Regulation of Railways Act 1871

1871 CHAPTER 78 34 and 35 Vict

An Act to amend the Law respecting the Inspection and Regulation of Railways. [14th August 1871]

Modifications etc. (not altering text)

C1 Functions of Board of Trade made exercisable by Minister of Transport by Ministry of Transport Act 1919 (c. 50), **s. 2**; S.I. 1953/1204 (1953 I, p. 1225), art. 3(1); S.I. 1959/1768 (1959 I, p. 1793), art. 3(2); S.I. 1970/1681, **art. 2(1)**; S.I. 1979/571, **art. 2(1)**

C2 Functions transferred by S.R. & O. (N.I.) 1964 No. 205 (p. 937)

C3 Act extended by Transport Act 1968 (c. 73), **Sch. 16 para. 2**

Preliminary

1 Construction of Act and short title.

This Act so far as is consistent with the tenor thereof shall be construed as one with the Acts mentioned in Schedule Two to this Act and with the [M1]Regulation of Railways Act 1868 and those Acts and this Act may be cited together as "The Regulation of Railways Acts 1840 to 1871"; and this Act and each of the Acts mentioned in Schedule Two to this Act may be cited as "The Regulation of Railways Act" of the year in which it was passed.

Marginal Citations

M1 1868 c. 119.

2 Interpretation of terms.

In this Act—

The term "railway" means the whole or any portion of a railway or tramway, whether worked by steam or otherwise, which has been authorized by any

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special Act of Parliament **[**[F1]the Channel Tunnel Act 1987**]** or by any certificate under Act of Parliament:

The term "company" means a company incorporated either before or after the passing of this Act for the purpose of constructing, maintaining, or working a railway in the United Kingdom (either alone or in conjunction with any other purpose), and includes, except when otherwise expressed, any indidual or individuals not incorporated who are owners or lessees of a railway in the United Kingdom or parties to an agreement for working a railway in the United Kingdom:

The term "person" includes a body corporate:

[[F2]The term "court of summary jurisdiction" means any justices of the peace, metropolitan police magistrate, stipendiary magistrate, **[**[F3]sheriff principal, sheriff**]**, or other magistrate, or officer by whatever name called, who is capable of exercising jurisdiction in summary proceedings for the recovery of penalties.**]**

Textual Amendments

F1 Words inserted by Channel Tunnel Act 1987 (c. 53, SIF 102), ss. 43, 45, Sch. 6 para. 1, **Sch. 7 Pt. VI para. 2** (by s. 43 it is provided that Sch. 6 to that 1987 Act shall have effect for making miscellaneous provisions about the application of railway regulation enactments in relation to the tunnel system, the concessionaires and certain other persons operating services by way of the tunnel system)

F2 Definition repealed (N.I.) by Northern Ireland Act 1962 (c. 30), **Sch. 4 Pt. IV**

F3 Words substituted by virtue of Sheriff Courts (Scotland) Act 1971 (c. 58), **s. 4**

Inspection of Railways

3 Board of Trade may appoint inspectors of railways.

The Board of Trade may from time to time appoint any person to be inspector for the purpose of inspecting any railway and of making any inquiry with respect to any railway or into the cause of any railway accident which the Board of Trade are authorized to make or direct, and of enabling the Board of Trade to carry the provisions of any general Act relating to railways into execution, or for any of such purposes: Provided that no person so appointed shall exercise any powers of interference in the affairs of any company.

Modifications etc. (not altering text)

C4 S. 3 extended by Road and Rail Traffic Act 1933 (c. 53), **s. 41(2)**

C5 Expression "company" extended by Channel Tunnel Act 1987 (c. 53, SIF 102), ss. 43, 45, Sch. 6 para. 3, **Sch. 7 Pt. VI para. 2**

4 Powers of inspectors of railways.

Every inspector under this Act shall for the purposes of any inspection or inquiry which he is directed by the Board of Trade to make or conduct have the following powers; (that is to say,)

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(1) He may enter and inspect any railway and all the stations, works, building, offices, stock, plant, and machinery belonging thereto:

(2) He may by summons under his hand require the attendance of any person who is engaged in the management, service, or employment of a company as defined by this Act, and whom he thinks fit to call before him and examine for the said purpose, and may require answers or returns to such inquiries for the said purpose as he thinks fit to make from such person or company:

(3) He may require and enforce the production of all books, papers, and documents of a company which he considers important for the said purpose.

Modifications etc. (not altering text)

C6 S. 4 extended by Road and Rail Traffic Act 1933 (c. 53), **s. 41(2)** and Transport Act 1968 (c. 73), **s. 125(2)**

C7 Expression "company" extended by Channel Tunnel Act 1987 (c. 53, SIF 102), ss. 43, 45, Sch. 6 para. 3, **Sch. 7 Pt. VI para. 2**

[[F4]5 Extension of 5 & 6 Vict. c. 55. ss. 4 to 6 to new works.

The provisions of the Regulation of Railways Act, 1842, and the Acts amending the same, with respect to the opening of any railway, shall extend to the opening of any additional line of railway, deviation line, station, junction, or crossing on the level which forms a portion of or is directly connected with a railway on which passengers are conveyed, and has been constructed subsequently to the inspection of such railway on behalf of the Board of Trade previous to the original opening of such railway:

Provided always, that the Board of Trade may, with respect to any of the works in this section mentioned, from time to time upon the application of any railway company dispense with any notice which, under the provisions of the said Acts, is required to be given to the Board of Trade previous to opening any railway.**]**

Textual Amendments

F4 S. 5 repealed (E.W.S.) by Road and Rail Traffic Act 1933 (c. 53), **Sch. 3**; and s. 5 repealed (N.I.) (prosp.) by 2002 c. 8 (N.I.), ss. 7, 8(2), **Sch. 2**

Accidents

6 Companies to make returns of accidents to Board of Trade.

Where in or about any railway or any of the works or buildings connected with such railway, or any building or place, whether open or enclosed, occupied by the company working such railway, any of the following accidents takes place in the course of working any railways; (that is to say,)

(1) Any accident attended with loss of life or personal injury to any person whomsoever;

(2) Any collision where one of the trains is a passenger train;

(3) Any passenger train or any part of a passenger train accidentally leaving the rails;

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(4) Any accident of a kind not comprised in the foregoing descriptions, but which is of such a kind as to have caused or to be likely to cause loss of life or personal injury, and which may be specified in that behalf by any order to be made from time to time by the Board of Trade,

the company working such railway, and also, if the accident happen to a train belonging to any other company, such last-mentioned company shall send notice of such accident and of the loss of life or personal injury (if any) occasioned thereby to the Board of Trade.

Such notice shall be in such form and shall contain such particulars as the Board of Trade may from time to time direct, and shall be sent by the earliest practicable post after the accident takes place.

The Board of Trade may from time to time by order direct that notice of any class of accidents shall be sent to them by telegraph, and may revoke any such order. Notice of every such order shall be sent to every railway company, and while it is in force notice of every accident of the class to which the order relates shall be sent to the Board of Trade by telegraph immediately after the accident takes place.

Every company who fail to comply with the provisions of this section shall be liable for each offence to a penalty not exceeding **[**[F5]level 2 on the standard scale**]** .

Textual Amendments

F5 Words "level 2 on the standard scale" substituted (E.W.S.) by virtue of (E.W.) Criminal Justice Act 1982 (c. 48, SIF 39:1), **s. 46** and (S.) Criminal Procedure (Scotland) Act 1975 (c. 21, SIF 39:1), **s. 289G**

Modifications etc. (not altering text)

C8 S. 6 extended by Railway Employment (Prevention of Accidents) Act 1900 (c. 27), **s. 13(2)**; as extended, amended by Road and Rail Traffic Act 1933 (c. 53), **s. 43(1)**

C9 Expression "company" extended by Channel Tunnel Act 1987 (c. 53, SIF 102), ss. 43, 45, Sch. 6 para. 3, **Sch. 7 Pt. VI para. 2**

7 Inquiry into accidents and formal investigation in serious cases.

The Board of Trade may direct an inquiry to be made by an inspector into the cause of any accident, of which notice is for the time being required by or in pursuance of this Act to be sent to the Board of Trade; and where it appears to the Board of Trade, either before or after the commencement of any such inquiry, that a more formal investigation of the accident, and of the causes thereof, and of the circumstances attending the same, is expedient, the Board of Trade may, by order, direct such investigation to be held, and with respect to such investigation the following provisions shall have effect:

(1) The Board of Trade may, by the same or any subsequent order, appoint any person or persons possessing legal or special knowledge to assist an inspector in holding the same, or may direct the county court judge, stipendiary magistrate, metropolitan police magistrate, or other person or persons named in the same or any subsequent order, to hold the same with the assistance of an inspector or any other assessor or assessors named in the order:

(2) The persons holding any such formal investigation (hereinafter referred to as the court) shall hold the same in open court in such manner and under such conditions as they may think most effectual for ascertaining the causes and circumstances of the accident, and enabling them to make the report in this section mentioned:

(3) The court shall have for the purposes of such investigation all the powers of a court of summary jurisdiction when acting as a court in the exercise of its ordinary jurisdiction, and all the powers of an inspector under this Act, and in addition the following powers; namely,

(a) They may enter and inspect any place or building the entry or inspection whereof appears to them requisite for the said purpose:

(b) They may by summons under their hands require the attendance of all such persons as they think fit to call before them and examine for the said purpose, and may for such purpose require answers or returns to such inquiries as they think fit to make:

(c) They may require and enforce the production of all books, papers, and documents which they consider important for the said purpose:

(d) They may administer an oath, and require any person examined to make and sign a declaration of the truth of the statements made by him in his examination:

(e) Every person so summoned not being a person engaged in the management, service, or employment of a company, or otherwise connected with a company, shall be allowed such expenses as would be allowed to a witness attending on subpoena before a court of record; and in case of dispute as to the amount to be allowed, the same shall be referred by the court to a master of one of the superior courts, who, on request under the hands of the members of the court, shall ascertain and certify the proper amount of such expenses:

(4) The inspector making an inquiry into any accident and the court holding an investigation of any accident shall make a report to the Board of Trade stating the causes of the accident and all the circumstances attending the same, and any observations thereon or on the evidence or on any matters arising out of the investigations which they think right to make to the Board of Trade, and the Board of Trade shall cause every such report to be made public in such manner as they think expedient.

Modifications etc. (not altering text)

C10 Expression "company" extended by Channel Tunnel Act 1987 (c. 53, SIF 102), ss. 43, 45, Sch. 6 para. 3, **Sch. 7 Pt. VI para. 2**

8 Appointment of an assessor to coroner.

Where any coroner in England holds or is about to hold an inquest on the death of any person occasioned by an accident, of which notice for the time being is required by or in pursuance of this Act to be sent to the Board of Trade, and makes a written request to the Board of Trade in this behalf, the Board of Trade may appoint an inspector or some person possessing legal or special knowledge to assist in holding such inquest, and such appointee shall act as the assessor of the coroner, and shall make the like report to the Board of Trade, and the report shall be made public in like manner as in the case of a formal investigation of an accident under this Act.

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9, 10. . . . . . [F6]

Textual Amendments

F6 Ss. 9, 10 and Sch. 1 repealed with saving by Statute Law Revision Act 1960 (c. 56), s. 1(2), **Sch.**

Miscellaneous

11 Disobedience to or obstruction of inspector or court.

If any person, without reasonable excuse (proof whereof shall lie on him), does any of the following things; namely,

(1) Having been summoned, and having had the expenses (if any) to which he is entitled tendered to him, fails to attend as a witness before any inspector under this Act, or before a court holding an investigation under this Act, or fails when required by the inspector or such court in pursuance of this Act so to do, to make any answer, or to give any return, or to produce any document, or to make or sign any declaration; or

(2) Prevents or impedes the inspector or such court in the execution of his or their duty,

he shall for every such offence incur a penalty not exceeding **[**[F7]ten pounds**][**[F7]level 1 on the standard scale**]**, and in the case of a refusal to make any return or produce any document, not exceeding **[**[F7]ten pounds**][**[F7]level 1 on the standard scale**]** during every day that such failure continues; and where the offence consists of preventing or impeding as aforesaid, the inspector, or any member of such court, or any person called by him to his assistance, may seize and detain the offender until he can be conveniently taken before a court of summary jurisdiction, to be dealt with according to law.

Textual Amendments

F7 Words substituted (E.W.S.) by virtue of (E.W.) Criminal Justice Act 1982 (c. 48, SIF 39:1), **s. 46** and (S.) Criminal Procedure (Scotland) Act 1975 (c. 21, SIF 39:1), **s. 289G**

[[F8]12 Limitation of liability of companies on sea voyages in certain cases.

Where a railway company under a contract for carrying persons, animals, or goods by sea procure the same to be carried in a vessel not belonging to the railway company, the railway company shall be answerable in damages in respect of loss of life or personal injury, or in respect of loss of or damage to animals or goods, in like manner and to the same amount as the railway company would be answerable if the vessel had belonged to the railway company; provided that such loss of life or personal injury, or loss or damage to animals or goods, happens to the person, animals, or goods (as the case may be) during the carriage of the same in such vessel, the proof to the contrary to lie upon the railway company.**]**

Textual Amendments

F8 S. 12 repealed (E.W.S.) by Transport Act 1962 (c. 46), s. 95(3), **Sch. 12 Pt. I**

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13 . . . . . [F9]

Textual Amendments

F9 S. 13 repealed by Statute Law Revision Act 1950 (c. 6)

[X1]14 Penalty for trespassers on railways.

Section twenty-three of "The Regulation of Railways Act, 1868," shall have effect as if the words "after having once received warning" were substituted therein for the words "after having received warning." [F10]. . .

Editorial Information

X1 The text of s. 14 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991

Textual Amendments

F10 Words repealed by Statute Law Revision Act 1883 (c. 39), **Sch.**

15 Recovery, &c. of penalties.

Every penalty imposed by this Act shall be recovered and applied in the same manner as penalties imposed by the [M2]Railways Clauses Consolidation Act 1845 and the [M3]Railways Clauses Consolidation (Scotland) Act 1845 (as the case may require), are for the time being recoverable and applicable.

Marginal Citations

M2 1845 c. 20.
M3 1845 c. 33.

16 Application of Act to Scotland.

In the application of this Act to Scotland—

(1) The term "attending on subpoena before a court of record" means attending on citation the Court of Justiciary.

(2) The Queen's and Lord Treasurer's Remembrancer shall perform the duties of a master of one of the Superior Courts under this Act.

(3) The term "stipendiary magistrate" means **[**[F11]sheriff principal or sheriff**]** .

Textual Amendments

F11 Words substituted by virtue of Sheriff Courts (Scotland) Act 1971 (c. 58), **s. 4**

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17 . . . . . F12

Textual Amendments

F12 S. 17 repealed by Statute Law Revision Act 1883 (c. 39)

18 . . . . . F13

Textual Amendments

F13 S. 18 repealed by Statute Law Revision (No. 2) Act 1893 (c. 54)

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SCHEDULES

[F14]SCHEDULE ONE

Textual Amendments

F14 Ss. 9, 10 and Sch. 1 repealed with saving by Statute Law Revision Act 1960 (c. 56), s. 1(2), **Sch.**

. . . . . .

SCHEDULE TWO

Session and Chapter	Title of Act	F15
		...
3 & 4 Vict. c. 97.	An Act for regulating Railways.	
5 & 6 Vict. c. 55.	An Act for the better regulation of Railways and the conveyance of troops.	F15 ...
7 & 8 Vict. c. 85	An Act to attach certain conditions to the construction of future Railways authorized or to be authorized by any Act of the present or succeeding Sessions of Parliament; and for other purposes in relation to Railways.	

Textual Amendments

F15 Sch. 2 Table Column repealed by Statute Law Revision Act 1883 (c. 39)

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