



Railways Act 1921

1921 CHAPTER 55

PART III

RAILWAY CHARGES.

Constitution and Procedure of Rates Tribunal.

20 Rates tribunal.

- (1) There shall be established a court styled the Railway Rates Tribunal (in this Act referred to as the "rates tribunal"), consisting of three permanent members, with power to add to their number as hereinafter provided, and the rates tribunal shall be a court of record and have an official seal which shall be judicially noticed, and the rates tribunal may act notwithstanding any vacancy in their number.
- (2) The permanent members of the rates tribunal shall be whole-time officers and shall hold office for such term not exceeding seven years from the date of their appointment as may be determined at the time of appointment and then retire, but a retiring member shall be eligible for reappointment.
- (3) The permanent members of the rates tribunal may be appointed by His Majesty at any time after the passing of this Act, and from time to time as vacancies occur, and shall be so appointed on the joint recommendation of the Lord Chancellor, the President of the Board of Trade, and the Minister.
- (4) Of the permanent members of the rates tribunal one shall be a person of experience in commercial affairs, one a person of experience in railway business, and one, who shall be the president, shall be an experienced lawyer.

21 Appointment of officers and expenses of tribunal.

- (1) The rates tribunal may appoint a clerk and such other officers and servants (subject to the consent of the Treasury as to number and not exceeding ten) as they may consider necessary for assisting them in the proper execution of their duties, and there shall be

Status: This is the original version (as it was originally enacted). This item of legislation is currently only available in its original format.

paid to the permanent members of the rates tribunal and to any such clerk, officer or servant as aforesaid such remuneration (including, in the case of such clerk, officers, and servants, superannuation allowances or gratuities on retirement) as the Minister, with the approval of the Treasury, may determine.

- (2) Any such remuneration and any other expenses of the rates tribunal incurred in the exercise and performance of their powers and duties shall be defrayed by the Minister out of moneys provided by Parliament, but, so far as the aforesaid expenses are not met out of the amount recovered by way of fees, they shall, on demand, be repaid to the Minister by the amalgamated companies as part of their working expenses in such proportions as the rates tribunal may determine.

22 Procedure.

- (1) The rates tribunal may, from time to time, with the approval of the Lord Chancellor, the Lord President of the Court of Session, and the Minister, make general rules governing their procedure and practice and generally for carrying into effect their duties and powers under this Part of this Act, and such rules may, amongst other things, provide for—
- (a) the awarding of costs by the tribunal, but so that in proceedings before the rates tribunal at the instance of any company or person, other than disputes between two or more railway companies, the tribunal shall not have power to award costs unless they are of opinion that either the application or claim or complaint or defence or objection, as the case may be, is frivolous and vexatious ;
 - (b) the reference of any question to a member or officer of the tribunal, or any other person appointed by them, for report after holding a local inquiry;
 - (c) the number of members of the tribunal to constitute a quorum;
 - (d) enabling the tribunal to dispose of any proceedings before them, notwithstanding that in the course of the proceedings there has been a change in the persons sitting as members of the tribunal;
 - (e) the right of audience before the tribunal, provided that any party shall be entitled to be heard in person, or by a representative in the employment of the party duly authorised in Writing, or by counsel or solicitor;

and may, subject to the consent of the Treasury, prescribe a scale of fees for and in connection with the proceedings before the tribunal.

- (2) The Minister shall give to the rates tribunal such assistance as the tribunal may require, and shall place at the disposal of the tribunal any information in his possession which he may think relevant to the matter before the tribunal, and the Minister shall be entitled to appear and be heard in any proceedings before the tribunal.
- (3) The rates tribunal shall annually make a report to the Minister of their proceedings under this Act, which report shall be laid before Parliament.

23 Sittings.

Subject to the provisions of this Part of this Act and to the rules made thereunder, the rates tribunal may hold sittings in any part of Great Britain in such place or places as may be convenient for the determination of the proceedings before them. The central office of the tribunal shall be in London.

Status: This is the original version (as it was originally enacted). This item of legislation is currently only available in its original format.

24 Additional members of tribunal.

- (1) There shall be constituted two panels, the one (hereinafter referred to as the general panel) consisting of thirty-six persons, "twenty-two being nominated by the President of the Board of Trade after consultation with such bodies as he may consider to be most representative of trading interests twelve being nominated by the Minister of Labour after consultation with such bodies as he may consider most representative of the interests of labour and of passengers upon the railways, and two being nominated by the Minister of Agriculture and Fisheries after consultation with such bodies as he may consider most representative of agricultural and horticultural interests, and the other (hereinafter referred to as the railway panel) consisting of eleven persons nominated by the Minister after consultation with the Railway Companies' Association, and one person nominated by the Minister to represent railways and light railway companies not parties to the Railway Companies' Association.
- (2) A member of a panel shall hold office for such term, not exceeding three years from the date of his appointment, as "may be determined at the time of appointment, and then retire, but shall be eligible for reappointment.
- (3) If a vacancy occurs amongst the permanent members of the rates tribunal, or if any permanent member of the rates tribunal is incapacitated by prolonged illness or other unavoidable cause from attending meetings of the tribunal, then pending the filling up of such vacancy or during such absence,
 - (a) in the case of the president, the Lord Chancellor may appoint a person to act in his place;
 - (b) in the case of either of the other permanent members, the Minister may appoint a member of a panel to act in his place, the person so appointed being selected from the general panel or the railway panel according to the qualification of the permanent member in question.
- (4) Whenever for the purposes of any particular case or proceeding the rates tribunal either upon application by any of the parties or otherwise so request, or the Minister thinks it expedient, there shall be added to the rates tribunal two additional members nominated by the Minister from the panels, one selected from the general panel and one from the railway panel.

In selecting a member from the general panel, regard shall be had to the particular class of case or proceeding to be heard, so that, as nearly as may be, the person so selected shall be conversant with and have knowledge of the technicalities that may arise in such particular case or proceeding.

- (5) Any person appointed under the provisions of this section shall, for the purposes of any proceedings in respect of which he may be so appointed, be a member of the rates tribunal and shall, subject to the provisions of this Part of this Act and to the general rules made thereunder, exercise all the powers and functions of a permanent member of the rates tribunal.

25 Decisions.

The decisions of the rates tribunal shall be by a majority of the members including the additional members, and shall not be subject to review otherwise than under the provisions of this Part of this Act relative to appeals from the rates tribunal.

Status: This is the original version (as it was originally enacted). This item of legislation is currently only available in its original format.

26 Appeals.

Section seventeen of the Railway and Canal Traffic Act, 1888, shall apply in respect of appeals from the rates tribunal in like manner as it applies to appeals from the Railway and Canal Commission :

Provided that, in cases where an appeal lies, the question whether the appeal is to be to the court of appeal or to the Court of Session shall be determined in accordance with general rules made under this Part of this Act.

Jurisdiction of Tribunal.

27 Transfer of powers of Railway and Canal Commission.

Any existing functions of or powers exercisable by the Railway and Canal Commission shall, in so far as they are exercisable by the rates tribunal by virtue of this Act, cease as from the appointed day hereinafter mentioned to be functions of or powers exercisable by that Commission.

28 Functions of tribunal.

- (1) The rates tribunal shall, in addition to any other powers conferred upon them under this Part of this Act, have power to determine any questions that may be brought before them in regard to the following matters:—
- (a) The alteration of the classification of merchandise, or the alteration of the classification of any article, or the classification of any article not at the time classified, or any question as to the class in which any article is classified ;
 - (b) The variation or cancellation of through rates;
 - (c) The institution of new, and the continuance, modification, or cancellation of existing group rates;
 - (d) The variation of any toll payable by a trader;
 - (e) The amount to be allowed for any terminal services not performed at a station, or for accommodation and services in connection with a private siding not provided or performed at that siding;
 - (f) The reasonableness or otherwise of any charge made by a railway company for any services or accommodation for which no authorised charge, is applicable ;
"
 - (g) The reasonableness or otherwise of any conditions as to packing of articles specially liable to damage in transit or liable to cause damage to other merchandise;
 - (h) The articles and things that may be conveyed as passengers' luggage;
 - (i) The constitution of local joint committees and their functions and the centres at which they are to be established.
- (2) The powers of the rates tribunal under paragraphs (b) to (f) of this section shall not be exercisable until the appointed day.

Status: This is the original version (as it was originally enacted). This item of legislation is currently only available in its original format.

Classification of Merchandise.

29 Classification of merchandise.

- (1) The classification of merchandise for the purposes of this Part of this Act shall, in the first instance, be that determined by the committee appointed under section twenty-one of the Ministry of Transport Act, 1919, and that committee shall have power to settle such classification as if they had been empowered for that purpose by that Act, and, notwithstanding anything contained in that Act, shall continue in existence until they have settled such classification.
- (2) The classification shall be divided into such number of classes containing such descriptions of merchandise as the committee think fit, and the committee, in determining the class into which any particular merchandise shall be placed, shall, in addition to all other relevant circumstances, have regard to value, to the bulk in comparison to weight, to the risk of damage, to the cost of handling, and to the saving of cost which may result when merchandise is forwarded in large quantities.

Standard Charges.

30 Submission of schedules of charges.

- (1) The constituent companies in each group shall jointly, or with the consent of the rates tribunal any one or more of such companies may, submit to the rates tribunal not later than the thirty-first day of December, nineteen hundred and twenty-two, or such later date as the Minister may allow, a schedule of the standard charges proposed to be made by the amalgamated company into which they are to be formed, according to the classification fixed as aforesaid, and shall (except as hereinafter provided) show in that schedule the rates for the conveyance of merchandise, the amounts of terminal charges, and the fares for the conveyance of passengers and their luggage, and every such schedule shall be published in such manner as the rates tribunal may direct.
- (2) The schedules so submitted shall be divided into the parts and be in the form mentioned in the Fourth Schedule to this Act, or into such other parts or in such other similar form as the rates tribunal may prescribe.

31 Settlement of schedules.

The rates tribunal shall consider the schedules of charges so submitted to them and any objections thereto which may be lodged within, the prescribed time and in the prescribed manner, and, after hearing all parties interested and who are desirous of being heard, shall, in accordance with the provisions hereinafter contained, settle the schedules of charges and appoint a day (hereinafter called "the appointed day") when the same shall come into operation.

32 Obligation to charge standard charges.

On and from the appointed day the charges appearing in the schedule of charges as fixed by the rates tribunal for each amalgamated company (in this Part of this Act referred to as "the standard charges") shall be the charges which that company shall be entitled to make for all services rendered in respect of which charges are fixed, and no variation either upwards or downwards shall be made from such authorised

Status: This is the original version (as it was originally enacted). This item of legislation is currently only available in its original format.

charges unless by way of an exceptional rate or an exceptional fare continued, granted, or fixed under the provisions of this Part of this Act, or in respect of competitive traffic in accordance therewith.

33 Application of schedules to non-amalgamated companies.

As respects railway companies, other than amalgamated companies and light railway companies and railway companies whose powers of charging have, since the fourteenth day of August, nineteen hundred and nineteen, been increased by special Act either generally or in relation to any particular class of traffic, the rates tribunal shall apply to each such company the schedule of charges of such one of the amalgamated companies as, after considering any objections thereto which may be lodged within the prescribed time and in the prescribed manner and after giving the company in question and all other parties whom they consider to be entitled to be heard before them an opportunity of being heard, appears to the tribunal to be most appropriate to the case of that company, and may so apply it either without modification or subject to such modifications as the tribunal may think fit ; and, where a schedule has been so applied to any company, the last foregoing section shall apply to the company as if it were an amalgamated company.

34 Repeal of existing provisions.

- (1) As from the appointed day all statutory provisions, and the provisions of all agreements with respect to classification of merchandise and with respect to charges for or in connection with the carriage of merchandise or passengers by any railway which becomes a railway of an amalgamated company, or of a railway company to which a schedule of standard charges is applied, shall to the extent to which those provisions relate to the matters aforesaid be repealed and cease to be operative, except so far as any statutory provision authorises for the purpose of calculation of distance a special mileage to be allotted in respect of any portion of a railway, and except so far as, in the case of any such agreement or in the case of a statutory provision fixing a special charge, it may be continued under the provisions of this Part of this Act Of by an order of the rates tribunal:

Provided that nothing in this Act shall, except as otherwise expressly provided, affect the provisions of section six of the Cheap Trains Act, 1883 (which relates to the conveyance of His Majesty's forces and matters connected therewith).

- (2) In the case of the rates fixed under paragraph (v) of subsection (1) of section six of the Cheap Trains Act, 1883, Or in any case where it is proved to the satisfaction of the rates tribunal that any charge in operation on the fourth day of August, nineteen hundred and fourteen, and fixed under any subsisting agreement or special statutory provision was originally so fixed for valuable consideration, the rates tribunal shall, and in any other case may, by order continue the charge, subject to such adjustment, if any, as to the tribunal may appear fair and equitable, and in making such adjustment, if any, the tribunal shall, as far as practicable, provide that the relative position between persons entitled to the charge and other persons as existing on the said fourth day of August shall not be prejudiced or improved.

35 Subsequent modifications of standard charges.

Any amalgamated company or any railway company to which a schedule of standard charges has been applied, or any representative body of traders or any person who

Status: This is the original version (as it was originally enacted). This item of legislation is currently only available in its original format.

may obtain a certificate from the Board of Trade that he is, in the opinion of the Board of Trade, a proper person for the purpose, shall be entitled at any time to apply to the rates tribunal to modify the standard charges or any of them, or any conditions relative thereto, and, if any such company or body of traders or person, as the case may be, prove to the satisfaction of the rates tribunal that the standard charges or conditions or any of them ought to be modified, the tribunal shall make such modifications as they think fit, and shall fix the date as from which the modified standard charges or conditions shall be effective :

Provided that subsections (3), (4), (5), and (6) of section fifty-nine of this Act shall apply to any application for a general revision or variation of standard charges of an amalgamated company under this section as if such application were a review of standard charges and exceptional charges under that section:

Provided also that, where the schedule of standard charges Of any amalgamated company has been applied to any other company, the tribunal may modify the charges or any of them in the schedule as applied to the amalgamated company without modifying them in the schedule as applied to such other company, or modify them in the schedule as applied to such other company without modifying them in the schedule as applied to the amalgamated company.

Exceptional Charges.

36 Provisions as to existing exceptional rates.

- (1) On and from the appointed day all exceptional rates in operation immediately before the appointed day on the railway of any amalgamated company or any company to which a schedule of standard charges has been applied shall cease to operate, with the exception of such exceptional rates as—
 - (a) are not less than five per cent. below the standard rates which would otherwise on and from the appointed day become chargeable; and
 - (b) have been continued by agreement in writing between the railway company and the trader concerned or, failing agreement, have been notified in writing to the secretary of the railway company by the trader with a request that they should be referred to the rates tribunal for determination by them, in which case the rates shall continue until determined by the rates tribunal, and the onus of proving that any such rates should be altered or discontinued shall be upon the railway company;
- so nevertheless that no rate which has not been applied to the charging of merchandise actually forwarded within the two years preceding the first day of January, nineteen hundred and twenty-three, shall be continued unless the trader can prove to the satisfaction of the railway company or, failing agreement with the railway company, to the satisfaction of the rates tribunal—
- (i) that its non-application is solely due to abnormal conditions of trade; or
 - (ii) that a rate of equal amount to the same destination remains in operation at other stations or sidings in the same group or area :

Provided that, if the trader and the railway company agree to continue any rate which will be more than forty per cent. below the standard rate chargeable as aforesaid, the rate shall, before the appointed day, be referred to the rates tribunal, and, if so referred, shall continue until the tribunal have determined the matter.

Status: This is the original version (as it was originally enacted). This item of legislation is currently only available in its original format.

- (2) Any such agreement or determination may provide for the continuance of any exceptional rate at the same or any higher figure or charge, not being, in the case of an agreement between a railway company and a trader, less than five per cent. nor more than forty per cent. below the standard rate chargeable, and for a specified period of time.

37 New exceptional rates.

- (1) On and after the appointed day an amalgamated company or a railway company to which a schedule of standard charges has been applied shall be at liberty to grant new exceptional rates in respect of the carriage of any merchandise, which rates shall within fourteen days, or such longer period as the Minister may allow, be reported to the Minister; so, however, that a new exceptional rate so granted shall not, without the consent of the rates tribunal, be less than five per cent. or more than forty per cent. below the standard rate chargeable.
- (2) If the Minister is of opinion that any company is granting new exceptional rates in such manner as prejudicially to affect any class of users of the railway not benefited by such rates, or so as to jeopardise the realisation of the standard revenue of such company, he may refer the matter to the rates tribunal, who may, after giving all parties interested an opportunity of being heard, take either or both of the following courses:—
- (a) revise the standard charges of that company or any of them:
 - (b) cancel or modify all or any of such exceptional rates.
- (3) Any trader may, at any time, apply to the rates tribunal to fix a new exceptional rate.

38 Variation of exceptional rates.

- (1) An amalgamated company or a railway company to which a schedule of standard charges has been applied shall not be entitled to increase or cancel any exceptional rate which has been fixed by the rates tribunal without first obtaining the sanction of that tribunal.
- (2) Any such company may, at any time, reduce any exceptional rate, so, however, that the rate shall not, without the consent of the rates tribunal, be reduced so as to be more than forty per cent. below the standard rate which would be chargeable, but any such reduction shall be reported to the Minister in like manner as if it were the grant of a new exceptional rate.
- (3) Any such company may, at any time, increase any exceptional rate which has not been fixed by the rates tribunal on giving thirty days' notice in such manner as the rates tribunal may prescribe of the proposed increase, and on the expiration of such notice may, if no objection be raised by any trader interested, forthwith bring the increased rate into force, provided that it is not less than five per cent below the standard rate chargeable but, if such an objection be raised-or if the rate when increased would be less than five per cent below the standard rate chargeable, the increase shall not have effect unless and until the rates tribunal, after giving the company an opportunity of being heard, so determine :

Provided that no trader shall be entitled to object to an increase of an exceptional rate reduced by a railway company since the appointed day unless the effect of the increase is to make the rate applicable to his traffic higher than the rate applicable thereto immediately before the reduction.

Status: This is the original version (as it was originally enacted). This item of legislation is currently only available in its original format.

- (4) Any such company may, at any time, cancel any exceptional rate which has not been fixed by the rates tribunal on giving thirty days' notice in such manner as the rates tribunal may prescribe of the proposed cancellation, and on the expiration of such notice may, if no objection be raised by any trader interested, forthwith cancel the rate as proposed, but if any such objection be raised, the cancellation shall not have effect unless and until the rates tribunal, after giving the company an opportunity of being heard, so determine:

Provided that no trader shall be entitled to object to the cancellation of an (Exceptional rate granted by a railway company since the appointed day unless the effect of the cancellation is to make the rate applicable to his traffic higher than the rate applicable thereto at the date when the exceptional rate was granted.

- (5) No such increase or cancellation shall take effect in the case of any exceptional rate referred to the rates tribunal under paragraph (b) of subsection (1) of section thirty-six of this Act pending the decision of the tribunal with reference thereto, and any exceptional rate agreed under the said section thirty-six shall not be increased or cancelled for a period of twelve months after the appointed day except as part of a general increase under this Part of this Act or to abate an undue preference.
- (6) Any trader or representative body of traders interested in the rate, or any such company, shall be entitled to apply to the rates tribunal at anytime to cancel or vary any exceptional rate.
- (7) Any such company may cancel any exceptional rate existing after the appointed day which for a period of two years shall not have been applied to the charging of merchandise actually forwarded by railway.

39 Review of competitive exceptional rates.

If and whenever representations are made to the Minister by any body of persons who, in the opinion of the Board of Trade, are properly representative of the interests of shipping or canals, that exceptional rates are being charged which are competitive with coastwise shipping or canals in such a manner as to be detrimental to the public interest, and which are inadequate having regard to the cost of affording the service or services in respect of which the rates are charged, the Minister shall (if satisfied that a prima facie case has been made out) refer the matter to the rates tribunal for review, and the rates tribunal may, after hearing all parties whose interests are affected, vary or cancel such rates or make such other order as may seem to them expedient.

40 Disintegration of exceptional rates.

- (1) Where application is made to the rates tribunal to fix or sanction any exceptional rate for the carriage of merchandise between two stations, or between a station and a siding, or between two sidings, or between either a station or a siding and a junction, the rates tribunal in fixing or sanctioning the exceptional rate shall determine the amounts (if any) to be included in the rate for the following services:—
- (a) conveyance;
 - (b) station terminals;
 - (c) service terminals;
 - (d) accommodation provided and services rendered at or in connection with a private siding.

Status: This is the original version (as it was originally enacted). This item of legislation is currently only available in its original format.

- (2) Where an amalgamated company or a railway company to which a schedule of standard charges has been applied grants an exceptional rate for the carriage of merchandise between two stations, or between a station and a siding, or between two sidings, or between either a station or a siding and a junction, without referring to the rates tribunal, and the company shows in the quotation for the rate and in the rate book the amount (if any) included therein for such several services as aforesaid, the disintegration of the exceptional rate as so shown shall be conclusive unless a trader interested in the rate complains that the amount allocated to any particular service is unreasonable, in which event the onus of proof shall be on the railway company.
- (3) Where any such company in granting such an exceptional rate has not distinguished in the quotation for the rate or in the rate book the amounts included therein for such several services as aforesaid—
 - (a) the rate, in the case of a station-to-station rate, shall be deemed to be composed of conveyance rate and terminal charges in proportion to the amounts included in the corresponding standard rate for the same service and -accommodation in respect of similar goods between the same stations; and
 - (b) in the case of any other rate, the company shall, within fourteen days after application in writing by any person interested in the disintegration of the rate, afford that person information of the amounts (if any) included in the rate for the several services aforesaid.
- (4) Any dispute as to the disintegration of any such exceptional rate shall be determined by the rates tribunal at the instance of either a trader or the railway company.
- (5) For the purposes of determining any question of an alleged undue or unreasonable preference or advantage, the Railway and Canal Commission shall not have regard to the separate component parts of any rate as shown in the rate book or as determined by this section, but shall, unless in any case in which an application has been made for the purpose it is proved to the satisfaction of the Commission that a consideration of the component parts of the rate would be fair and reasonable, determine the question in reference to the total rate for carriage applicable to the merchandise in respect of which such undue or unreasonable preference or advantage is alleged to arise and the conditions under which the rate applies.

41 Exceptional fares.

- (1) Any amalgamated company or railway company to which a schedule of standard charges has been applied may charge fares below the standard fares in such circumstances as the company may think fit, but the circumstances in which such exceptional fares, if below ordinary fares, may be charged, and the amount of reduction below the standard fare, shall be reported to the Minister within fourteen days, or such longer period as the Minister may allow, after the decision has been arrived at.
- (2) If the Minister is of opinion that any company has granted exceptional fares in such a manner as prejudicially to affect any other class of users of the railway, or so as to jeopardise the realisation of the standard revenue of the company, he may refer the matter to the rates tribunal, who may, after giving the parties interested an opportunity of being heard, cancel or modify all or any of the exceptional fares so granted.

Status: This is the original version (as it was originally enacted). This item of legislation is currently only available in its original format.

Conditions of Carriage.

42 Submission of proposed conditions.

Within six months from the passing of this Act, or within such further time as the rates tribunal may permit, the constituent companies in all the groups shall jointly submit to, and publish in such manner as may be prescribed by, the rates tribunal—

- (a) the terms and conditions (hereinafter called " company's risk conditions ") on and subject to which merchandise other than live stock, and live stock, will .respectively be carried if carried at ordinary rates;
- (b) the terms and conditions (hereinafter called " owner's risk conditions") on and subject to which merchandise other than live stock, and, subject as hereinafter provided, live stock, will respectively be carried if carried at owner's risk rates;
- (c) the terms and conditions on and subject to which damageable goods not properly protected by packing will be carried.

43 Settlement by tribunal.

- (1) The rates tribunal shall consider the terms and conditions so submitted, or, if the companies fail to submit terms and conditions within the time so allowed, shall themselves prepare and publish provisional terms and conditions, and after hearing any representative body of traders who may desire to be heard or any person who may obtain a certificate from the Board of Trade that he is, in the opinion of the Board of Trade, a proper person for the purpose, and any other party whom they consider entitled to be heard, shall settle, and when settled publish in the London and Edinburgh Gazettes the terms and conditions which they consider just and reasonable, and shall fix a date, not earlier than two months after such publication, upon which those terms and conditions are to come into force.
- (2) When the terms and conditions so settled come into force they shall be the standard terms and conditions of carriage for all railway companies and shall be deemed to be reasonable.

44 Conditions on which merchandise to be carried.

- (1) On and after the date so fixed as aforesaid the terms and conditions upon and subject to which merchandise is apart from special contract to be carried by a railway company shall be company's risk conditions, and those conditions shall apply without any special contract in writing to the carriage of merchandise at ordinary rates:

Provided that, in any case where an owner's risk rate is in operation and the company has been requested in writing to carry at that rate, the terms and conditions upon and subject to which such goods shall be carried shall be owner's risk conditions.

- (2) The terms and conditions upon and subject to which damageable goods not properly protected by packing (if accepted by the company for carriage) shall be carried by a railway company shall be the conditions settled by the rates tribunal as aforesaid, but the company shall not be under any obligation to carry damageable goods not properly protected by packing.
- (3) Subject to the provisions of the Railway and Canal Traffic Acts, 1854 and 1888, nothing in this Act shall preclude a company and a trader from agreeing in writing to

Status: This is the original version (as it was originally enacted). This item of legislation is currently only available in its original format.

any terms and conditions they think fit for the carriage of merchandise, live stock or damageable goods not properly protected by packing, or dangerous goods.

45 Alteration of conditions.

At any time after the date when the terms and conditions so settled as aforesaid come into force a railway company or any representative body of traders may apply to the rates tribunal to amend, alter or add to those terms and conditions, and the tribunal may, after hearing all parties whom they consider entitled to be heard, make such amendments, alterations, or additions of or to such terms and conditions as the tribunal think just and reasonable, and fix a date as from which they are to come into operation.

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.

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

Status: This is the original version (as it was originally enacted). This item of legislation is currently only available in its original format.

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 :

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.

Status: This is the original version (as it was originally enacted). This item of legislation is currently only available in its original format.

- (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.

- (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

Status: This is the original version (as it was originally enacted). This item of legislation is currently only available in its original format.

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 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

Status: This is the original version (as it was originally enacted). This item of legislation is currently only available in its original format.

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.
- (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.

Status: This is the original version (as it was originally enacted). This item of legislation is currently only available in its original format.

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 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.

Status: This is the original version (as it was originally enacted). This item of legislation is currently only available in its original format.

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.

Adjustment of Charges to Revenue.

58 Adjustment of powers of charging to revenue.

- (1) The charges to be fixed in the first instance for each amalgamated company shall be such as will, together with the other sources of revenue, in the opinion of the rates tribunal, so far as practicable yield, with efficient and economical working and management, an annual net revenue (hereinafter referred to as the standard revenue) equivalent to the aggregate net revenues in the year nineteen hundred and thirteen of the constituent companies and the subsidiary companies absorbed by the amalgamated company, together with—
- (a) a Sum equal to five per cent. on capital expenditure forming the basis on which interest was allowed at the end of the period during which the constituent companies and subsidiary companies were in the possession of the Government; and
 - (b) such allowance as may be necessary to remunerate adequately any additional capital which may have been raised or provided in respect of expenditure on capital account incurred since the first day of January, nineteen hundred and thirteen, and not included in the expenditure referred to in the last preceding paragraph, unless it can be shown that such expenditure has not enhanced the value of the undertaking; and
 - (c) such allowance as appears to the rates tribunal to be reasonable in respect of capital expenditure (not being less than twenty-five thousand pounds in the case of any work, and not being capital expenditure included in paragraph (a)), on works which enhance the value of the undertaking, but which had not at the beginning of the year nineteen hundred and thirteen become fully remunerative:

Provided that, in determining the sum which charges will, with efficient and economic working and management, yield, the tribunal shall, with a view to encouraging the taking of early steps for effecting economies in working and management expenses rendered possible by or in anticipation of amalgamation, take into consideration the economies effected by such steps already taken, and shall make such allowance in respect thereof as the tribunal may consider fair and equitable to an amount not exceeding thirty-three and one-third per cent. of such economies.

Status: This is the original version (as it was originally enacted). This item of legislation is currently only available in its original format.

- (2) The tribunal when fixing charges in pursuance of the provisions of this section shall have regard to the means which in their opinion are best calculated to ensure the maximum development and extension in the public interest of the carriage by railway of merchandise and of passengers and their luggage, and shall accordingly ascertain as far as may be practicable the effect which the existing charges, or any of them, have had upon the merchandise or passenger traffic to which they are applicable, and in particular whether the application of such charges has tended or, if continued, would be likely to tend towards causing the increase or diminution of the said traffic.
- (3) If on any such review as is mentioned in the next following section it appears to the rates tribunal that the allowance made under paragraph (c) of subsection (1) of this section was too high or too low, the tribunal may revise the allowance and make such adjustment in the amount of the standard revenue as may be necessary.
- (4) When fixing the charges necessary to produce the standard revenue, the tribunal shall take into consideration the charges in respect of any business carried on by the company ancillary or subsidiary to its railways, the charges for which are not subject to the jurisdiction of the tribunal, and if in the opinion of the tribunal the company is not making, or has not taken reasonable steps to enable it to make, adequate charges in respect of any such business, the tribunal shall, in fixing the charges under this Part of this Act, take into account the revenue which would be produced by any such business if adequate charges were in operation.

59 Periodical review of standard charges and exceptional rates.

- (1) The rates tribunal shall review the standard charges and exceptional charges of each amalgamated company at the end of the first complete financial year after the appointed day, or, if the appointed day is the first day of January in any year, at the end of that year, and, unless directions are given by the Minister to the contrary in manner hereinafter appearing, at the end of each succeeding year, and the review shall be made on the experience of the operation of those charges for the period during which the standard charges have been in operation, or, if that period is more than three years, then on the experience of the operation of those charges during the preceding three years.
- (2) The Minister may direct as respects any year after the second annual review that a review shall not be held, and the directions may extend either to all the amalgamated companies or to any one or more of those companies:

Provided that no such direction shall extend to any company which has applied to the Minister for a review, or in respect of which the Board of Trade on the application of any representative body of traders have requested that a review shall be held.

- (3) If on any such review the rates tribunal find that the net revenue or the average annual net revenue obtained, or which could, with efficient and economic management, have been obtained, by the company during the period on the experience of which the review is based is substantially in excess of the standard revenue of the company, with such allowance (if any) as appears to the tribunal necessary to remunerate adequately any additional capital which may have been raised or provided in respect of expenditure on capital account incurred since the date upon which the standard charges were fixed in the first instance, the tribunal shall, unless they are of opinion that owing to change in circumstances the excess is not likely to continue, modify all or any of the standard charges and make a corresponding general modification of the exceptional charges of the company so as to effect a reduction of the net revenue of the company in subsequent years to an extent equivalent to eighty per cent. of such excess:

Status: This is the original version (as it was originally enacted). This item of legislation is currently only available in its original format.

Provided that the tribunal in making such modifications as aforesaid as respects one amalgamated company shall, so far as practicable, avoid making such modifications as would be likely to affect prejudicially the financial position of any other railway company.

- (4) If on any such review the rates tribunal find that the net revenue or the average annual net revenue obtained by the company during the period on the experience of which the review is based is less than the standard revenue of the company, with such allowance (if any) as appears to the tribunal necessary to remunerate adequately any additional capital which may have been raised or provided in respect of expenditure on capital account incurred since the date upon which the standard charges were fixed in the first instance, and that the deficiency is not due to lack of efficiency or economy in the management, the tribunal shall, unless in their opinion owing to change of circumstances the deficiency is not likely to continue, make such modifications in all or any of the standard charges and such a corresponding general modification of the exceptional charges of the company as they may think necessary to enable the company to earn the standard revenue with such allowance (if any) as aforesaid.
- (5) Whenever on any such review such an excess as aforesaid is found, then, for the purposes of subsequent reviews, subsection (3) of this section shall have effect as if for the standard revenue there were substituted a sum (hereinafter referred to as the " increased standard ") equal to the standard revenue with the addition of twenty per cent. of such excess, and whenever on any such subsequent review an excess is found above the increased standard together with the allowance (if any) for additional capital, then, for the purpose of subsequent reviews, the increased standard shall be increased by a sum equal to twenty per cent. of such excess, and so on:

Provided that, if at any time after such an excess has been found, the standard charges and exceptional charges are modified in pursuance of subsection (4) of this section on account of a deficiency, no such substitution shall be made until an excess above the standard revenue together with the allowance (if any) for additional capital is again found.

- (6) The rates tribunal, when modifying charges on any such review, shall have regard to the like considerations as when fixing charges in the first instance :

Provided that the tribunal shall have regard to the financial results obtained from the operation of any ancillary or subsidiary business carried on by the company, and if satisfied that the net revenue resulting therefrom is, having regard to all the circumstances, unduly low, may, for the purpose of such review, make such deductions from the charges which would otherwise have been fixed as they think proper.

- (7) The modifications of standard charges and exceptional charges made in pursuance of this section shall take effect as from the first day of July in the year following the last year under review or such other date as the rates tribunal may fix,

Transitory Provisions.

60 Transitory provisions as to charges generally.

A constituent, subsidiary, or amalgamated company, or any railway company which is liable to have applied to it a schedule of standard charges shall, notwithstanding anything contained in any special or general Act or in any agreement, be entitled till

Status: This is the original version (as it was originally enacted). This item of legislation is currently only available in its original format.

the appointed day to make such charges in connexion with the carriage of merchandise and passengers or otherwise as were in force as respects the railway on the fifteenth day of August, nineteen hundred and twenty-one; or, where no such charges were in force on that date, then such reasonable charges as shall, in case of difference, be determined by the rates tribunal:

Provided that at any time after the said fifteenth day of August, and before the appointed day,

- (i) any representative body of traders may apply to the rates tribunal to reduce the aforesaid charges or any of them;
- (ii) any trader interested in any particular charge may apply to the rates tribunal to reduce that charge;
- (iii) any such company may apply to the rates tribunal to increase the aforesaid charges or any of them;

any such application shall be published in such manner as the rates tribunal prescribe and the tribunal after hearing all parties whom they consider entitled to be heard may make such modifications in the said charges or any of them as to the tribunal may seem just, and shall fix a day upon which the modifications are to come into force.

61 Provisions as to charges in connection with private sidings.

- (1) Until an agreement has been made, or the rates tribunal have determined any differences that may arise, between the railway company concerned and the owner of or any person using a private siding (in this section called the "siding owner") as to the sum payable (if any) for accommodation and services provided in connexion with the siding, the following provisions shall apply:—
 - (1) Where at the passing of this Act an agreement exists between a railway company (being a constituent or subsidiary company or a company which is liable to have applied to it a schedule of standard charges) and a siding owner, under which the siding owner pays either the whole of the station and service terminals or pays such terminals and is allowed a rebate upon a percentage basis, the agreement shall continue to operate for the period fixed by the agreement, and after the expiration of the agreement, or, if the agreement is terminable on notice, then from the expiration of any notice given thereunder, the provisions of the agreement shall be deemed to remain in force notwithstanding any change which may be made in the amount of the terminal charges:
 - (2) Where at the passing of this Act an agreement exists between any such railway company and a siding owner whereby the siding owner pays for accommodation and services provided in connexion with the delivery or collection of merchandise at the siding a fixed sum, or pays for such services terminal charges less a rebate of a fixed amount, the agreement shall continue to operate for the period fixed by the agreement, and after the expiration thereof, or, if the agreement is terminable on notice, then from the expiration of any notice given thereunder, the sum so payable or the rebate so allowed shall be increased in proportion to the amount by which the aggregate of the conveyance rate and station and service terminals may have been increased since the date of the agreement:
 - (3) Where at the passing of this Act there is no express agreement as to the amount to be paid for such services, but the siding owner in fact pays station terminals and service terminals or any portion thereof or either of them, the siding owner shall hereafter pay for such services as aforesaid the station terminals and service terminals or such portion of the same as he has heretofore paid:

Status: This is the original version (as it was originally enacted). This item of legislation is currently only available in its original format.

- (4) Where after the passing of this Act a new siding is connected with the railway, or traffic which is not provided for under the foregoing provisions of this section passes to an existing siding, the siding owner shall pay for the aforesaid services the amount of the station and service terminals for the time being in force; provided that the sum thereafter agreed or in default of agreement determined by the rates tribunal to be payable for such services shall be payable from the date of such connection for traffic or of the passing of the traffic as the case may be or for a period of twelve months from the date of application to the tribunal, whichever is shorter:

Provided that nothing contained in this section shall give rise to any presumption as to the value of the aforesaid accommodation and services, and in fixing any sum which the siding owner is to pay the rates tribunal shall have regard only to what sum is reasonable in all the circumstances of the case.

- (2) The Railway and Canal Commission shall not, after the passing of this Act, exercise any jurisdiction with respect to the matters to which this section relates.