



THE RAILWAYS ACT, 1890



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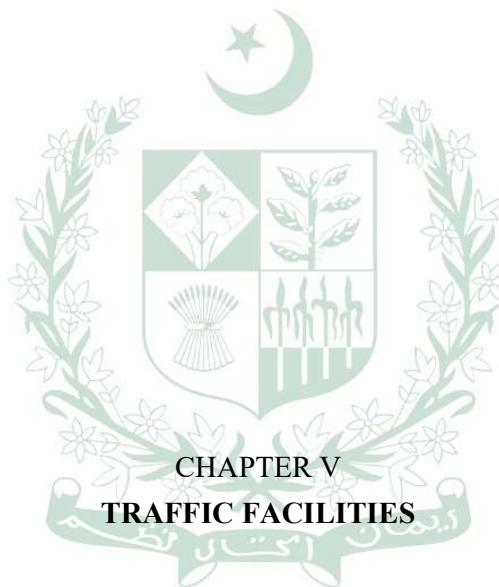
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THE FIRST SCHEDULE.—[REPEALED]

THE SECOND SCHEDULE

THE RAILWAYS ACT, 1890

¹Act NO.IX OF 1890

[21st March, 1890]

An Act to consolidate, amend and add to the law relating to Railways ^{2} *.*

WHEREAS it is expedient to consolidate, amend and add to the law relating to railways ^{2*} *; It is hereby enacted as follows:—

CHAPTER I

PRELIMINARY

1. Title, extent and commencement.—(1) This Act may be called the ^{3[*]} Railways Act, 1890.

⁴[(2) It extends to the whole of Pakistan and applies also to all citizens of Pakistan wherever they may be.]

(3) It shall come into force on the first day of May, 1890.

2. [Repeal.] Rep. by the Repealing Act, 1938 (1 of 1938), s.2 and Schedule.

5[3. Definitions.]—In this Act, unless there is anything repugnant in the subject or context,—

- (a) “accident” means as defined in the Ordinance,
- (b) “Authority” means as defined in the Ordinance,
- (c) “Collector” means the chief officer in charge of the land-revenue administration of a district, and includes any officer specially appointed by the Provincial Government to discharge the functions of a Collector under this Act;
- (d) “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;
- (e) “goods” means as defined in the Ordinance;

¹For Statement of Objects and Reasons, see Gazette of India, 1888, Pt.V, p.133; for Report of the Select Committee, *see. ibid.*, 1890, Pt.V, p.23 and for debates in Council, *see ibid.*, 1888, Pt.VI, pp. 124 and 137, and *ibid.*, 1890, Pt.VI, pp.15 and 48.

This Act has been extended to the Leased Areas of Baluchistan, *see* the Leased Areas (Laws) Order, 1950 (G.G.O. 3 of 1950), and in the Federated Areas of Baluchistan, *see* Gazette of India, 1937, Pt.I.p.1499.

Chapter VIA of this Act has been extended to—

- (a) the Baluchistan States Union, *see*, G.G.O. 4 of 1953, as amended,
- (b) the Khairpur State, *see* G.G.O. 5 of 1953, as amended by G.G.O. 24 of 1953, and
- (c) the State of Bahawalpur, *see* G.G.O. 11 of 1953

The Railway Board Ordinance, 1959 (48 of 1959), shall be read with, and taken as part of this Act, and shall be construed accordingly, *see* section 2 of the said Ordinance.

The Act has been and shall be deemed to have been brought into force in Gowadur with effect from the 8th September, 1958, by the Gwadur (Application of Central Laws) Ordinance, 1960 (37 of 1960), s.2.

²The words “in India” omitted by A.O., 1949, Sch.

³The word “Indian” omitted by A.O., 1949, Sch.

⁴Subs. by the Central Laws (Statute Reform) Ordinance, 1960 (21 of 1960), s.3 and 2nd Sch. (with effect from the 14th October, 1955), for the original sub-section (2) as amended by the Burma Laws Act, 1898, (13 of 1898), s.18, A.O., 1949, Sch. And the Federal Laws (Revision and Declaration) Act, 1951 (26 of 1951), s. 8.

⁵Subs. by ord. 92 of 02, s.44 and Sch. II.

- (f) “**inland water**” means any canal, river, lake or navigable water;
- (g) ¹[* * *];
- (h) “**licence**” means as defined in the Ordinance;
- (i) “**licensee**” means as defined in the Ordinance;
- (j) “**one kilogram**” means a weight of one thousand grams, each gram being a weight of one thousand milligrams;
- (k) “**Ordinance**” means the Railway Regulatory Authority Ordinance, 2002 (XCII of 2002);
- (l) “**pass**” means an authority given by a licensee, or by a person appointed by such licensee in this behalf, and authorizing the person to whom it is given to travel gratuitously on a train operated by that licensee;
- (m) “**railway**” means a railway, or any portion of a railway, for the public carriage of passengers, animals or goods, and includes—
- (i) all land within the fences or other boundary-marks indicating the limits of the land appurtenant to a railway;
 - (ii) all lines of rails, sidings, or branches worked over for the purposes of, or in connection with, a railway;
 - (iii) all stations, offices, warehouses, wharves, workshops, manufactories, fixed plant and machinery and other works constructed for the purposes of, or in connection with, a railway;
 - (iv) all ferries, ships, boats and rafts which are used on inland waters for the purposes of the traffic of a railway and belong to or are hired or worked by the authority administering the railway; and
 - (v) railway infrastructure, as defined in the Ordinance;
- (n) “**railway administration**” means as defined in the Ordinance;
- (o) ¹[* * *];
- (p) “**railway employee**” means as defined in the Ordinance;
- (q) “**rate**” includes any fare, charge or other payment for the carriage of any passenger, animal or goods;
- (r) “**rolling-stock**” means as defined in the Ordinance;
- (s) “**terminals**” includes charges in respect of stations, wharves, depots, warehouses, cranes and other similar matters and of any services rendered thereat;
- (t) “**through traffic**” means traffic which is carried over the railway of two or more railway administrations;
- (u) “**ticket**” includes a single ticket, a return ticket and a season ticket;

¹Omitted by ord. 92 of 02, s.44 and Sch. II.

- (v) “**traffic**” includes rolling-stock of every description, as well as passengers, animals and goods; and
- (w) “**tramway**” means a tramway constructed under the Tramways Act, 1886 (XI of 1886), or any special Act relating to tramways.]

CHAPTER II

INSPECTION OF RAILWAYS

4. to 6. ¹[Omitted]

CHAPTER III

CONSTRUCTION AND MAINTENANCE OF WORKS

² **7. Authority of railway administrations to execute all necessary works.**—(1) Subject to the provisions of this Act and, in the case of immoveable property not belonging to the ³[licensee], to the provisions of any enactment for the time being in force for the acquisition of land for public purposes and for companies, ³[and subject also, in the case of licensees, to the provisions of their licence, a 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, railways or tramways, 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, ⁴[lines of railway], ways, passages, conduits, drains, piers, cuttings and fences as the ³[licensee] 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 of the railway, as the ³[licensee] 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 ³[licensee] thinks proper;

¹section 4-6 omitted by ord. 92 of 02, s.44 and Sch. II.

²Cf the Railways Clauses Act, 1845 (8 & 9 Vict., C. 20), s. 16.

³Subs. by ord. 92 of 02, s.44 & Sch.II.

⁴Ins by the Indian Railways Act (1890) Amendment Act, 1896 (9 of 1896), s.1

(e) alter, repair or discontinue such buildings, works and conveniences as aforesaid or any of them and substitute others in their stead; and

¹ [(f) subject to the terms of a licence, do all other acts necessary for making maintaining, altering or repairing and using the railway.]

¹ [(2) The exercise of the powers conferred on a licensee by sub-section (1) shall be subject to the control of the Federal Government or, the Authority, as the case may be.]

8. Alteration of pipes, wires and drains. A ¹[licensee] 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 ¹[licensee] 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 ²local 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 ¹[licensee] 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.

³**[8A. Protection for Government property.** Nothing in the two last preceding sections shall authorise the doing of anything on or to any works, lands, or buildings vested in, or in the possession of, ^{4*} * * the ⁵[Federal Government] without the consent of that Government, or the doing of anything on or to any works, lands or buildings vested in, or in the possession of, ^{4*} * * a Province without the consent of the Provincial Government ⁶[or the doing of anything on or to any works, lands or buildings vested in, or in the possession of, the Government of an Acceding State without the consent of that Government].]

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79. Temporary entry upon land for repairing or preventing accident. The ¹[Authority] may authorise any ¹[licensee], in case of any slip or other accident happening or being apprehended to any cutting, embankment or other work under the control of the ¹[licensee], 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.

¹Subs. by Ord. 92 of 02, s.44 & Sch.II.

²For definition of "local authority", see s. 3 (28) of the General Clauses Act, 1897 (10 of 1897).

³Section 8A ins. by A.O., 1937.

⁴The words "His Majesty for the purposes of" omitted by A.O., 1961, Art. 2 and Sch. (*with effect from the 23rd March, 1956*).

⁵Subs. by F. A. O., 1975, Art. 2 and Table, for "Central Government".

⁶Added by A. O., 1949, Sch.

⁷Cf. the Railway Regulation Act, 1842 (5 & 6 Viet., c. 55), s. 14.

(2) In case of necessity the ¹[licensee], may enter upon the lands and do the works aforesaid without having obtained the previous sanction of the Federal Government ¹[or the Authority, as the case may be], but in such a case shall, within seventy-two hours after such entry, make a report to the ¹[Authority], specifying the nature of the accident or apprehended accident, and of the works necessary to be done, and the power conferred on the ¹[licensee] by this sub-section ¹[or a licence] shall cease and determine if the ¹[Authority], 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) A ¹[licensee] shall do as little damage as possible in the exercise of the powers conferred by any of ²[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, ³[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, (I of 1894) and the provisions of sections 51 and 52 of that Act shall apply to the award of compensation].

⁴11. Accommodation works.—(1) A ¹[licensee] 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 ⁵[Provincial 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 ⁵[Provincial 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 persons interested in the lands or affected by the works.

(3) The foregoing provisions of this section are subject to the following provisos, namely:—

¹Subs. & Ins. by Ord. 92 of 02, s.44 & Sch.II.

²Subs. by A.O., 1937, for “the three last foregoing sections”.

³Subs. by the Indian Railways Act (1890) Amendment Act, 1896 (9 of 1896), s. 2, for “with the provisions of sections 11 to 15, both inclusive, and sections 18 to 42, both inclusive, of the Land Acquisition Act, 1870, and the provisions of sections 57 and 58 of that Act shall apply to the award of compensation”.

⁴Cf the Railways Clauses Act, 1845 (8 & 9 Vict., c. 20), s. 68.

⁵Subs. by A. O., 1937, for “G. G. in C.”.

- (a) a ¹[licensee] 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;
- ²(b) save as hereinafter in this Chapter provided, a ¹[licensee] shall not, except on the requisition of the ³[Provincial 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 a ¹[licensee] 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 ¹[licensee] shall not be compelled to provide other accommodation for the crossing of the road or stream.

⁴(4) The ³[Provincial 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 ¹[licensee] fails to commence the work or, having commenced it, fails to proceed diligently to execute it in a sufficient manner, the ³[Provincial Government] may execute it and recover from the ¹[licensee] the cost incurred by ⁵[it] in the execution thereof.

⁶12. 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 a railway considers the works made under the last foregoing section to be insufficient for the commodious use of the land, ⁷[or if the Federal Government desires to construct a national highway or a strategic road], or if the ⁸[Provincial Government] or a local authority desires to construct a public road or other work across, under or over a railway, he or it, as the case may be, may at any time require the ¹[licensee] to make at his or its expense such further accommodation works as he or it thinks necessary and are agreed to by the ¹[licensee] or as, in case of difference of opinion, may be authorized by the ⁹[Federal Government].

¹⁰13. Fences, screens, gates and bars. The ¹[Authority] may require that, within a time to be specified in the requisition, or within such further time as ¹¹[it] may appoint in this behalf, —

¹Subs. by Ord. 92 of 02, s.44 & Sch.II.

²Cf the Railways Clauses Act, 1845 (8 & 9 Vict., c. 20), s. 78.

³Subs. by A. O., 1937, for "G. G. in C."

⁴Cf the Railways Clauses Act, 1845 (8 & 9 Vict., c. 20), s. 70.

⁵Subs. by A. O., 1937, for "him".

⁶Cf. the Railways Clauses Act, 1845 (8 & 9 Vict., c. 20), s. 71.

⁷Ins. by F. A. O., 1975, Art. 2 and Sch.

⁸Subs. by A. O., 1937, for "L.G."

⁹Subs. by F.A.O, 1975, Art.2 and Sch., for "Provisional Government" which was previously subs. by A.O., 1964, Art.2 and Sch., for "Central Government" as amended by A.O., 1937 and A.O., 1961.

¹⁰Cf the Railway Regulation Act, 1842 (5 & 6 Vict., c. 55), s. 10.

¹¹Subs. by A. O., 1937, for "he".

- (a) boundary-marks or fences be provided or renewed by a ¹[licensee] for a railway or any part thereof and for roads constructed in connection therewith;
- ²(b) any works in the nature of a screen near to or adjoining the side of any public road constructed before the making of a railway be provided or renewed by a ¹[licensee] 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;
- ³(c) suitable gates, chains, bars, stiles or hand-rails be erected or renewed by a ¹[licensee] at places where a railway crosses a public road on the level;
- ⁴(d) persons be employed by a ¹[licensee] to open and shut such gates, chains or bars.

514. Over and under bridges.—(1) Where a ¹[licensee] has constructed a railway across a public road on the level, the ⁶[Federal Government] may at any time, if it appears to ⁷[it] necessary for the public safety, require the ¹[licensee], within such time as ⁸[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 ⁶[Federal Government] to be best adapted for removing or diminishing the danger arising from the level crossing.

⁹(2) The ⁶[Federal Government] may require as a condition of making a requisition under subsection (1), that the local authority, if any, which maintains the road, shall undertake to pay the whole of the cost to the ¹[licensee] of complying with the requisition or such portion of the cost as the ⁶[Federal Government] thinks just.

¹[14A.] The term “licensee” as used in this Chapter means the ¹[licensee] or such other licensee who is the holder of an integrated licensee the terms of which shall make it the duty of such licensee to carry out the functions set out in this Chapter.]

¹⁰15. Removal of trees dangerous to or obstructing the working of a railway.—(1) In either of the following cases, namely:

- (a) where there is danger that a tree standing near a railway may fall on the railway so as to obstruct traffic,

¹Subs. and Ins. by Ord. 92 of 02, s.44 & Sch.II.

²Cf the Railways Clauses Act, 1845 (8 & 9 Vict., c. 20), s. 63.

³Cf the Railway Regulation Act, 1842 (5 & 6 Vict., c. 55), s. 9.

⁴Cf the Railways Clauses Act, 1845 (8 & 9 Vict., c. 20), s. 48.

⁵Cf the Railways Clauses Act, 1863 (26 & 27 Vict., c. 92), s. 7.

⁶Subs. by F.A.O, 1975, Art.2 and Sch., for “Provisional Government” which had been amended by A.O., 1937, A.O., 1949 and A.O., 1964, Art.2 and Sch. to read as above.

⁷Subs. by A. O., 1937, for “him”.

⁸Subs. by A. O., 1937, for “he”.

⁹Cf the Railways Clauses Act, 1845 (8 & 9 Vict., c. 20), s. 46; and the Railway and Canal Traffic Act, 1888 (51 & 52 Vict., c. 25), s. 16.

¹⁰Cf. the Regulation of Railways Act, 1868 (31 & 32 Vict., c. 119), s. 24.

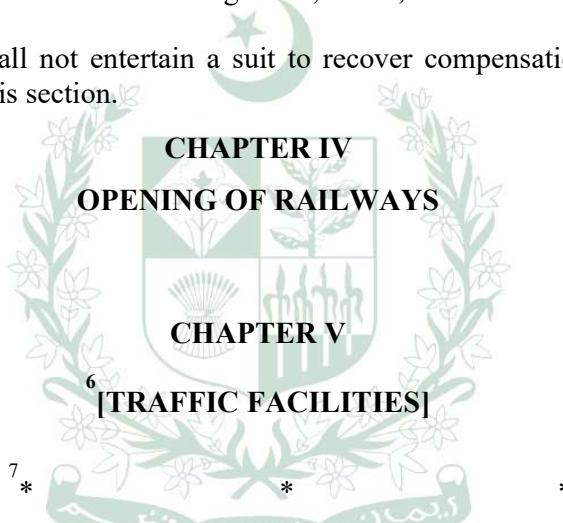
(b) when a tree obstructs the view of any fixed signal, the ¹[licensee] may, with the permission of any Magistrate, fell the tree or deal with it in such other manner as will in the opinion of the ¹[licensee] avert the danger or remove the obstruction, as the case may be.

(2) In case of emergency the power mentioned in sub-section (1) may be exercised by a ¹[licensee] 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 ^{2*} * * by any Magistrate other than the District Magistrate, to revision by ^{3*} * * the District Magistrate, ^{4*} * *, 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.



26 to 40. [Relating to Railway Commissions.] Rep. by A.O., 1937.

841. Bar of jurisdiction of ordinary Courts in certain matters. Except as provided in this Act, no suit shall be instituted or proceeding taken for anything done or any omission made by a railway administration in violation or contravention of any provision of this Chapter ^{9*} * *

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42-44. ¹¹[Omitted]

¹Subs. by Ord. 92 of 02, s.44 & Sch.II.

²The words "in a presidency town by any Magistrate other than the Chief Presidency Magistrate or where made elsewhere" omitted by A.O., 1949, Sch.

³The words "the Chief Presidency Magistrate, or" omitted, *ibid.*

⁴The words "as the case may be" omitted, *ibid.*

⁵Sections 16-25 Omitted by Ord. 92 of 02, s.44 & Sch.II.

⁶Subs. by the Repealing and Amending Act, 1939 (34 of 1939), s. 2 and Sch. I, for "Railway Commissions and Traffic Facilities".

⁷The sub-heading "Railway Commissions" omitted, *ibid.*

⁸Cf the Railway and Canal Traffic Act, 1854 (17 & 18 Vict., c. 31), s. 6.

⁹The words "or of any order made thereunder by the Commissioners or by a High Court" rep. by A. O., 1937.

¹⁰The sub-heading "Traffic Facilities" omitted by Act 34 of 1939, s. 2 and Sch. I.

¹¹Sections 42,42A,42B, 43, and 44 omitted by Ord. 92 of 02, s.44 & Sch.II.

45. Terminals.—A ¹[licensee] may charge reasonable terminals.

46. Power of ¹[Authority] to x terminals.—²[(1) The ¹[Authority] shall decide any question or dispute which may arise with respect to the terminals charged by a ¹[licensee]].

(2) ¹[* * * * * * *]

146A. * * * * * * *

³46B. [Saving for functions of Railway Rates Committee and Railway Tribunal.] Omitted by A. O., 1949, Schedule.

CHAPTER VI

WORKING OF RAILWAYS

General

47-52. ⁴[omitted]

Carriage of Property

53. Maximum load for wagons.—(1) Every ¹[licensee] shall determine the maximum load for every wagon or truck in its possession, and shall exhibit the words or figures representing the load so determined in a conspicuous manner on the outside of every such wagon or truck.

(2) Every person owning a wagon or truck which passes over a railway shall similarly determine and exhibit, the maximum load for the wagon or truck.

(3) The gross weight of any such wagon or truck bearing on the axles when the wagon or truck is loaded to such maximum load shall not exceed such limit as may be fixed by the ¹[Authority] for the class of axle under the wagon or truck.

54. Power for railway administrations to impose conditions for working traffic.—(1) Subject to the control of the ¹[Authority], a ¹[licensee] may impose conditions, not inconsistent with ¹[with its powers and functions] with respect to the receiving, forwarding or delivering of any animals or goods.

(2) The ¹[licensee] shall keep at each station on its railway a copy of the conditions for the time being in force under sub-section (1) at the station, and shall allow any person to inspect it free of charge at all reasonable times.

(3) A ¹[licensee] shall not be bound to carry any animal suffering from any infectious or contagious disorder.

¹Subs. and omitted by Ord. 92 of 02, s.44 & Sch.II.

²Subs. by A. O., 1937, for the original sub-section (1).

³S. 46B was ins. by A. O., 1937.

⁴Sections 47,48,49,50,51,51A and 52 omitted by Ord. 92 of 02, s.44 & Sch.II.

⁵Cf. the Railway Regulation Act, 1842 (5 & 6 Vict., c. 55), s. 16.

155. Lien for rates, terminals and other charges.—(1) If a person fails to pay on demand made by or on behalf of a²[licensee] any rate, terminal or other charge due from him in respect of any animals or goods, the²[licensee] may detain the whole or any of the animals or goods or, if they have been removed from the railway, any other animals or goods of such person then being in or thereafter coming into its possession.

(2) When any animals or goods have been detained under sub-section (1), the²[licensee] may sell by public auction, in the case of perishable goods at once, and in the case of other goods or of animals on the expiration of at least fifteen days' notice of the intended auction, published in one or more of the local newspapers, or where there are no such newspapers, in such manner as the²[Authority] may prescribe, sufficient of such animals or goods to produce a sum equal to the charge, and all expenses of such detention, notice and sale, including, in the case of animals, the expenses of the feeding, watering and tending thereof.

(3) Out of the proceeds of the sale the²[licensee] may retain a sum equal to the charge and the expenses aforesaid, rendering the surplus, if any, of the proceeds, and such of the animals or goods (if any) as remain unsold, to the person entitled thereto.

(4) If a person on whom a demand for any rate, terminal or other charge due from him has been made fails to remove from the railway within a reasonable time any animals or goods which have been detained under sub-section (1) or any animals or goods which have remained unsold after a sale under sub-section (2), the²[licensee] may sell the whole of them and dispose of the proceeds of the sale as nearly as may be under the provisions of sub -section (3).

(5) Notwithstanding anything in the foregoing sub-sections, the²[licensee] may recover by suit any such rate, terminal or other charge as aforesaid or balance thereof.

56. Disposal of unclaimed things on a railway.—(1) When any animals or goods have come into the possession of a²[licensee] for carriage or otherwise and are not claimed by the owner or other person appearing to the²[licensee] to be entitled thereto, the²[licensee] shall, if such owner or person is known, cause a notice to be served upon him, requiring him to remove the animals or goods.

(2) If such owner or person is not known, or the notice cannot be served upon him, or he does not comply with the requisition in the notice, the²[licensee] may within a reasonable time, subject to the provisions of any other enactment for the time being in force, sell the animals or goods as nearly as may be under the provisions of the last foregoing section, rendering the surplus, if any, of the proceeds of the sale to any person entitled thereto.

57. Power for railway administrations to require indemnity on delivery of goods in certain cases. Where any animals, goods or sale-proceeds in the possession of a²[licensee] are claimed by two or, more persons, or the ticket or receipt given for the animals or goods is not forthcoming, the²[licensee] may withhold delivery of the animals , goods or sale-proceeds until the person entitled in its opinion to receive them has given an indemnity, to the satisfaction of the²[licensee] against the claims of any other person with respect to the animals, goods or sale-proceeds.

¹Cf. the Railways Clauses Act, 1845 (8 & 9 Vict., c. 20), s. 97.

²Subs. by Ord. 92 of 02, s.44 & Sch.II.

58. Requisitions for written accounts of description of goods.—(1) The owner or person having charge of any goods which are brought upon a railway for the purpose of being carried thereon, and the consignee of any goods which have been carried on a railway, shall, on the request of any ¹[railway employee] appointed in this behalf by the ¹[licensee] deliver to such servant an account in writing signed by such owner or person, or by such consignee, as the case may be, and containing such a description of the goods as may be sufficient to determine the rate which the ¹[licensee] is entitled to charge in respect thereof.

(2) If such owner, person or consignee refuses or neglects to give such an account, and refuses to open the parcel or package containing the goods in order that their description may be ascertained, the ¹[licensee] may,

- (a) in respect of goods which have been brought for the purpose of being carried on the railway, refuse to carry the goods unless in respect thereof a rate is paid not exceeding; the highest rate which may be in force at the time on the railway for any class of goods or,
- (b) in respect of goods which have been carried on the railway, charge a rate not exceeding such highest rate.

(3) If an account delivered under sub-section (1) is materially false with respect to the description of any goods to which it purports to relate, and which have been carried on the railway, the ¹[licensee] may charge in respect of the carriage of the goods a rate not exceeding double the highest rate which may be in force at the time on the railway for any class of goods.

²(4) If any difference arises between a ¹[railway employee] and the owner or person having charge, or the consignee, of any goods which have been brought to be carried or have been carried on a railway, respecting the description of goods of which an account has been delivered under this section, the ¹[railway employee] may detain and examine the goods.

(5) If it appears from the examination that the description of the goods is different from that stated in an account delivered under sub-section (1), the person who delivered the account, or, if that person is not the owner of the goods, then that person and the owner jointly and severally, shall be liable to pay to the ¹[licensee] the cost of the detention and examination of the goods, and the ¹[licensee] shall be exonerated from all responsibility for any loss which may have been caused by the detention or examination thereof.

(6) If it appears that the description of the goods is not different from that stated in an account delivered under sub-section (1), the ¹[licensee] shall pay the cost of the detention and examination, and be responsible to the owner of the goods for any such loss as aforesaid.

59. Dangerous or offensive goods.—(1) No person shall be entitled to take with him, or to require a ¹[licensee] to carry, any dangerous or offensive goods upon a railway.

(2) No person shall take any such goods with him upon a railway without giving notice of their nature to the stationmaster or other ¹[railway employee] in charge of the place where he brings the goods upon the railway, or shall tender or deliver any such goods for carriage upon a railway

¹Subs. by Ord. 92 of 02, s.44 & Sch.II.

²Cf. the Railways Clauses Act, 1845 (8& 9 Vict., c. 20), s. 101.

without distinctly marking their nature on the outside of the package containing them or otherwise giving notice in writing of their nature to the ¹[railway employee] to whom he tenders or delivers them.

(3) Any ¹[railway employee] may refuse to receive such goods for carriage, and, when such goods have been so received without such notice as is mentioned in ²[sub-section (2)] having to his knowledge been given, may refuse to carry them or may stop their transit,

(4) If any ¹[railway employee] has reason to believe any such goods to be contained in a package with respect to the contents whereof such notice as is mentioned in sub-section (2) has not to his knowledge been given, he may cause the package to be opened for the purpose of ascertaining its contents,

(5) Nothing in this section shall be construed to derogate from the Explosives Act, 1884, (V of 1884) or any rule under that Act, and nothing in sub-sections (1), (3) and (4) shall be construed to apply to any goods tendered or delivered for carriage by order or on behalf of the Government or to any goods which an officer, soldier, sailor, ³[airman] or police-officer or ⁴[a member of the Pakistan National Guard,] may take with him upon a railway in the course of his employment or duty as such.

50. Exhibition to the public of authority for quoted rates. At every station at which a ¹[licensee] quotes a rate to any other station for the carriage of traffic other than passengers and their luggage, the ¹[railway employee] appointed by the ¹[licensee] to quote the rate shall, at the request of any person, show to him at all reasonable times, and without payment of any fee, the rate books or other documents in which the rate is authorised by the ¹[licensee] or administrations concerned.

61. Requisitions on railway administrations for details of gross charges.—(1) Where any charge is made by and paid to a ¹[licensee] in respect of the carriage of goods over its railway, the ¹[licensee] shall, on the application of the person by whom or on whose behalf the charge has been paid, render to the applicant an account showing how much of the charge comes under each of the following heads, namely:—

- (a) the carriage of the goods on the railway;
- (b) terminals;
- (c) demurrage; and
- ⁷(d) collection, delivery and other expenses;

but without particularizing the several items of which the charge under each head consists.

(2) The application under sub-section (1) must be in writing and be made to the ¹[licensee] within one month after the date of the payment of the charge by or on behalf of the applicant, and the account must be rendered by the ¹[licensee] within two months after the receipt of the application.

¹Subs. by Ord. 92 of 02, s.44 & Sch.II.

²Subs. by the Indian Railways Act, (1890) Amendment Act, 1896 (9 of 1896), s. 3, for “sub-section (1)”.

³Ins. by the Repealing and Amending Act, 1927 (10 of 1927), s. 2 and Sch. I.

⁴The original words and figures “a person enrolled as a volunteer under the Indian Volunteers Act, 1869,” were first subs. by the Repealing and Amending Act, 1923 (11 of 1923), s.2 and Sch. I and then amended by A. O., 1949, Sch., to read as above.

⁵Cf the Regulation of Railways Act, 1873 (36 & 37 Vict., c. 48), s. 14. and the Railway and Canal Traffic Act, 1888 (51 & 52 Vict., c. 25), s. 33.

⁶Cf the Regulation of Railways Act, 1868 (31 & 32 Vict., c.119), s.17.

⁷Cf the Regulation of Railways Act, 1873 (36 & 37 Vict., c. 48), s. 14.

Carriage of Passengers

¹62. Communication between passengers and ²[railway employees] in charge of trains.

The ²[Authority] may require any ²[licensee] to provide and maintain in proper order, in any train worked by it which carries passengers, such efficient means of communication between the passengers and the ²[railway employees] in charge of the train as the ²[Authority] has approved.

63. Maximum number of passengers for each compartment. Every ²[licensee] shall fix, subject to the approval of the ²[Authority], the maximum number of passengers which may be carried in each compartment of every description of carriage, and shall exhibit the number so fixed in a conspicuous manner inside or outside each compartment, in English or in one or more of the vernacular languages in common use in the territory traversed by the railway, or both in English and in one or more of such vernacular languages as the ²[Authority], after consultation with the ²[licensee], may determine.

64. Reservation compartments for females.—(1) On and after the first day of January, 1891, every ²[licensee] shall, in every train carrying passengers, reserve for the exclusive use of females one compartment at least of the lowest class of carriage forming part of the train.

³[(2) * * * * * * * *]

65. Exhibition of time-tables and tables fares at stations. Every ²[licensee] shall cause to be posted in a conspicuous and accessible place at every station on its railway, in English and in a vernacular language in common use in the territory where the station is situate, a copy of the time tables for the time being in force on the railway, and lists of the fares chargeable for traveling from the station where the lists are posted to every place for which card-tickets are ordinarily issued to passengers at that station.

66. Supply of tickets on payment of fares.— (1) Every person desirous of traveling on a railway shall, upon payment of his fare, be supplied, ⁴[by a ²[railway employee] or an agent authorized by the ²[licensee] in this behalf] with a ticket, specifying the class of carriage for which, and the place from and the place to which, the fare has been paid, and the amount of the fare.

(2) The matters required by sub-section (1) to be specified on a ticket shall be set forth—

- (a) if the class of carriage to be specified thereon is the lowest class, then in a vernacular language in common use in the territory traversed by the railway, and
- (b) if the class of carriage to be so specified is any other than the lowest class, then in English.

67. Provision for case in which tickets have been issued for trains not having room available for additional passengers.— (1) Fares shall be deemed to be accepted, and tickets to be issued, subject to the condition of there being room available in the train for which the tickets are issued.

¹Cf the Regulation of Railways Act, 1868 (31 & 32 Vict., c. 119), s.22.

²Subs. by Ord. 92 of 02, s.44 & Sch.II.

³Omitted by Act No.IV of 1995, s.7.

⁴Ins. by the Railway (Amdt.) Act, 1976 (25 of 1976), s. 2.

(2) A person to whom a ticket has been issued and for whom there is not room available in the train for which the ticket was issued shall on returning the ticket within three hours after the departure of the train be entitled to have his fare at once refunded.

(3) A person for whom there is not room available in the class of carriage for which he has purchased a ticket and who is obliged to travel in a carriage of a lower class shall be entitled on delivering up his ticket to a refund of the difference between the fare paid by him and the fare payable for the class of carriage in which he travelled.

¹[68. (1)] Prohibition against traveling without pass or ticket.— No person shall, without the permission of a ²[railway employee], enter ³[or remain in] any carriage on a railway for the purpose of traveling therein as a passenger unless he has with him a proper pass or ticket.

⁴(2) A ²[railway employee] when granting the permission referred to in sub-section (1) shall ordinarily, if empowered in this behalf by the ²[licensee], grant to the passenger a certificate that the passenger has been permitted to travel in such carriage upon condition that he subsequently pays the fare payable for the distance to be travelled.]

69. Exhibition and surrender of passes and tickets. Every passenger by railway shall, on the requisition of any railway employee appointed by the ²[licensee] in this behalf, present his pass or ticket to the ²[railway employee] for examination, and at or near the end of the journey for which the pass or ticket was issued, or, in the case of a season pass or ticket, at the expiration of the period for which it is current, deliver up the pass or ticket to the ²[railway employee].

⁵[70. Prohibition against transfer of certain tickets.] A ticket against which reservation of a seat or berth has been made, or a return ticket or season ticket, shall not be transferable and may be used only by the person for whose journey to and from the places specified thereon it was issued:

Provided that nothing herein shall prevent mutual transfer of seats or berths reserved against a proper ticket by passengers traveling by the same train.]

71. Power to refuse to carry persons suffering from infectious or contagious disorder. (1) A ²[licensee] may refuse to carry, except in accordance with the conditions prescribed ²[by rules] a person suffering from any infectious or contagious disorder.

(2) A person suffering from such a disorder shall not enter or travel upon a railway without the special permission of the station-master or other ²[railway employee] in charge of the place where he enters upon the railway.

(3) A ²[railway employee] giving such permission as is mentioned in sub-section (2) must arrange for the separation of the person suffering from the disorder from other persons being or traveling upon the railway.

¹S. 68 re-numbered as 68 (1) by the Indian Railways (Amendment) Act, 1941 (6 of 1941), s. 2.

²Subs. by Ord. 92 of 02, s.44 & Sch.II.

³Ins. by the Indian Railways (Amendment) Act, 1941 (6 of 1941), s. 2.

⁴Sub-section (2) added, by the Indian Railways (Amendment) Act, 1941 (6 of 1941), s. 2.

⁵Subs. by the Railways (Amendment) Act, 1976 (25 of 1976), s. 3, for the existing section.

¹[CHAPTER VI-A]

LIMITATION OF EMPLOYEMENT OF RAILWAY SERVANT]

71A -71H. ²[Omitted]

CHAPTER VII

³[RESPONSIBILITY OF LICENSEES AS CARRIERS]

72. Measure of the general responsibility of a ³[licensee] as a carrier of animals and goods.—

(1) The responsibility of a ³[licensee] for the loss, destruction or deterioration of animals or goods delivered to the ³[licensee] to be carried by railway shall, subject to the other provisions of this Act ³[and the ordinance], be that of a bailee under sections 151,152 and 161 of the Contract Act, 1872 (IX of 1872).

(2) An agreement purporting to limit that responsibility shall, in so far as it purports to effect such limitation, be void, unless it—

- (a) is in writing signed by or on behalf of the persons sending or delivering to the ³[licensee] the animals or goods, and
- (b) is otherwise in a ⁴form approved by the ³[Authority].

(3) Nothing ^{5* * *} in the Carriers Act, 1865 regarding the responsibility of common carriers with respect to the carriage of animals or goods, shall affect the responsibility as in this section defined of a railway administration.

673. Further provision with respect to the liability of a ³[licensee] as a carrier of animals.—

⁷[(1) The responsibility of a ³[licensee] under the last foregoing section for the loss, destruction or deterioration of animals delivered to the ³[licensee] to be carried on a railway shall not, in any case, exceed—

- (a) in the case of elephants ⁸[fifty thousand] rupees per head,
- (b) in the case of horses ⁸[ten thousand] rupees per head,
- (c) in the case of mules, camels or horned cattle, ⁸[fifteen thousand] rupees per head, and per head,

¹Chapter VI-A was ins. By the Indian Railways (Amtd.) Act, 1930 (XIV of 1930) for statement of objects and reasons of which see, Gazette of India 1929, pt. v,p.147; and for report of the select committee see, *ibid.*, 1930, pt., p.56.

This chapter to be deemed to have been inserted with effect on and from the twenty-sixth day of March, 1930, see the Railways (Amtd.) Act, 1950 (41 of 1950),s.2.

This Chapter has been extended to—

- (1) the Baluchistan States Union by G.G.O. 4 of 1953, as amended and
- (2) the States of Bahawalpur and Khairpur by G.G.O. 11 of 1953 and G.G.O.5 of 1953, respectively.

²Sections 71A-71H omitted by Ord. 92 of 02, s.44 & Sch.II.

³Subs. by Ord. 92 of 02, s.44 & Sch.II.

⁴For risk-note forms prescribed under this clause, see Gen. R. & O.

⁵Certain words omitted by the Federal Laws (Revision and Declaration) Ordinance, 1981 (27 of 1981), s. 3 and 2nd Sch.

⁶Cf the Railway and Canal Traffic Act, 1854 (17 and 18 Viet., C. 31), section 7.

⁷Subs. by Railway (Amtd.) Act,1957 (26 of 1957),s.3. for the original sub-section (1), as amended by the Indian Railways Act, (1890) Amendment Act, 1896 (9 of 1896),s.4.

⁸Subs. by Act IV of 1995, s.9.

(d) in the case of donkeys, sheep, goats, dogs or other animals ¹[one thousand] rupees per head,

unless the person sending or delivering them to the ²[licensee] caused them to be declared or declared them, at the time of their delivery for carriage by railway, to be respectively of higher value than one thousand five hundred, seven hundred and fifty, two hundred or thirty rupees per head, as the case may be].

(2) Where such higher value has been declared, the ²[licensee] may charge, in respect of the increased risk, a percentage upon the excess of the value so declared over the respective sums aforesaid.

(3) In every proceeding against a ²[licensee] for the recovery of compensation for the loss, destruction or deterioration of any animal, the burden of proving the value of the animal, and, where the animal has been injured, the extent of the injury, shall lie upon the person claiming the compensation.

74. Further provision with respect to the liability of a ²[licensee] as a carrier of luggage.
A ²[licensee] shall not be responsible for the loss, destruction or deterioration of any luggage belonging to or in charge of a passenger unless a ²[railway employee] has booked and given a receipt therefor.

³75. Further provision with respect to the liability of a ²[licensee] as a carrier of articles of special value.—(1) When any articles mentioned in the second schedule are contained in any parcel or package delivered to a ²[licensee] for carriage by railway, and the value of such articles in the parcel or package exceeds ¹[ten thousand rupees], the ²[licensee] shall not be responsible for the loss, destruction or deterioration of the parcel or package unless the persons sending or delivering the parcel or package to the ²[licensee] caused its value and contents to be declared or declared them at the time of the delivery of the parcel or package for carriage by railway, and, if so required by the ²[licensee], paid or engaged to pay a percentage on the value so declared by way of compensation for increased risk.

(2) When any parcel or package of which the value has been declared under sub-section (1) has been lost or destroyed or has deteriorated, the compensation recoverable in respect of such loss, destruction or deterioration shall not exceed the value so declared, and the burden of proving the value so declared to have been the true value shall, notwithstanding anything in the declaration, lie on the person claiming the compensation.

(3) A ²[licensee] may make it a condition of carrying a parcel declared to contain any article mentioned in the second schedule that a ²[railway employee] authorised in this behalf has been satisfied by examination or otherwise that the parcel actually contains the article declared to be therein.

76. Burden of proof in suits in respect of loss of animals or goods. In any suit against a ²[licensee] for compensation for loss, destruction or deterioration of animals or goods delivered to a ²[licensee] for carriage by railway, it shall not be necessary for the plaintiff to prove how the loss, destruction or deterioration was caused.

¹Subs. by Act IV of 1995, ss.9-10.

²Subs. by Ord. 92 of 02, s.44 & Sch.II.

³Cf the Carriers Act, 1830 (11 Geo. 4 & 1 Will, 4.c. 69),s.1.

77. Notification of claims of refunds of overcharges and to compensation for losses. A person shall not be entitled to a refund of an over charge in respect of animals or goods carried by railway or to compensation for the loss, destruction or deterioration of animals or goods delivered to be so carried, unless his claim to the refund or compensation has been preferred in writing by him or on his behalf to the ¹[licensee] within six months from the date of the delivery of the animals or goods for carriage by railway.

78. Exoneration from responsibility in case of goods falsely described. Notwithstanding anything in the foregoing provisions of this Chapter, a ¹[licensee] shall not be responsible for the loss, destruction or deterioration of any goods with respect to the description of which an account materially false has been delivered under sub-section (1) of section 58 if the loss, destruction or deterioration is in any way brought about by the false account, nor in any case for an amount exceeding the value of the goods if such value were calculated in accordance with the description contained in the false account.

79. Settlement of compensation for injuries to officers, soldiers, airmen and followers on duty. Where an officer, soldier, ²[sailor], ³[airman] or follower, while being or traveling as such on duty upon a railway belonging to, and worked by, the Government ^{4*} * * *, loses his life or receives any personal injury in such circumstances that, if he were not an officer, soldier, ²[sailor], ³[airman] or follower being or traveling as such on duty upon the railway, compensation would be payable under Act⁵ No. XIII of 1855 or to him, as the case may be, the form and amount of the compensation to be made in respect of the loss of his life or his injury shall, where there is any provision in this behalf in the military, ²[naval] ³[or air-force] ⁶[law] to which he was immediately before his death, or is, subject, be determined in accordance with ⁷[that] ⁶[law], and not otherwise.

80. Suits for compensation for injury to through booked traffic. Notwithstanding anything in any agreement purporting to limit the liability of a ¹[licensee] with respect to traffic while on the railway of another ¹[licensee], a suit for compensation for loss of the life of, or personal injury to, a passenger, or for loss, destruction or deterioration of animals or goods where the passenger was or the animals or goods were booked through over the railways of two or more railway administrations, may be brought either against the ¹[licensee] from which the passenger obtained his pass or purchased his ticket, or to which the animals or goods were delivered by the consignor thereof, as the case may be, or against the ¹[licensee] on whose railway the loss, injury, destruction or deterioration occurred.

81. [Limitation of liability of railway administration in respect of traffic on inland waters by vessel not being part of railway.] Rep. by the Indian Railways Act (1890) Amendment Act, 1896 (IX of 1896), s. 5.

82. [Limitation of liability of railway administration in respect of accidents at sea.] Omitted by the Federal Laws (Revision and Declaration) Ordinance, 1981 (27 of 1981), s. 3 and Sch. II.

¹Subs. by Ord. 92 of 02, s.44 & Sch.II.

²Ins. by the Amending Act, 1934 (35 of 1934), s. 2 and Sch.

³Ins. by the Repealing and Amending Act, 1927 (10 of 1927), s. 2 and Sch. I.

⁴The words "or an Acceding State" which was ins. by A. O., 1949, have been omitted by the Federal Laws (Revision and Declaration) Ordinance, 1981 (27 of 1981), s. 3 and Sch. II.

⁵The- Fatal Accidents Act, 1855.

⁶Subs. by the Federal Laws (Revision and Declaration) Ordinance, 1981, (27 of 1981), s.3 and 2nd Sch., for "regulations".

⁷Subs. by Act IV of 1995, s. 11.

⁸Cf. the Regulation of Railways Act, 1868 (31 & 32 Vict., c. 119) ,s. 14. and the Regulation of Railways Act, 1871 (34 & 35 Vict, c. 78), s. 12.

¹[82A. Liability of ²[licensee] in respect of accidents to trains carrying passengers.— (1)

When in the course of working a railway an accident occurs, being either a collision between trains of which one is a train carrying passengers or the derailment of or other accident to a train or any part of a train carrying passengers, then, whether or not there has been any wrongful act, neglect or default on the part of the ²[licensee] such as would entitle a person who has been injured or has suffered loss to maintain an action and recover damages in respect thereof, the ²[licensee] shall, notwithstanding any other provision of law to the contrary, be liable to pay compensation ³[as provided in sub-section (2)] for loss occasioned by the death of a passenger dying as a result of such accident, and for personal injury and loss, destruction or deterioration of animals or goods owned by the passenger and accompanying the passenger in his compartment or on the train, sustained as a result of such accident[:]³—

³[Provided that where in such accident a person other than a passengers dies or is injured, the ²[licensee] shall, after such inquiry as to the wrongful act, neglect or default of ²[licensee], pay compensation to the heirs of deceased or, as the case may be to the injured to the extent as provided in sub-section (2)].

³[(2) The liability of ²[licensee] under this section shall be one hundred thousand rupees for a passenger dying as a result of railway accident referred to in sub-section (1) and ten thousand rupees for an injured passenger.]

CHAPTER VIII

ACCIDENTS

²[83. Report of the railway accidents. When any of the following accidents occur in the course of working a railway, namely:—

- (a) any accident attended with loss of human life, or with grievous hurt as defined in the Pakistan Penal Code (Act XLV of 1860), or with serious injury to property;
- (b) any collision between trains of which one is a passenger train;
- (c) the derailment of any train carrying passengers or of any part of such train;
- (d) any accident of a description usually attended with loss of human life or with such grievous hurt as aforesaid or with serious injury to property; and
- (e) any other accident which the Federal Government on advice of the Authority may notify in this behalf in the official Gazette;

the nearest Judicial Magistrate, in which the accident occurred; and the officer in charge of the police station within the local the licensee working in the railway and, if such accident happens to a train

¹S.82A. ins. by the Indian Railways (Amendment) Act, 1943 (3 of 1943), s.2.

²Subs. by Ord. 92 of 2002, s. 44 & Sch. II.

³Subs. added by Act IV of 1995, s. 12.

belonging to any other licensee, the other license also shall, without unnecessary delay, send notice of the accident to the Federal Government and the Authority and the station-master nearest to the place at which the accident occurred or, where there is no station-master, the railway employee incharge of that section of the railway on which the accident occurred shall, without unnecessary delay give notice of the accident to limits of which it occurred, or to such other Magistrate and police officer the Federal Government appoints in this behalf.]

84. Power to make rules regarding notices of and inquiries into accidents. The ¹[Authority] may make rules ²consistent with this Act ¹[the ordinance] and any other enactment for the time being in force for all or any of the following purposes, namely: —

- (a) for prescribing the forms of the notices mentioned in the last foregoing section, and the particulars of the accident which those notices are to contain;
- (b) for prescribing the class of accidents of which notice is to be sent by telegraph immediately after the accident has occurred ;
- (c) for prescribing the duties of railway servants, police officers, ¹[the Authority] and Magistrates on the occurrence of an accident.

85. Submission of return of accidents. Every ¹[licensee] shall send to the ¹[Authority] a return of accidents occurring upon its railway, whether attended with personal injury or not, in such form and manner and at such intervals of time as the ¹[Authority] directs².

386. Provision for compulsory medical examination of person injured in railway accident. Whenever any person injured by an accident on a railway claims compensation on account of the injury, any Court or person having by law or consent of parties authority to determine the claim may order that the person injured be examined by some duly qualified medical practitioner named in the order and not being a witness on either side, and may make such order with respect to the cost of the examination as it or he thinks fit.

THE PAKISTAN CODE

PENALTIES AND OFFENCES *Forfeitures by Railway Companies*

87. Penalty for default in compliance with requisition under section 13. If ¹[the railway administration and a licensee who is the holder of an integrated license] fails to comply with any requisition made under section 13, it shall forfeit to the ¹[Authority] the sum of two hundred rupees for the default and a further sum of fifty rupees for every day after the first during which the default continues.

488. * * * *

¹Subs. and Ins. by ord. 92 of 02, s. 44 & Sch. II.

²For rules under ss.84 and 85 as to notices of accidents occuring in the course for working a railway, see Gen R. & O.

³Cf the Regulation of Railways Act, 1868(31& 32 Vict., c. 119), s.26.

⁴Section 88 omitted by ord. 92 of 02, s. 44 & Sch. II.

89. Penalty for not having certain documents kept or exhibited at stations under section 54 or 65. If a ¹[licensee] fails to comply with the provisions of ^{2*} * * section 54, sub-section (2), or section 65, with respect to the books or other documents to be kept open to inspection or conspicuously posted at stations on its railway, it shall forfeit to the ¹[Authority] the sum of fifty rupees for every day during which the default continues.

90 & 91. ¹[Omitted]

92. Penalty for delay in submitting returns under ^{1*} * * * 85. If a ¹[licensee] fails to comply with the provisions of ^{1*} * * section 85 with respect to the submission of any return, it shall forfeit to the ¹[Authority] the sum of fifty rupees for every day during which the default continues after the fourteenth day from the date prescribed for the submission of the return.

93. Penalty for neglect of provisions of section 53 or 63 with respect to carrying capacity of rolling-stock. If a ¹[licensee] contravenes the provisions of section 53 or section 63, with respect to the maximum load to be carried in any ¹[rolling stock] or the maximum number of passengers to be carried in any compartment, or the exhibition of such load on the ¹[rolling stock] or of such number in or on the compartment, or knowingly suffers any person owning a ¹[rolling stock] passing over its railway to contravene the provisions of the former of those sections, it shall forfeit to the ¹[Authority] the sum of twenty rupees for every day during which either section is contravened.

4* * * * *

594. Penalty for failure to comply with requisition under section 62 for maintenance of means of communication between passengers and ¹[railway employees]. If a ¹[licensee] fails to comply with any requisition of the ¹[Authority] under section 62, for the provision and maintenance in proper order, in any train worked by it, which carries passengers, of such efficient means of communication as the ¹[Authority] has approved, it shall forfeit to the ¹[Authority] the sum of twenty rupees for each train run in disregard of the requisition.

95. Penalty for failure to reserve compartments for females under section 64. If a ¹[licensee] fails to comply with the requirements of section 64 with respect to the reservation of compartments for females ^{3[* * *]}, it shall forfeit to the ¹[Authority] the sum of twenty rupees for every train in respect of which the default occurs.

96. Penalty for omitting to give the notices of accidents required by section 83 and under section 84. If a ¹[licensee] omits to give such notice of an accident as is required by section 83 and the rules for the time being in force under section 84, it shall forfeit to the ¹[Authority] the sum of one hundred rupees for every day during which the omission continues.

97. Recovery of penalties.— (1) When a ¹[licensee] has through any act or omission forfeited any sum ^{6*} * * under the foregoing provisions of this Chapter, the sum shall be recoverable by suit in the District Court having jurisdiction in the place where the act or omission or any part thereof occurred.

¹Subs. and Omitted by ord. 92 of 02, s. 44 & Sch. II.

²The words and figures “section 47, sub-section (6)” rep. by A. O. 1937.

³Omitted by Act IV of 1995, s.14.

⁴Second paragraph which was first ins. by A. O., 1937, and then amended by A. O., 1949, has been omitted by A. O., 1961, Art. 2 and Sch. (*with effect from the 23rd March, 1956*).

⁵Cf. the Regulation of Railways Act, 1868 (31 & 32 Vict., c. 119), s. 22.

⁶The words “to the Govt.” rep. by A. O., 1937.

¹[(2) Nothing in this Chapter shall be construed as requiring any authority to recover any penalty in any case in which it thinks it proper to refrain from so doing.]

98. Alternative or supplementary character of remedies afforded by the foregoing provisions of this Chapter. Nothing ²[in the foregoing provisions of this Chapter] shall be construed to preclude the ³[Authority] from resorting to any other mode of proceeding instead of, or in addition to, such a suit as is mentioned in the last foregoing section, for the purpose of compelling a ³[licensee] to discharge any obligation imposed upon it by this Act.

Offences by Railway Servants

499. Breach of duty imposed by section 60. If a ³[railway employee] whose duty it is to comply with the provisions of section 60 negligently or willfully omits to comply therewith, he shall be punished with fine which may extend to twenty rupees.

5[100. Drunkenness. If a ³[railway employee] is in a state of intoxication while on duty he shall, without prejudice to any penalty to which he may be liable under any other law for the time being in force, be punished with fine which may extend to fifty rupees, or, where the improper performance of the duty is likely to endanger the safety of any person traveling or being upon a railway, with imprisonment for a term which may extend to one year, or with fine, or with both.]

6[101. Endangering the safety of persons. If a ³[railway employee], when on duty, endangers the safety of any person—

- (a) by disobeying any general rule made, sanctioned, published and notified under this Act, ³[or ordinance], or
- (b) by disobeying any rule or order which is not inconsistent with any such general rule, and which such servant was bound by the terms of his employment to obey, and of which he had notice, or
- (c) by any rash or negligent act or omission, ⁷[or]
- ⁷[(d) by tampering with railway's equipment, machinery or installation or misuse or non-use thereof,]
- ³[(e) by disobeying any provision of this Act or the Ordinance.]

he shall be punished with imprisonment for a term which may ⁷[five years imprisonment of either description] extend to or with fine which may extend to ⁷[ten thousand] rupees, or with both.

¹Subs. by A. O., 1937, for the original sub-sections (2) and (3).

²Subs. by the Repealing and Amending Act, 1939 (34 of 1939), s. 2 and Sch. I, for "in those provisions".

³Subs. Ins. and added by ord. 92 of 02, s. 44 & sch. II.

⁴Cf. the Railway Regulation Act, 1842 (5 & 6 Vict., c. 55), s. 17.

⁵Subs. by the Federal Laws (Revision and Declaration) Ordinance, 1981 (27 of 1981), s. 3 and 2nd Sch., for the existing section.

⁶Cf. the Railway Regulation Act, 1840 (3 & 4 Vict., c. 97) ss. 13 and 14, and the Railway Regulation Act, 1842 (5 & 6 Vict., c. 55) s. 17.

⁷Added and subs. by Act IV of 1995, s.15.

102. Compelling passengers to enter carriages already full. If a ¹[railway employee] compels or attempts to compel, or causes, any passenger to enter a compartment which already contains the maximum number of passengers exhibited therein or thereon under section 63, he shall be punished with fine which may extend to twenty rupees.

103. Omission to give notice of accident. If a station-master or a ¹[railway employee] in charge of a section of a railway omits to give such notice of an accident as is required by section 83 and the rules for the time being in force under section 84 ¹[or the ordinance] he shall be punished with fine which may extend to ²[five thousand rupees].

³104. Obstructing level-crossings. If a ¹[railway employee] unnecessarily—

- (a) allows any rolling-stock to stand across a place where the railway crosses a public road on the level, or
- (b) keeps a level-crossing closed against the public,

he shall be punished with ²[imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both].

⁴105. False returns. If any return which is required by this Act ¹[or the ordinance] is false in any particular to the knowledge of any person who signs it, that person shall be punished with fine which may extend to ²[two thousand rupees], or with imprisonment which may extend to one year, or with both.

Other Offences

⁵106. Giving false account of goods. If a person requested under section 58 to give an account with respect to any goods gives an account which is materially false, he and, if he is not the owner of the goods, the owner also shall be punished with ²[or with fine which may extend to five thousand rupees] and the fine shall be in addition to any rate or other charge to which the goods may be liable.

⁵107. Unlawfully bringing dangerous or offensive goods upon a railway. If in contravention of section 59 a person takes with him any dangerous or offensive goods upon a railway, or tenders or delivers any such goods for carriage upon a railway, he shall be punished with ²[imprisonment for a term which may extend to two years, or with fine which may extend to five thousand rupees, or with both] and shall also be responsible for any loss, injury or damage which may be caused by reason of such goods having been so brought upon the railway.

⁶108. Needlessly interfering with means of communication in a train. If a passenger, without reasonable and sufficient cause, makes use of or interferes with any means provided by a ¹[licensee] for communication between passengers and the [railway servants in charge of a train, he shall be punished with fine which may extend to ²[two thousand rupees].

¹Subs. and Ins. by ord. 92 of 02, s. 44 & sch. II.

²Subs. by Act IV of 1995, ss. 16-21.

³Cf. the Railway Clauses Act, 1863 (26 & 27 Vict., c. 92), s. 5.

⁴Cf. the Regulation of Railways Act, 1871 (34 & 35 Vict., c. 78), s. 10.

⁵Cf. the Railway Clauses Act, 1845 (2 & 9 Vict., c. 20), ss., 99 and 152, respectively.

⁶Cf. the Regulation of Railways Act, 1868 (31 & 32 Vict., c. 119), s. 22.

109. Entering compartment reserved or already full or resisting entry into a compartment not full.—(1) If a passenger, having entered a compartment which is reserved by a ¹[licensee] for the use of another passenger, or which already contains the maximum number of passengers exhibited therein or thereon under section 63, refuses to leave it when required to do so by any railway employee, he shall be punished with fine which may extend to ²[one thousand rupees].

(2) If a passenger resists the lawful entry of another passenger into a compartment not reserved by the ¹[licensee] for the use of the passenger resisting or not already containing the maximum number of passengers exhibited therein or thereon under section 63, he shall be punished with fine which may extend to ²[one thousand rupees].

²[(3) In addition to the fine imposed on the passenger referred to in sub-sections (1) and (2), he shall be removed from the compartment.]

110. Smoking.— (1) If a person, without the consent of his fellow passengers, if any, in the same compartment, smokes in any compartment except a compartment specially provided for the purpose, he shall be punished with fine which may extend to twenty rupees.

(2) If any person persists in so smoking after being warned by any ¹[railway employee] to desist, he may, in addition to incurring the liability mentioned in sub-section (1), be removed by any ¹[railway employee] from the carriage in which he is traveling.

³111. Defacing public notices. If a person, without authority in this behalf, pulls down or willfully injures any board or document set up or posted by order of a ¹[licensee] on a railway or any rolling-stock, or obliterates or alters any of the letters or figures upon any such board or document, he shall be punished with fine which may extend to ²[one thousand] rupees.

⁴[112.—(1)] Fraudulently traveling or attempting to travel without proper pass or ticket. If a person, with intent to defraud a ¹[licensee],—

- (a) enters ⁵[or remains in any carriage on a railway in contravention of section 68], or
- (b) uses or attempts to use a single pass or single ticket which has already been used on a previous journey or, in the case of a return ticket, a half thereof which has already been so used,

he shall be punished ⁶[with imprisonment for a term which may extend to ²[six months] or] with fine which may extend to ²[two thousand rupees] in addition to the amount of the single fare for any distance which he may have traveled. ⁷[The burden of proof that there was no intention to defraud shall lie on the accused.]

⁶[(2) Notwithstanding anything contained in section 65 of the Pakistan Penal Code (XLV of 1860), the Court convicting an offender under this section may direct that the offender in default of

¹Subs. by ord. 92 of 02, s. 44 & sch. II.

²Subs. and added by Act IV of 1995, ss. 22-24.

³Cf the Companies Clauses Act, 1845 (8 & 9 Vict., c. 16), s. 146.

⁴S. 112 re-numbered as 112 (1) by the Indian Railways (Amdt.) Act, 1941 (6 of 1941), s.3.

⁵Subs. *ibid.*, for “in contravention of section 68 any carriage on a railway”.

⁶Ins. by the Indian Railways (Amdt.) Act, 1941 (6 of 1941), s. 3.

⁷Added by the Indian Railways Act (Amdt.) Ordinance, 1948 (2 of 1941), s.2.

payment of any fine inflicted by the Court, shall suffer imprisonment for a term which may extend to three months.]

113.Travelling without pass or ticket or with insufficient pass or ticket or beyond authorized distance.—(1) If a passenger travels in a train without having a proper pass or a proper ticket with him, or, being in or having alighted from a train, fails or refuses to present for examination or to deliver up pass or ticket immediately on requisition being made therefor under section 69, he shall be liable to pay, on the demand of any ²[railway employee] appointed by the ²[licensee] in this behalf, the excess charge hereinafter in this section mentioned, in addition to the ordinary single fare ³[from the station from which the train originally started ^{4*} * * ¹²[.] ^{5*} * *].

(2) If a passenger travels or attempts to travel in or on a carriage, or by a train, of a higher class than that for which he has obtained a pass or purchased a ticket, or travels in or on a carriage beyond the place authorised by his pass or ticket, he shall be liable to pay, on the demand of any ²[railway employee] appointed by the ²[licensee] in this behalf, the excess charge hereinafter in this section mentioned, in addition to any difference between any fare paid by him and the fare payable in respect of such journey as he has made.

⁶[(3) The excess charge referred to in sub-section (1) and sub-section (2) shall be a sum equivalent to the amount otherwise payable under those sub-sections. ^{4*} * *]

Provided that where the passenger has immediately after incurring the charge and before being detected by a ²[railway employee] notified to the ²[railway employee] on duty with the train the fact of the charge having been incurred, the excess charge shall be one-sixth of the excess charge otherwise payable calculated to the nearest ⁴[rupee].

Provided further that if the passenger has with him a certificate granted under sub- section (2) of section 68, no excess charge shall be payable.]

(4) If a passenger liable to pay the excess charge and fare mentioned in sub-section (1), or the excess charge and any difference of fare mentioned in sub-section (2), fails or refuses to pay the same on demand being made therefor under one or other of those sub-sections, as the case may be, ⁷[any ²[railway employee] appointed by the ²[licensee] in this behalf may apply to ⁸[any ^{9*} * ¹⁰[or] Magistrate of the first or second class] for the recovery of the sum payable as if it were a fine, and the Magistrate if satisfied that the sum is payable shall order it to be so recovered, and may order that the person liable for the payment shall in default of payment suffer imprisonment of either description for a term which may extend to one month. Any sum recovered under this sub-section shall, as it is recovered, be paid to the ²[licensee]].

113A. Power to remove persons from railway carriage. Any person who, without having obtained the permission of a ²[railway employee], travels or attempts to travel in a carriage without

¹Cf. the French and German Railway Law.

²Subs. by ord. 92 of 02, s. 44 & sch. II.

³Subs. by the Railways (Amdt.) Act, 1957 (26 of 1957), s. 4, for certain words.

⁴Omitted and Subs. by Act. IV of 1995, s.25.

⁵Certain words omitted, by Ord. 2 of 1948,s.2.

⁶Subs. by Act 6 of 1941, s. 4, for the original sub-section (3).

⁷Subs. by the Indian Railways (Amdt.) Act, 1941 (6 of 1941), s. 4, for “the sum payable by him shall, on application made to any Magistrate by any railway employee appointed by the railway administration in this behalf, be recovered by the Magistrate from the passenger as if it were a fine imposed on the passenger by the Magistrate and shall, as it is recovered, be paid to the railway administration”.

⁸Subs. by the Repealing and Amending Act, 1945 (6 of 1945), for “any Magistrate of the first or second class”.

⁹The words “Presidency Magistrate” omitted by the Repealing and Amending Ordinance, 1961 (1 of 1961), s. 3 and 2nd Sch.

¹⁰Seems to be redundant.

¹¹S.113A added by Act, 6 of 1941, s. 5.

¹²Subs. by Ord. 2 of 1948,s.2,for Comma.

having a proper pass or ticket with him, or in a carriage of a higher class than that for which he has obtained a pass or purchased a ticket, or in a carriage beyond the place authorised by his pass or ticket, or who being in a carriage fails or refuses to present for examination or to deliver up his pass or ticket immediately on requisition being made therefor under section 69, may be removed from the carriage by any ¹[railway employee] authorised by the ¹[licensee] in this behalf or by any other person whom such ¹[railway employee] may call to his aid, unless he then and there pays the fare and the excess charge which he is liable to pay under section 113 :

Provided that nothing in this section shall be deemed to preclude a person removed from a carriage of a higher class from continuing his journey in a carriage of a class for which he holds a pass or ticket:

Provided further that women and children, if unaccompanied by male passengers, shall not be so removed except either at the station at which they first enter the train or at a junction or terminal station or station at the headquarters of a civil district and only between the hours of 6 a.m. and 6 p.m.]

²[114. Penalty for transfer of tickets. If a person, not being a ¹[railway employee] or an agent authorised by the ¹[licensee] in this behalf,—

- (a) sells, or attempts to sell any ticket or any half of a return ticket, or
- (b) parts or attempts to part with the possession of a ticket against which reservation of a seat or berth has been made, or any half of a return ticket or season ticket,

in order to enable any other person to travel therewith, he shall be punished with imprisonment for a term which may extend to ³[one year, or with fine which may extend to ten thousand rupees, or with both]].

115. Disposal of fines under the two last foregoing sections. That portion of any fine imposed under section 112 or the last foregoing section which represents the single fare therein mentioned shall as the fine is recovered, be paid to the ¹[licensee] before any portion of the fine is credited to the Government.

116. Altering or defacing pass or ticket. If a passenger willfully alters or defaces his pass or ticket so as to render the date, number or material portion thereof illegible, he shall be punished with ³[imprisonment for a term which may extend to six months, or with fine which may extend to two thousand rupees, or with both].

117. Being or suffering person to travel on railway with infectious or contagious disorder.— (1) If a person suffering from an infectious or contagious disorder enters or travels upon a railway in contravention of section 71, sub-section (2), he, and any person having charge of him upon the railway when he so entered or traveled thereon, shall be punished with fine which may extend to ³[five hundred rupees], in addition to the forfeiture of any fare which either of them may have paid, and of any pass or ticket which either of them may have obtained or purchased, and may be removed from the railway by any ¹[railway employee].

¹Subs. by ord. 92 of 02, s. 44 & sch. II.

²Subs. by the Railways (Amtd.) Act, 1976 (25 or 1976). s. 4, for the existing section.

³Subs. by Act IV of 1995, ss. 26-28.

(2) If any such ¹[railway employee] as is referred to in section 71, sub-section (2), knowing that a person is suffering from any infectious or contagious disorder, willfully permits the person to travel upon a railway without arranging for his separation from other passengers, he shall be punished with fine which may extend to ²[one thousand rupees].

118. Entering carriage in motion, or otherwise improperly traveling on a railway. — (1) If a passenger enter or leaves or attempts to enter or leave, any carriage while the train is in motion, or elsewhere than at the side of the carriage adjoining the platform or other place appointed by the ¹[licensee] for passengers to enter or leave the carriage, or opens the side-door of any carriage while the train is in motion, he shall be punished with fine which may extend to ²[five hundred rupees].

(2) If a passenger, after being warned by a ¹[railway employee] to desist, persists in traveling on the roof, steps or footboard of any carriage or on an engine, or in any other part of a train not intended for the use of passengers, he shall be punished with fine which may extend to ²[one thousand rupees] and may be removed from the railway by any ¹[railway employee].

119. Entering carriage or other place reserved for females. If a male person, knowing a carriage, compartment, room or other place to be reserved by a ¹[licensee] for the exclusive use of females, enters the place without lawful excuse, or, having entered it, remains therein after having been desired by any ¹[railway employee] to leave it, he shall be punished with ²[imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both] in addition to the forfeiture of any fare which he may have paid and of any pass or ticket which he may have obtained or purchased, and may be removed from the railway by any ¹[railway employee].

120. Drunkenness or nuisance on a railway. If a person in ¹[rolling stock] or upon any part of a railway—

- (a) is in a state of intoxication, or
- (b) commits any nuisance or act of indecency, or uses obscene or abusive language, or
- (c) willfully and without lawful excuse interferes with the comfort of any passenger or extinguishes any lamp,

he shall ³[without prejudice to any other penalty to which he may be liable under any other law for the time being in force,] be punished with ²[imprisonment for a term which may extend to six months, or with fine which may extend to two thousand rupees, or with both] in addition to the forfeiture of any fare which he may have paid and of any pass or ticket which he may have obtained or purchased, and may be removed from the railway by any ¹[railway employee].

⁴121. Obstructing ¹[railway employee] in his duty. If a person willfully obstructs or impedes any ¹[railway employee] in the discharge of his duty, he shall be punished with ²[imprisonment for a term which may extend to three months, or with fine which may extend to two thousand rupees, or with both].

¹Subs. by ord. 92 of 02, s. 44 & Sch. II.

²Subs. by Act IV of 1995. ss. 28-32.

³Ins. by the Federal Laws (Revision and Declaration) Ordinance, 1981 (27 of 1981), s.3 and 2nd Sch.

⁴Cf. the Railway Regulation Act, 1840 (3 & 4 Vict., c. 97), s. 16.

¹122. Trespass and refusal to desist from trespass.—(1) If a person unlawfully enters upon a railway, he shall be punished with ²[imprisonment for a term which may extend to six months, or with fine which may extend to two thousand rupees, or with both].

(2) If a person so entering refuses to leave the railway on being requested to do so by any ³[railway employee], or by any other person on behalf of the ³[licensee], he shall be punished with ²[imprisonment of either description for a term which may extend to six months, or with fine which may extend to two thousand rupees, or with both], and may be removed from the railway by such servant or other person.

²[(3) Whoever trespasses upon and makes or attempts to make or abets or helps or aids to make an unauthorized temporary or permanent construction over the railway or on its property or commits or attempts to commit any act which may be to the detriment or against the interest of the railway, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine which may extend to twenty thousand rupees, or with both].

123. Disobediences of omnibus drivers to directions of ³[railway employee]. If a driver or conductor of a tramcar, omnibus, carriage or other vehicle while upon the premises of a railway disobeys the reasonable directions of any ³[railway employee] or police-officer, he shall be punished with ²[imprisonment for a term which may extend to three months, or with fine which may extend to one thousand rupees, or with both].

⁴124. Opening or not properly shutting gates. In either of the following cases, namely:—

- (a) if a person knowing or having reason to believe that an engine or train is approaching along a railway, opens any gate set up on either side of the railway across a road, or passes or attempts to pass, or drives or takes, or attempts to drive or take, any animal, vehicle or other thing across the railway,
- (b) if, in the absence of a gate-keeper, a person omits to shut and fasten such a gate as aforesaid as soon as he and any animal, vehicle or other thing under his charge have passed through the gate,

the person shall be punished ²[imprisonment for a term which may extend to six months, or with fine which may extend to five thousand rupees, or with both].

125. Cattle trespass.—(1) The owner or person in charge of any cattle straying on a railway provided with fences suitable for the exclusion of cattle shall be punished with fine which may extend to ²[fifty rupees] for each head of cattle, in addition to any amount which may have been recovered or may be recoverable under the Cattle-trespass Act, 1871 (I of 1871).

(2) If any cattle are willfully driven, or knowingly permitted to be, on any railway otherwise than for the purpose of lawfully crossing the railway or for any other lawful purpose, the person in charge of the cattle or, at the option of the ³[licensee], the owner of the cattle shall be punished with fine which may extend to ²[fifty rupees] for each head of cattle, in addition to any amount which may have been recovered or may be recoverable under the Cattle - trespass Act, 1871 (I of 1871).

¹Cf. the Railway Regulation Act, 1840 (3 & 4 Vict., c. 97), s. 16.

²Subs. and added by Act IV of 1995, ss. 33-36.

³Subs. by ord. 92 of 02, s. 44 & Sch. II.

⁴Cf. the Railways Clauses Act, 1845 (8 & 9 Vict., c. 20), s. 75.

(3) Any fine imposed under this section may, if the Court so directs, be recovered in manner provided by section 25 of the Cattle-trespass Act, 1871 (I of 1871).

(4) The expression “public road” in sections 11 and 26 of the Cattle-trespass Act, 1871 (I of 1871), shall be deemed to include a railway, and any ¹[railway employee] any exercise the powers conferred on officers of police by the former of those sections.

(5) The word “cattle” has the same meaning in this section as in the Cattle-trespass Act, 1871 (I of 1871).

²126. Maliciously wrecking or attempting to wreck train. If a person unlawfully—

- (a) puts or throws upon or across any railway any wood, stone or other matter or thing, or
- (b) takes up, removes, loosens or displaces any rail, sleeper or other matter or thing belonging to any railway, or
- (c) turns, moves, unlocks or diverts any points or other machinery belonging to any railway, or
- (d) makes or shows, or hides or removes, any signal or light upon or near to any railway, or
- ³[(e) does or attempts to do or causes to be done or abets or conspires the doing of an act which causes or is likely to cause, any explosion by an explosive substance or by any other means upon or near railway or any property belonging to railways,];

with intent, or with knowledge that he is likely, to endanger the safety to any person travelling or being upon the railway ³[or any property belonging to the railway or of such property, he shall, whether and injury to any person or property has actually been caused or not, be punished with ⁴[* *] imprisonment for life and shall also be liable to forfeiture of property and fine which may extend to ⁴[one million rupees, keeping in view the facts of the case]].

³[**Explanation.**— “explosive substance” shall have the same meaning as in the Explosive Substance Act, 1908 (VI of 1908).]

³[127. Maliciously hurting or attempting to hurt persons travelling by railway or damaging property belonging to railway.]—If a person unlawfully throws or causes to fall or strike at, against, into or upon any property belonging to any railway, including rolling-stock forming part or a train, any explosive substance, wood; stone or other matter or thing with intent, or with knowledge that he is likely, to endanger the safety of any person being in or upon such property, he shall be punished with ⁴[* *] imprisonment for life, and shall also be liable to forfeiture of property and fine which may extend to ⁴[one million rupees, keeping in view the facts of the case]].

¹Subs. by ord. 92 of 02, s. 44 & Sch. II.

²Cf. the Malicious Damage Act, 1861 (24 & 25 Vict., c. 97), s. 35, and the Offences against the Person Act, 1861 (24 & 25 Vict., c. 100) s. 32.

³Subs. & added by Act IV of 1995, ss. 37-38.

⁴Omitted and subs. by the Act of the Railways (Amdt) Act , 2022(Act No. XXVI of 2022), ss.2 &3.

¹128. Endangering safety of persons travelling by railway by wilful act or omission. If a person, by any unlawful act or by any willful omission or neglect, endangers or causes to be endangered the safety of any person travelling or being upon any railway, or obstructs or causes to be obstructed or attempts to obstruct any rolling stock upon any railway, he shall be punished with imprisonment for a term which may extend to two years.

129. Endangering safety of persons travelling by railway by rash or negligent act or omission. If a person rashly or negligently does any act, or omits to do what he is legally bound to do, and the act or omission is likely to endanger the safety of any person travelling or being upon a railway, he shall be punished with imprisonment for a term which may extend to ²[two years.] or with fine, or with both.

130. Special provision with respect to the commission by children of acts endangering safety of persons travelling by railway.—(1) If a minor under the age of twelve years is with respect to any railway guilty of any of the acts or omissions mentioned or referred to in any of the four last foregoing sections, he shall be deemed, notwithstanding anything in section 82 or section 83 of the Pakistan Penal Code, (XLV of 1860) to have committed an offence, and the Court convicting him may ^{2*}* * require the father or guardian of the minor to execute, within such time as the Court may fix, a bond binding himself, in such penalty as the Court directs, to prevent the minor from being again guilty of any of those acts or omissions.

(2) The amount of the bond, if forfeited, shall be recoverable by the Court as if it were a ³fine imposed by itself.

(3) If a father or guardian fails to execute a bond under sub-section (1) within the time fixed by the Court, he shall be punished with fine which may extend to fifty rupees.

Procedure

⁴[130A. Power to detain and search in cases of suspected theft.] Notwithstanding anything contained in any law for the time being in force, any ⁵[railway employee], not being below the rank of Head Watchman, and authorized in this behalf by the ⁵[licensee], may detain and search any person who is employed in, or is found in or in the vicinity of any railway workshops, store, depot or other place for the deposit or handling of any property entrusted or belonging to the ⁵[licensee], and is suspected of removing such property without authority.]

131. Arrest for offences against certain sections.—(1) If a person commits any offence mentioned in section 100, 101, ²[103, 105, 108, 112, 114,] 119, 120, 121, ²[122,124,] 126, 127, 128 or 129 or in section 130, sub-section (1), he may be arrested without warrant or other written authority by any ⁵[railway employee] or police-officer, or by any other person whom such servant or officer may call to his aid.

(2) A person so arrested shall, with the least possible delay, be taken before a Magistrate having authority to try him or ²[send] him for trial.

¹Cf. the offences against the Person Act, 1861 (24 & 25 Vict., c. 100), s.33-34, and the Malicious Damage Act, 1861 (24 & 25 Vict., c. 97). s. 36.

²Subs. omitted & Ins. by Act IV of 1995, ss. 39-41.

³See s. 386 to 389 of the Code of Criminal Procedure, 1898 (5 of 1898).

⁴Ins. by the Railways (Amdt.) Act,1957, s. 5.

⁵Subs. by ord. 92 of 02, s. 44 & Sch. II.

¹[**131A. Summary trial of certain offences.**—Notwithstanding anything contained in the Code of Criminal Procedure, 1898 (Act V of 1898), offences under sections 121, 123, 124 and 125 may be tried summarily.]

²**132. Arrest of persons likely to abscond or unknown.**—(1) If a person commits any offence under this Act other than an offence mentioned in the last foregoing section, or fails or refuses to pay any excess charge or other sum demanded under section 113, and there is reason to believe that he will abscond or his name and address are unknown, and he refuses on demand to give his name and address, or there is reason to believe that the name or address given by him is incorrect, any ³[railway employee] or police-officer, or any other person whom such ³[railway employee] or police-officer may call to his aid, may, without warrant or other written authority, arrest him.

(2) The person arrested shall be released on his giving bail or, if his true name and address are ascertained, on his executing a bond without sureties for his appearance before a Magistrate when required.

(3) If the person cannot give bail and his true name and address are not ascertained, he shall with the least possible delay be taken before the nearest Magistrate having jurisdiction.

(4) The provisions of Chapters XXXIX and XLII of the ⁴[Code of Criminal Procedure, 1898,] (Act V of 1898) shall, so far as may be, apply to bail given and bonds executed under this section.

133. Magistrates having jurisdiction under Act. No Magistrate other ^{5* * *} than a Magistrate ⁶[of the first class] shall try any offence under this Act.

⁶[**133A. Certain ³[railway employee] to have powers of Magistrate.** Notwithstanding anything contained in the Code of Criminal Procedure, 1898 or in section 133, any ³[railway employee], not inferior in rank to a ³[railway employee] in ¹[Basic pay scale 17], who is authorised by the Federal Government in this behalf may exercise the powers of a Magistrate of the first class under the said Code, in respect of offences punishable under section 112, section 114, or section 116:

Provided that such ³[railway employee] shall have authority to award a sentence of fine only.]

134. Place of trial.—(1) Any person committing any offence against this Act ³[or the Ordinance] or any rule thereunder shall be triable for such offence in any place in which he may be or which the ³[Authority] may ⁷notify in this behalf, as well as in any other place in which he might be tried under any law for the time being in force.

(2) Every notification under sub-section (1) shall be published in the ⁸[official Gazette], and a copy thereof shall be exhibited for the information of the public in some conspicuous place at each of such railway stations as the ³[Authority] may direct.

¹Ins. & subs. by Act IV of 1995, ss. 42-43.

²Cf. the Companies Clauses Act, 1845 (8 & 9 Vict., c. 16) s. 156.

³Subs. and Ins. by ord. 92 of 02, s. 44 & Sch. II.

⁴Subs. by the Federal Laws (Revision and Declaration), Ordinance, 1981 (27 of 1981), s. 3 and 2nd Sch., for "Code of Criminal Procedure, 1882".

⁵The words "than a Presidency Magistrate or" omitted by A. O., 1949, Sch.

⁶Subs. and Ins. by the Railways (Amtd.) Act, 1976 (25 of 1976), s. 5 & 6, for certain words and section 133A.

⁷For instances of notifications issued under this power, see different local R. and O.

⁸Subs. by A. O., 1937, for "local official Gazette",

CHAPTER X

SUPPLEMENTAL PROVISIONS

¹135. Taxation of railways by local authorities. Notwithstanding anything to the contrary in any enactment or in any agreement or award based on any enactment, the following rules shall regulate the levy of taxes in respect of railways and from railway administrations in aid of the funds of local authorities, namely:—

(1) A railway administration shall not be liable to pay any tax in aid of the funds of any ²local authority unless the ³[Federal Government] has, by notification in the official Gazette, declared the railway administration to be liable to pay the tax⁴.

(2) While a notification of the ³[Federal Government] under clause (1) of this section is in force, the railway administration shall be liable to pay to the local authority either the tax mentioned in the notification or, in lieu thereof, such sum, if any, as an officer appointed in this behalf by the ³[Federal Government] may, having regard to all the circumstances of the case, from time to time determine to be fair and reasonable.

(3) The ³[Federal Government] may at any time revoke or vary a notification under clause (1) of this section

(4) Nothing in this section is to be construed as debarring any railway administration from entering into a contract with any local authority for the supply of water or light, or for the scavenging of railway premises, or for any other service which the local authority may be rendering or be prepared to render within any part of the local area under its control.

(5) “Local authority” in this section means a local authority as defined in the ⁵[General Clauses Act, 1897] (X of 1897) and includes any authority legally entitled to or entrusted with the control or management of any fund for the maintenance of ⁶[Chowkidar or Baildar] or for the conservancy of a river.

⁷136. Restriction on execution against railway property.—(1) None of the rolling- stock, machinery, plant, tools fittings, materials or effects used or provided by a ⁸[licensee] for the purpose of the traffic on its railway, or of its stations or workshops, shall be liable to be taken in execution of any decree or order of any Court ⁹[or of any local authority or person having by law power to attach or distrain property or otherwise to cause property to be taken in execution] without the previous sanction of the ⁸[Authority].

¹See also the Railways (Local Authorities' Taxation) Act, 1941 (25 of 1941).

²For definition of “local authority”, see sub-section (5), *infra*, and the General Clauses Act, 1897 (10 of 1897), s. 3 (28).

³Subs. by F.A.O, 1975, Art.2 and Sch., for “Provisional Government” which had been amended by A.O., 1937, A.O., 1949 and A.O., 1964, Art.2 and Sch. For “Central Government” as amended by A.O., 1937, and A.O., 1961.

⁴(1) For notification under this section declaring every railway administration to be liable to pay every tax which it is lawfully required to pay by or on behalf of any local authority in aid of the funds of such authority, see Gazette of India, 1907, Pt. I, p.1075.

(2) For notification imposing water-rates on the East Indian Railway in respect of certain Municipalities, see Gazette of India, 1893 and 1894, Pt. I, pp. 358 and 438, respectively.

⁵Subs. by the Federal Laws (Revision and Declaration) Ordinance, 1981, (27 of 1981), s. 3 and 2nd Sch., for “General Clauses Act, 1887”.

⁶Subs. by Act IV of 1995, s.44.

⁷Cf. the Railway Companies Act, 1867 (30 and 31 Vict., c. 127), s. 4.

⁸Subs. by ord. 92 of 02, s. 44 & Sch. II.

⁹Ins. by Indian Railways Act (1890) Amdt. Act, 1896 (9 of 1896), s. 7.

(2) Nothing in sub-section (1) is to be construed as affecting the authority of any Court to attach the earnings of a railway in execution of a decree or order.

137. ¹[Railway employees] to be public servants for the purposes of Chapter IX of the Pakistan Penal Code.—

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(3) A ¹[railway employee] shall not—

- (a) purchase or bid for, either in person or by agent, in his own name or in that of another, or jointly or in shares with others, any property put up to auction under section 55 or section 56, or,
- (b) in contravention of any direction of the ¹[licensee] in this behalf, engage in trade.

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³138. Procedure for summary delivery to ¹[licensee] of property detained by ¹[railway employee].—If a ¹[railway employee] is discharged or suspended from his office, or dies, absconds or absents himself, and he or his wife or widow, or any of his family or representatives, refuses or neglects, after notice in writing for that purpose, to deliver up to the ¹[licensee], or to a person appointed by the ¹[licensee] in this behalf, any station, dwelling-house, office or other building with its appurtenances, or any books, papers or other matters, belonging to the ¹[licensee] and in the possession or custody of such ¹[railway employee] at the occurrence of any such event as aforesaid, ⁴[any ⁵* * * Magistrate of the first class] may, on application made by or on behalf of the ¹[licensee], order any police-officer, with proper assistance, to enter upon the building and remove any person found therein and take possession thereof, or to take possession of the books, papers or other matters, and to deliver the same to the ¹[licensee] or a person appointed by the ¹[licensee] in that behalf.

139. [Mode of signifying communications from the Governor General in Council.] Rep. by A.O., 1937.

140. Service of notices on railway administrations.—Any notice or other document required or authorised by this Act to be served on a ¹[licensee] may be served, ⁶* * * on the Manager ⁷* * * —

- (a) by delivering the notice or other document to the Manager ⁸* *; or
- (b) by leaving it at his office; or
- (c) by forwarding it by post in a prepaid letter addressed to the Manager ⁸* * at his office and registered under ⁹[the post office Act, 1898.] (VI of 1898).

¹Subs. by ord. 92 of 02, s. 44 & Sch. II.

²Sub-sections (1), (2) and (4) omitted by the Railways (Amtd.) Act, 1956 (23 of 1956), s. 2.

³Cf. the Railways Clauses Act, 1845 (8 and 9 Vict, c. 20), s.106.

⁴Subs. by the Repealing and Amending Act, 1945 (6 of 1945), s. 3 and Sch. II, for “any Magistrate of the first class”.

⁵The words “Presidency Magistrate or” omitted by A. O., 1949.

⁶The words “in the case of a railway administered by the Government or a Native State” rep. by the Federal Laws (Revision and Declaration) Act, 1951 (26 of 1951), s. 3 and 2nd Sch.

⁷The words and commas “and, in the case of a railway administered by a railway company, on the Agent in India of the railway company” rep. *ibid.*

⁸The words “or Agent” rep., *ibid.*

⁹Subs. by the Federal Laws (Revision and Declaration) Ordinance 1981 (27 of 1981), s. 3 and 2nd Sch. for “Part-III of the Indian Post Office Act, 1866”.

¹141. Service of notices by railway administrations.—Any notice or other document required or authorised by this Act to be served on any Person by a ²[licensee] may be served—

- (a) by delivering it to the person; or
- (b) by leaving it at the usual or last known place of abode of the person; or
- (c) by forwarding it by post in a prepaid letter addressed to the person at his usual or last known place of abode and registered under ³[the Post Office Act, 1898 (VI of 1898).]

142. Presumption where notice is served by post. Where a notice or other document is served by post, it shall be deemed to have been served at the time when the letter containing it would be delivered in the ordinary course of post, and in proving such service it shall be sufficient to prove that the letter containing the notice or other document was properly addressed and registered.

143. Provisions with respect of rules.—(1) A rule under section 22, section 34 or section 84, or the cancellation, rescission or variation of a rule under any of those sections or under section 47, sub-section (4), shall not take effect until it has been published in the ⁴[official Gazette].

(2) Where any rule made under this Act, or the cancellation rescission or variation of any such rule, is required by this Act to be published in the ⁴[official Gazette], it shall, besides being so published, be further notified to persons affected thereby in such manner as the ⁵[authority making, cancelling, rescinding or varying the rule], by general or special order, directs.

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⁷144. [Interpretation as respects Acceding States.] Omitted by the Federal Laws (Revision and Declaration) Ordinance, 1981 (27 of 1981), s. 3 and Sch. II.

145. Representation of Managers and Agents of Railways in Courts.—(1) The Manager of a railway ^{8*} * * may, by instrument in writing, authorise any ²[railway employee] or other person to act for or represent him in any proceeding before any Civil, Criminal or other Court.

(2) A person authorised by a Manager ^{9*} * to conduct prosecutions on behalf of a railway administration shall, notwithstanding anything in section 495 of the ¹⁰[Code of Criminal Procedure, 1898 (Act V of 1898)] be entitled to conduct such prosecutions without the permission of the Magistrate.

¹Cf. the Companies Clauses Act, 1845 (8 and 9 Vict., c. 16), s.136, and the Railways Clauses Act, 1845 (8 and 9 Vict., c. 20), s. 34.

²Subs. by ord. 92 of 02, s. 44 & Sch. II.

³Subs. by the Federal Laws (Revision and Declaration) Ordinance 1981 (27 of 1981), s. 3 and 2nd Sch. for “Part-III of the Indian Post Office Act, 1866”.

⁴Subs. by A. O.1937. for “Gazette of India”.

⁵Subs. by A. O., 1937, for “G.G. in C.”.

⁶Sub-section (3) which read “The G. G. in C. may cancel or vary any rule made by him under this Act,” was rep., *ibid*.

⁷Section 144 ins. by A. O., 1949, Sch. The original section 144 reg: Delegation of Powers of Governor-General in Council was repealed by A. O., 1937.

⁸The words and commas “administered by the Government or a Native State and the Agent in India of a railway administered by a railway company,” rep. by the Federal Laws (Revision and Declaration) Act, 1951 (26 of 1951), s. 3 and 2nd Sch.

⁹The words “or Agent” rep., *ibid*.

¹⁰Subs. by the Federal Laws (Revision and Declaration) Ordinance, 1981 (27 of 1981), s. 3 and 2nd Sch., for “Code of Criminal Procedure, 1882”.

¹[**146. Power to extend Act to certain tramways.**—²[(1) This Act or any portion thereof may, by notification in the official Gazette, be extended to any tramway by the Provincial Government.]

(2) This section does not apply to any tramway not worked by steam or other mechanical power.]

³[**147. Power to exempt railway from the operation of the provisions of the Act.**— The Provincial Government, in relation to sections 8A and 11, and the Federal Government or the Authority, as the case may be, in relation to the remaining provisions of the Act, may, by notification in the official Gazette, exempt any railway from the operation thereof.]

148. Matters supplemental to the definitions of “railway” and “³[railway employee]”.—

(1) For the purposes of section 3, clauses (5), (6) and (7), and sections 4 of 19 (both inclusive), 47 to 52 (both inclusive), 59, 79, 83 to 92 (both inclusive), 96, 97, 98, 100, 101, 103, 104, 107, 111, 122, 124 to 132 (both inclusive), 134 to 138 (both inclusive), 140, 141 ^{4*} 145, and 147 the word “railway”, whether it occurs alone or as a prefix to another word, has reference to a railway or portion of a railway under construction and to a railway or portion of a railway not used for the public carriage of passengers, animals or goods as well as to a railway falling within the definition of that word in section 3, clause (4).

(2) For the purposes of sections 5, 21, 83, 100, 101, 103, 104, 121, 122, 125 and ^{5* * *} 138, the expression “³[railway employee]” includes a person employed upon a railway in connection with the service thereof by a person fulfilling a contract with the ³[licensee].

149. [Amendment of the Indian Penal Code.] Rep. by the Repealing Act, 1938 (1 of 1938), s. 2 and Schedule.

150. [Amendment of the Sindh-Pishin Railway Act, 1887.] Rep. by the Repealing Act, 1938 (1 of 1938), s. 2 and Schedule.

THE FIRST SCHEDULE.—[ENACTMENTS REPEALED.]

Rep. by the Repealing Act, 1938 (1 of 1938), s. 2 and Schedule.

**THE PAKISTAN CODE
THE SECOND SCHEDULE**

ARTICLES TO BE DECLARED AND INSURED

(See section 75)

- (a) gold and silver, coined or uncoined, manufactured or unmanufactured;
- (b) plated articles;

¹Subs. by A. O., 1937, for the original section.

²Sub-section (1) as amended by A. O., 1949, and A. O., 1961, has been subs. by A. O., 1964, Art. 2 and Sch.

³Subs. by Ord. 92 of 02, s.44 & Sch.II.

⁴Omitted by the Federal Laws (Revision and Declaration) Ordinance, 1981 (27 of 1981). s.3 and 2nd Sch.

⁵Certain words & figures omitted by the Railway (Amdt.) Act, 1956 (23 of 1956),s.3.

- (c) cloths and tissue and lace of which gold or silver forms part, not being the uniform or part of the uniform of an officer, soldier, sailor, police-officer ^{1* * *} or of any public officer, ²[Pakistan] or foreign, entitled to wear uniform;
- (d) pearls, precious stones, jewellery and trinkets;
- (e) watches, clocks and timepieces of any description;
- (f) Government securities;
- (g) Government stamps;
- (h) bills of exchange, hundis, promissory-notes, bank-notes, and orders or other securities for payment of money;
- (i) maps, writings and title-deeds;
- (j) paintings, engravings, lithographs, photographs, carvings, sculpture and other works of art ;
- ³[(jj) Pens and pencils (imported);]
- (k) art pottery and all articles made of glass, china or marble;
- (l) silks in a manufactured or unmanufactured state, and whether wrought up or not wrought up with other materials;
- (m) shawls ³[“and woollen Carpets”] ;
- (n) lace and furs;
- (o) opium;
- (p) ivory, ebony, coral and sandalwood;
- (q) musk, sandalwood-oil and other essential oils used in the preparation of *itr* or other perfume;
- (r) musical and scientific instruments; ⁴[Mercury (Quick Silver)] ;
- ³[(rr) television sets, tape recorders, washing machines, refrigerators, air-conditioners, electric shavers, knitting machines, X-ray machines, E.C.G. machines, telephone-apparatus, calculators and computers;

THE PAKISTAN CODE

¹Certain words omitted by the Federal Laws (Revision and Declaration) Ordinance, 1981 (27 of 1981), s. 3 and 2nd Sch.

²Subs. by A. O., 1961, Art. 2 and Sch., for “British” (*with effect from the 23rd March, 1956*).

³Ins. by S.R.O. 743(1)/77 dt. the 8th August, 1977, *see Gaz.* of Pak., 1977 (Ibd.) Ext., Pt. II, p. 1417.

⁴Added by Notification No. 2928 T.C., dated the 2nd August, 1944.

- (rrr) motor vehicles and motor tractors exceeding rupees ten thousand in value;]
- ¹[(rrrr) electric cooking range, electric microwave oven, electric geaser, video cassette recorder, video cassette player, deep freezer, personal computer, amplifier, camera, movie camera, computer disk.]
- (s) any article of special value which the ²[Federal Government] may, by notification in the ³[official Gazette] add to this schedule⁴.



THE PAKISTAN CODE

¹Ins. by Act. IV of 1995, s.45

²Subs. by F.A.O., 1975., Art. 2 and Sch., for "Provincial Government" which was previously subs. by A.O., 1964, Art. 2 and Sch., for "Central Government" which had been subs. by A.O., 1949, Sch., for "Federal Railway Authority".

³Subs. by A. O., 1937, for "Gazette of the India".

⁴For Arts. added to this Schedule by Notification, see Gen. R. and O. and for such an instance, see Gaz. of P., Pt. I, dated the 7th September, 1951, p. 512.