

Railways Act, 1989

Chapter 10 - Special Provisions as to Goods Booked to Notified Stations

In this Chapter, unless the context otherwise requires,--

- (a) "essential commodity" means an essential commodity as defined in clause (a) of section 2 of the Essential Commodities Act, 1955 (10 of 1955);
 - (b) "notified station" means a station declared to be a notified station under section 89;
 - (c) "State Government" in relation to a notified station, means the Government of the State in which such station is situated, or where such station is situated, in a Union territory, the administrator of that Union territory appointed under article 239 of the Constitution.
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Section 89 - Power to declare notified stations

(1) The Central Government may, if it is satisfied that it is necessary that goods entrusted for carriage by train intended solely for the carriage of goods to any railway station should be removed without delay from such railway station, declare, by notification, such railway station to be a notified station for such period as may be specified in the notification :

Provided that before declaring any railway station to be a notified station under this sub-section, the Central Government shall have regard to all or any of the following factors, namely:--

- (a) the volume of traffic and the storage space available at such railway station;
- (b) the nature and quantities of goods generally booked to such railway station;
- (c) the scope for causing scarcity of such goods by not removing them for long periods from such railway station and the hardship which such scarcity may cause to the community;
- (d) the number of wagons likely to be held up at such railway station if goods are not removed therefrom quickly and the need for quick movement and availability of such wagons;
- (e) such other factors (being relevant from the point of view of the interest of the general public) as may be prescribed:

Provided further that the period specified in any notification issued under this sub-section in respect of any railway station shall not exceed six months in the first instance, but such period may, by notification, be extended from time to time by a period not exceeding six months on each occasion.

(2) If any person entrusting any goods to a railway administration to be carried to a notified station makes an application in such form and manner as may be prescribed and specifies therein the address of the person to whom intimation by registered post of the arrival of the goods at the notified station shall be given and pays the postage charges required for giving such intimation, the railway administration shall, as soon as may be after the arrival of the goods at the notified station, send such intimation accordingly.

(3) There shall be exhibited at a conspicuous place at each notified station a statement in the prescribed form setting out the description of the goods which by reason of the fact that they have not been removed from the station within a period of seven days from the termination of transit thereof are liable to be sold, in accordance with the provision of sub-section (1) of section 90 by public auction and the dates on which they would be so sold:

Provided that different statements may be so exhibited in respect of goods proposed to be sold on different dates.

(4) If the goods specified in any statement to be exhibited under sub-section (3) include essential commodities, the railway servant preparing the statement shall, as soon as may be after the preparation of such statement, forward a copy thereof to--

- (a) the representative of the Central Government nominated by that Government in this behalf;
- (b) the representative of the State Government, nominated by that Government in this behalf; and
- (c) the District Magistrate within the local limits of whose jurisdiction the railway station is situated.

Section 90 - Disposal of unremoved goods at notified stations

(1) If any goods entrusted for carriage to any notified station by a train intended solely for the carriage of goods are not, removed from such station by a person entitled to do so within a period of seven days after the termination of transit thereof at such station, the railway administration may, subject to the provisions of sub-section (2), sell such goods by public auction and apart from exhibiting, in accordance with the provisions of sub-section (3) of section 89, a statement containing a description of such goods, it shall not be necessary to give any notice of such public auction, but the date on which such auction may be held under this subsection may be notified in one or more local newspapers, or where there are no such newspapers, in such manner as may be prescribed:

Provided that if at any time before the sale of such goods under this subsection, the person entitled thereto pays the freight and other charges and the expenses due in respect thereof to the railway administration, he shall be allowed to remove such goods.

(2) If any goods which may be sold by public auction under sub-section (1) at a notified station, being essential commodities, are required by the Central Government or the State Government for its own use or if the Central Government or such State Government considers that it is necessary for securing the availability of all or any such essential commodities at fair prices so to do, it may, by order in writing, direct the railway servant incharge of such auction to transfer such goods to it or to such agency, co-operative society or other person (being an agency, co-operative society or other person subject to the control of the Government) engaged in the business of selling such essential commodities as may be specified in the direction.

(3) Every direction issued under sub-section (2) in respect of any essential commodity shall be binding on the railway servant to whom it is issued and the railway administration and it shall be a sufficient defence against any claim by the person entitled to the goods that such essential commodities have been transferred in compliance with such direction:

Provided that--

- (a) such direction shall not be binding on such railway servant or the railway administration--
 - (i) if it has not been received by the railway servant sufficiently in time to enable him to prevent the sale of the essential commodities to which it relates; or
 - (ii) if before the time appointed for such sale, the person entitled to such goods pays the freight and other charges and the expenses due in respect thereof and claims that he be allowed to remove the goods; or
 - (iii) if the price payable for such goods (as estimated by the Central Government or, as the case may be, the State Government) is not credited to the railway administration in the prescribed manner and the railway administration is not indemnified against any additional amount which it may become liable to pay towards the price by reason of the price not having been computed in accordance with the provisions of sub-section (4);
- (b) where directions are issued in respect of the same goods both by the Central Government and the State Government the directions received earlier shall prevail.

(4) The price payable for any essential commodity transferred in compliance with a direction issued under sub-section (2) shall be the price calculated in accordance with the provisions of sub-section (3) of section 3 of the Essential Commodities Act, 1955 (10 of 1955):

Provided that--

(a) in the case of any essential commodity being a food-stuff in respect whereof a notification issued under sub-section (3A) of section 3 of the Essential Commodities Act, 1955 (10 of 1955), is in force in the locality in which the notified station is situated, the price payable shall be calculated in accordance with the provisions of clauses (iii) and (iv) of that sub-section;

(b) in the case of an essential commodity being any grade or variety of foodgrains, edible oil-seeds or edible oils in respect whereof no notification issued under sub-section (3A) of section 3 of the Essential Commodities Act, 1955 (10 of 1955), is in force in the locality in which the notified station is situated, the price payable shall be calculated in accordance with the provisions of sub-section (3B) of that section;

(c) in the case of an essential commodity being any kind of sugar in respect whereof no notification issued under sub-section (3A) of section 3 of the Essential Commodities Act, 1955 (10 of 1955), is in force in the locality in which the notified station is situated, the price payable shall, if such sugar has been booked by the producer to himself, be calculated in accordance with the provisions of subsection (3C) of that section.

Explanation.--For the purposes of this clause, the expressions "producer" and "sugar" shall have the meanings assigned to these expressions in the Explanation to sub-section (3C) of section 3, and clause (e) of section 2 of the Essential Commodities Act, 1955 (10 of 1955), respectively.

Section 91 - Price to be paid to person entitled after deducting dues

(1) Out of the proceeds of any sale of goods under sub-section (1) of section 90 or the price payable therefor under sub-section (4) of that section, the railway administration may retain a sum equal to the freight and other charges due in respect of such goods and the expenses incurred in respect of the goods and the auction thereof and render the surplus, if any, to the person entitled thereto.

(2) Notwithstanding anything contained in sub-section (1), the railway administration may recover by suit any such freight or charge or expenses referred to therein or balance thereof.

(3) Any goods sold under sub-section (1) of section 90 or transferred in compliance with the directions issued under sub-section (2) of that section shall vest in the buyer or the transferee free from all encumbrances but subject to a priority being given for the sum which may be retained by a railway administration under sub-section (1), the person in whose favour such encumbrance subsists may have a claim in respect of such encumbrance against the surplus, if any, referred to in that sub-section.

Section 92 - Power to make rules in respect of matters in this Chapter

(1) The Central Government may, by notification, make rules to carry out the purposes of this Chapter.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:--

(a) the factors to which the Central Government shall have regard under clause (e) of the first proviso to sub-section (1) of section 89;

(b) the form and manner in which an application may be made under sub-section (2) of section 89;

(c) the form in which a statement is required to be exhibited under sub section (3) of section 89;

(d) the manner in which the dates of public auctions may be notified under sub-section (1) of section 90;

(e) the manner of crediting to the railway administration the price of goods referred to in sub-clause (iii) of clause (a) of the proviso to sub section (3) of section 90.

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