provided that, if the proposed circuitous route exceeds by fifty per cent or more the shortest route between the two places, this section shall not be applied thereto without the consent of the rates tribunal.

53 Fares on ships.

As from the appointed day, any amalgamated company or any railway company to which a schedule of standard charges has been applied whose powers of charging in respect of the conveyance of passengers and their luggage in steam or other vessels provided or used by any such company are limited by statute, may demand, take, and recover such reasonable fares as it shall think fit for and in respect of the conveyance of passengers and their luggage in such steam or other vessels, and any question as to the reasonableness of such fares shall be determined by the rates tribunal.

54 Publication of schedules of standard charges, &c.

- (1) The schedules of standard charges and the standard terms and conditions of carriage when settled in accordance with the provisions of this Part of this Act, and any orders of the rates 'tribunal modifying standard charges or standard terms and conditions shall be deemed to be statutory rules within the meaning of the Rules Publication Act, 1893, but nothing in this provision shall be construed as making any such schedules or orders statutory rules to which section one of that Act applies.
- (2) Printed copies of the general classification of merchandise and schedule of standard charges for the time being in force shall be kept for sale by every railway company to which the same apply at such places and at such reasonable prices as the Minister may direct.

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- (3) On and after the appointed day, every railway company shall keep for public inspection at each station at which merchandise is received for conveyance, or, where merchandise is received for conveyance at some other place than a station, then, at the station nearest to such place, a copy of the general classification of merchandise carried on the railway of the company and a book or books stating :—
- (i) the chargeable distance from that station or place of every place to which they book;
 - (ii) the scales of standard charges applicable to each class of merchandise conveyed on the railway ;
 - (iii) all exceptional rates in operation from such station or place;
 - (iv) any charges in force for the collection and delivery of merchandise at such station or place.

The general classification of merchandise and every such book shall, during all reasonable hours, be open to the inspection of any person without the payment of any fee.

- (4) On and after the appointed day, every railway company shall for a period of ten years keep open for inspection at its head office, the books, schedules, or other papers specifying the rates, charges, and conditions of transport in use on the fourteenth day of January, nineteen hundred and twenty, upon the several railways owned or worked by the company, and shall, upon demand and upon payment of a reasonable charge, supply copies of or extracts from such books, schedules, and papers.
- (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 Great Britain 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 rate is appropriated to the conveyance by sea, distinguishing such proportion from that which is appropriated to the conveyance by land on either side of the sea.
- (6) 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 fine not exceeding five pounds.

55 Miscellaneous provisions as to rates.

The provisions contained in the Fifth Schedule to this Act (being provisions similar to those now contained in the various railway rates and charges orders) shall, as from the appointed day, apply to the amalgamated companies and the railway companies to which a schedule of standard charges has been applied.

56 Amendments of certain Acts.

- (1) As from the appointed day the Acts mentioned in the first column of the Sixth Schedule to this Act shall, in their application to railway companies, have effect subject to the amendments specified in the second column of that schedule.
- (2) Where any existing special Act relating to any railway company does not incorporate a section of any of the Railways Clauses Acts which is amended or repealed by the said schedule but contains provisions corresponding to such section, the like amendment or

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repeal shall be made of such corresponding provision as is made by the said schedule of the section of the Railways Clauses Act.

57 Interpretation of Part III.

For the purposes of this Part of this Act, unless the context otherwise requires,—

The expression "charges" includes rates, fares, tolls, dues and other charges.

The expression "rates" means rates and other charges in connexion with the carriage of merchandise.

The expression "fares" means fares and other charges in connexion- with the conveyance of passengers and their luggage.

The expression "modifications" in relation to charges includes modifications whether by way of decrease or increase, and "modify" shall be construed accordingly.

The expression "merchandise" includes goods, minerals, live stock, and animals of all descriptions.

The expression "exceptional charges" means charges below the standard charges, including special charges continued subject to adjustment under the provisions of this Part of this Act, and the expressions "exceptional rates" and "exceptional fares" shall be construed accordingly.

The expression "conditions" includes regulations.

The expression "railway rates and charges orders" means the provisional orders fixing maximum rates and charges applicable to the several railway companies made and confirmed by Parliament in pursuance of section twenty-four of the Railway and Canal Traffic Act, 1888.

The expression "prescribed" means prescribed by the rates tribunal.