

Indian Railways Act, 1890.

UNION OF INDIA

India

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Act 9 of 1890

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1. [Amended by The Indian Railways (Amendment) Act, 1983 (Act 44 of 1983) on 25 December 1983]
2. [Repealed by Repealing Act, 1938 (Act 1 of 1938) on 6 February 1938]

[Throughout this Act, except otherwise provided, the words “Bangladesh”, “Government”, “Taka”, ‘the railway’, ‘The railway administration’ and ‘the railway administration’ were substituted, for the words “Pakistan”, “Provincial Government” or “Central Government”, “rupees”, ‘a railway’ or ‘railways’, ‘A Railway Administration’ or ‘Every railway administration’ and ‘railway administration’ respectively by section 3 and 2nd Schedule of the Bangladesh Laws (Revision And Declaration) Act, 1973 (Act No. VIII of 1973)] An Act to consolidate, amend and add to the law relating to the Railway. WHEREAS it is expedient to consolidate, amend and add to the law relating to the railway; It is hereby enacted as follows:-

Chapter I

PRELIMINARY

1. Title, extent and commencement

(1) This Act may be called the Railway Act, 1890. (2) It extends to the whole of Bangladesh and applies also to all citizens of Bangladesh, wherever they may be. (3) It shall come into force on the first day of May, 1890.

2. [Repealed]

[Repealed by the Repealing Act, 1938 (Act No. I of 1938), section 2 and Schedule.]

3. Definitions

In this Act, unless there is something repugnant in the subject or context,-(1)[Clause (1) was omitted by section 3 and 2nd Schedule of the Bangladesh Laws (Revision And Declaration) Act, 1973 (Act No. VIII of 1973)] [* * *](2)“ferry” includes a bridge of boats, pontoons or rafts, a swing-bridge, a flying bridge and a temporary bridge, and the approaches to, and landing places of, a ferry:(3)“inland water” means any canal, river, lake or navigable water:(4)the railway means the railway or any portion of the railway, for -the public carriage of passengers, animals or goods, and includes(a)all land within the fences or other boundary-marks indicating the limits of the land appurtenant to the railway;(b)all lines of rails, sidings, or branches worked over for the purposes of, or in connection with, the railway;(c)all stations, offices, warehouses, wharves, workshops, manufactories, fixed plant and machinery and other works constructed for the purposes of, or in connection with, the railway; and(d)all ferries, ships, boats and rafts which are used on inland waters for the purposes of the traffic of the railway and belong to or are hired or worked by the authority administering the railway:[Clause (5) was omitted by section 3 and 2nd Schedule of the Bangladesh Laws (Revision And Declaration) Act, 1973 (Act No. VIII of 1973).] [* * *][Clause (6) was substituted, for clause (6) by section 3 and 2nd Schedule of the Bangladesh Laws (Revision And Declaration) Act, 1973 (Act No. VIII of 1973).] [(6) “railway administration” or “administration” means the manager of the Bangladesh railway and includes the Government.](7)“the railway servant” means any person employed by the railway administration in connection with the service of the railway:(8)Inspector” means an Inspector of the railway appointed under this Act:(9)goods” includes inanimate things of every kind:(10)“rolling-stock” includes locomotive engines, tenders, carriages, wagons, trucks and trollies of all kinds:(11)“traffic” includes rolling-stock of every description, as well as passengers, animals and goods:(12)“through traffic” means traffic which is carried over the railway of two or more the railway administration.(13)“rate” includes any fare, charge or other payment for the carriage of any passenger, animal or goods:(14)“terminals” includes charges in respect of stations, sidings, wharves, depots, warehouses, cranes and other similar matters, and of any services rendered thereat:(15)“pass” means an authority given by the railway administration, or by an officer appointed by the railway administration in this behalf, and authorising the person to whom it is given to travel as a passenger on the railway gratuitously:(16)“ticket” includes a single ticket, a return ticket and a season ticket:(17)“maund” means a weight of three thousand two hundred tolas, each tola being a weight of one hundred and eighty grains Troy: and(18)“Collector” means the chief officer in charge of the land- revenue administration of a district, and includes any officer specially appointed by the Government to discharge the functions of a Collector under this Act.

Chapter II

INSPECTION OF RAILWAY

4. Appointment and duties of Inspectors

(1)The Government may appoint persons, by name or by virtue of their office, to be inspectors of the railway.(2)The duties of an Inspector of the railway shall be-(a)to inspect the railway with a view to

determine whether they are fit to be opened for the public carriage of passengers, and to report thereon to the Government as required by this Act;(b)to make such periodical or other inspections of any railway or of any rolling-stock used thereon as the Government may direct;(c)to make inquiry under this Act into the cause of any accident on the railway;(d)to perform such other duties as are imposed on him by this Act, or any other enactment for the time being in force relating to the railway.

5. Powers of Inspectors

An Inspector shall, for the purpose of any of the duties which he is required or authorised to perform under this Act, be deemed to be a public servant within the meaning of the [The words “Penal Code” were substituted, for the words “Pakistan Penal Code” by section 3 and 2nd Schedule of the Bangladesh Laws (Revision And Declaration) Act, 1973 (Act No. VIII of 1973)] [Penal Code], and, subject to the control of the Government, shall for that purpose have the following powers, namely:-(a)to enter upon and inspect any railway or any rolling-stock used thereon;(b)by an order in writing under his hand addressed to the railway administration, to require the attendance before him of any railway servant, and to require answers or returns to such inquiries as he thinks fit to make from such railway servant or from the railway administration;(c)to require the production of [The word “the” was substituted, for the word “any” by section 3 and 2nd Schedule of the Bangladesh Laws (Revision And Declaration) Act, 1973 (Act No. VIII of 1973).] [the] book or document belonging to or in the possession or control of any railway administration [The brackets and words “(except a communication between a railway company and its legal advisers)” were omitted by section 3 and 2nd Schedule of the Bangladesh Laws (Revision And Declaration) Act, 1973 (Act No. VIII of 1973).] [* * *] which it appears to him to be necessary to inspect.

6. Facilities to be afforded to Inspectors

The railway administration shall afford to the Inspector all reasonable facilities for performing the duties and exercising the powers imposed and conferred upon him by this Act.

Chapter III

CONSTRUCTION AND MAINTENANCE OF WORKS

7. Authority of railway administrations to execute all necessary works

(1)Subject to the provisions of this Act and, in the case of immovable property not belonging to the railway administration, to the provisions of any enactment for the time being in force for the acquisition of land for public purposes[The words and commas “and for companies, and subject also, in the case of a railway company, to the provisions of any contract between the company and the Government” were omitted by section 3 and 2nd Schedule of the Bangladesh Laws (Revision And Declaration) Act, 1973 (Act No. VIII of 1973).] [* * *] the railway administration may, for the purpose of constructing the railway or the accommodation or other works connected therewith, and notwithstanding anything in any other enactment for the time being in force,-(a)make or construct

in, upon, across, under or over any lands, or, any streets, hills, valleys, roads, the railway [The words “or railways” were omitted by section 3 and 2nd Schedule of the Bangladesh Laws (Revision And Declaration) Act, 1973 (Act No. VIII of 1973).] [* * *] or any rivers, canals, brooks, streams or other waters, or any drains, water-pipes, gas-pipes or telegraph lines, such temporary or permanent inclined planes, arches, tunnels, culverts, embankments, aqueducts, bridges, roads, lines of the railway, ways, passages, conduits, drains, piers, cuttings and fences as the railway administration thinks proper;(b)alter the course of any rivers, brooks, streams, or watercourses, for the purpose of constructing and maintaining tunnels, bridges, passages or other works over or under them, and divert or alter, as well temporarily as permanently, the course of any rivers, brooks, streams or watercourses or any roads, streets or ways, or raise or sink the level thereof, in order the more conveniently to carry them over or under or by the side or the railway, as the railway administration thinks proper;(c)make drains or conduits into, through or under any lands adjoining the railway for the purpose of conveying water from or to the railway;(d)erect and construct such houses, warehouses, offices and other buildings, and such yards, stations, wharves, engines, machinery, apparatus and other works and conveniences as the railway administration thinks proper;(e)alter, repair or discontinue such buildings, works and conveniences as aforesaid or any of them and substitute others in their stead; and(f)do all other acts necessary for making, maintaining, altering or repairing and using the railway.(2)The exercise of the powers conferred on the railway administration by sub-section (1) shall be subject to the control of the Government.

8. Alteration of pipes, wires and drains

The railway administration may, for the purpose of exercising the powers conferred upon it by this Act, alter the position of any pipe for the supply of gas, water or compressed air or the position of any electric wire or of any drain not being a main drain:Provided that-(a)when the railway administration desires to alter the position of any such pipe, wire or drain, it shall give reasonable notice of its intention to do so, and of the time at which it will begin to do so, to the Local authority or company having control over the pipe, wire or drain, or, when the pipe, wire or drain is not under the control of a local authority or company, to the person under whose control the pipe, wire or drain is;(b)a local authority, company or person receiving notice under proviso (a) may send a person to superintend the work, and the railway administration shall execute the work to the reasonable satisfaction of the person so sent and shall make arrangements for continuing during the execution of the work the supply of gas, water, compressed air or electricity or the maintenance of the drainage, as the case may be.

8A. Protection for Government property

[Section 8A was substituted, for section 8A by section 3 and 2nd Schedule of the Bangladesh Laws (Revision And Declaration) Act, 1973 (Act No. VIII of 1973)] 8A. Nothing in the two last preceding sections shall authorise the doing of anything on or to any works, land or building vested in, or in possession of, the Government without its consent.]

9. Temporary entry upon land for repairing or preventing accident

(1)The Government may authorise any railway administration, in case of any slip or other accident happening or being apprehended to any cutting, embankment or other work under the control of the railway administration, to enter upon any lands adjoining its railway for the purpose of repairing or preventing the accident, and to do all such works as may be necessary for the purpose.(2)In case of necessity the railway administration may enter upon the lands and do the works aforesaid without having obtained the previous sanction of the Government, but in such a case shall, within seventy-two hours after such entry, make a report to the Government, specifying the nature of the accident or apprehended accident, and of the works necessary to be done, and the power conferred on the railway administration by this sub-section shall cease and determine if the Government, after considering the report, considers that the exercise of the power is not necessary for the public safety.

10. Payment of compensation for damage caused by lawful exercise of powers under the foregoing provisions of this Chapter

(1)The railway administration shall do as little damage as possible in the exercise of the powers conferred by any of the foregoing provisions of this Chapter, and compensation shall be paid for any damage caused by the exercise thereof.(2)A suit shall not lie to recover such compensation, but in case of dispute the amount thereof shall, on application to the Collector, be determined and paid in accordance, so far as may be, with the provisions of sections 11 to 15, both inclusive, sections 18 to 34, both inclusive, and sections 53 and 54 of the Land Acquisition Act, 1894, and the provisions of sections 51 and 52 of that Act shall apply to the award of compensation.

11. Accommodation works

(1)The railway administration shall make and maintain the following works for the accommodation of the owners and occupiers of lands adjoining the railway, namely:-(a)such and so many convenient crossings, bridges, arches, culverts and passages over, under or by the sides of, or leading to or from, the railway as may, in the opinion of the Government, be necessary for the purpose of making good any interruptions caused by the railway to the use of the lands through which the railway is made, and(b)all necessary arches, tunnels, culverts, drains, water courses or other passages, over or under or by the sides of the railway, of such dimensions as will, in the opinion of the Government, be sufficient at all times to convey water as freely from or to the lands lying near or affected by the railway as before the making of the railway, or as nearly so as may be.(2)Subject to the other provisions of this Act, the work specified in clauses (a) and (b) of sub-section (1) shall be made during or immediately after the laying out or formation of the railway over the lands traversed thereby and in such manner as to cause as little damage or inconvenience as possible to person interested in the lands or affected by the works.(3)The foregoing provisions of this section are subject to the following provisos, namely:-(a)the railway administration shall not be required to make any accommodation works in such a manner as would prevent or obstruct the working or using of the railway, or to make any accommodation works with respect to which the owners and occupiers of the lands have agreed to receive and have been paid compensation in consideration of

their not requiring the works to be made;(b)save as hereinafter in this Chapter provided, the railway administration shall not, except on the requisition of the Government, be compelled to defray the cost of executing any further or additional accommodation works for the use of the owners or occupiers of the lands after the expiration of ten years from the date on which the railway passing through the lands was first opened for public traffic;(c)where the railway administration has provided suitable accommodation for the crossing of a road or stream, and the road or stream is afterwards diverted by the act or neglect of the person having the control thereof, the administration shall not be compelled to provide other accommodation for the crossing of the road or stream.(4)The Government may appoint a time for the commencement of any work to be executed under sub-section (1), and if for fourteen days next after that time the railway administration fails to commence the work or, having commenced it, fails to proceed diligently to execute it in a sufficient manner, the Government may execute it and recover from the railway administration the cost incurred by it in the execution thereof.

12. Power for owner-occupier or local authority to cause additional accommodation works to be made

If an owner or occupier of any land affected by the railway considers the works made under the last foregoing section to be insufficient for the commodious use of the land, or if the Government or a local authority desires to construct a public road or other work across, under or over the railway, he or it, as the case may be, may at any time require the railway administration to make at his or its expense such further accommodation works as he or it thinks necessary and are agreed to by the railway administration or as, in case of difference of opinion, may be authorised by the Government.

13. Fences, screens, gates and bars

The Government may require that, within a time to be specified in the requisition, or within such further time as it may appoint in this behalf,-(a)boundary-marks or fences be provided or renewed by the railway administration for the railway or any part thereof and for roads constructed in connection therewith;(b)any works in the nature of a screen near to or adjoining the side of any public road constructed before the making of the railway be provided or renewed by a railway administration for the purpose of preventing danger to passengers on the road by reason of horses or other animals being frightened by the sight or noise of the rolling-stock moving on the railway;(c)suitable gates, chains, bars, stiles or hand-rails be erected or renewed by the railway administration at places where the railway crosses a public road on the level;(d)persons be employed by the railway administration to open and shut such gates, chains or bars.

14. Over and under bridges

(1)Where the railway administration has constructed the railway across a public road on the level, the Government may at any time, if it appears to it necessary for the public safety, require the railway administration, within such time as it thinks fit, to carry the road either under or over the railway by means of a bridge or arch, with convenient ascents and descents and other convenient

approaches, instead of crossing the road on the level, or to execute such other works as, in the circumstances of the case, may appear to the Government to be best adapted for removing or diminishing the danger arising from the level-crossing.(2)The Government may require as a condition of making a requisition under sub-section (1), that the local authority, if any, which maintains the road, shall undertake to pay the whole of the cost to the railway administration of complying with the requisition or such portion of the cost as the Government thinks just.

15. Removal of trees dangerous to or obstructing the working of the railway

(1)In either of the following cases, namely:-(a)where there is danger that a tree standing near the railway may fall on the railway so as to obstruct traffic,(b)when a tree obstructs the view of any fixed signal, the railway administration may, with the permission of any Magistrate, fell the tree or deal with it in such other manner as will in the opinion of the railway administration avert the danger or remove the obstruction, as the case may be.(2)In case of emergency the power mentioned in sub-section (1) may be exercised by the railway administration without the permission of a Magistrate.(3)Where a tree felled or otherwise dealt with under sub-section (1) or sub-section (2) was in existence before the railway was constructed or the signal was fixed, any Magistrate may, upon the application of the persons interested in the tree, award to those persons such compensation as he thinks reasonable.(4)Such an award, subject, where made by any Magistrate other than the District Magistrate, to revision by the District Magistrate, shall be final.(5)A Civil Court shall not entertain a suit to recover compensation for any tree felled or otherwise dealt with under this section.

Chapter IV

OPENING OF THE RAILWAY

16. Right to use locomotives

(1)The railway administration may, with the previous sanction of the Government, use upon the railway locomotive engines or other motive power, and rolling-stock to be drawn or propelled thereby;(2)But rolling-stock shall not be moved upon the railway by steam or other motive power until such general rules for the railway as may be deemed to be necessary have been made, sanctioned and published under this Act.

17. Notice of intended opening of the railway

(1)Subject to the provisions of sub-section (2), the railway administration shall, one month at least before it intends to open any railway for the public carriage of passengers, give to the Government notice in writing of its intention.