

Railways Act, 1989

Chapter 16 - Miscellaneous

(1) A railway administration may, for the purpose of facilitating the carriage of passengers or goods or to provide integrated service for such carriage, provide any other mode of transport.

(2) Notwithstanding anything contained in any other law for the time being in force, the provisions of this Act shall apply to the carriage of passengers or goods by the mode of transport referred to in sub-section (1).

Section 184 - Taxation on railways by local authorities

(1) Notwithstanding anything to the contrary contained in any other law, a railway administration shall not be liable to pay any tax in aid of the funds of any local authority unless the Central Government, by notification, declares the railway administration to be liable to pay the tax specified in such notification.

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

(3) The Central Government may at any time revoke or vary a notification issued under sub-section (1).

(4) Nothing in this section shall be construed to prevent 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 to the railway administration.

Section 185 - Taxation on railways for advertisement

(1) Notwithstanding anything to the contrary contained in any other law, a railway administration shall not be liable to pay any tax to any local authority in respect of any advertisement made on any part of the railway unless the Central Government, by notification, declares the railway administration to be liable to pay the tax specified in such notification.

(2) The Central Government may at any time revoke or vary a notification issued under sub-section (1).

Section 186 - Protection of action taken in good faith

No suit, prosecution or other legal proceeding shall lie against the Central Government, any railway administration, a railway servant or any other person for anything which is in good faith done or intended to be done in pursuance of this Act or any rules or orders made thereunder.

Section 187 - Restriction on execution against railway property

(1) No rolling stock, machinery, plant, tools, fittings, materials or effects used or provided by a railway administration for the purpose of 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 or of any local authority or person having by law the power to attach or distrain property or otherwise to cause property to be taken in execution, without the previous sanction of the Central Government.

(2) Nothing in sub-section (1) shall be construed to affect the authority of any court to attach the earnings of a railway in execution of a decree or order.

Section 188 - Railway servants to be public servants for the purposes of Chapter IX and section 409 of the Indian Penal Code

(1) Any railway servant, who is not a public servant within the meaning of section 21 of the Indian Penal Code (45 of 1860), shall be deemed to be a public servant for the purposes of Chapter IX and section 409 of that Code.

(2) In the definition of "legal remuneration" in section 161 of the Indian Penal Code (45 of 1860), the word "Government" shall, for the purposes of sub-section (1), be deemed to include any employer of a railway servant as such.

Section 189 - Railway servants not to engage in trade

A railway servant shall not--

(a) purchase or bid for, either in person or by an agent, in his own name or in that of another, or jointly or in shares with others, any property put to auction under section 83 or section 84 or section 85 or section 90; or

(b) in contravention of any direction of the railway administration in this behalf, engage in trade.

Section 190 - Procedure for delivery to railway administration of property detained by a railway servant

If a railway servant is discharged from service or is suspended, or dies or absconds or absents himself, and he or his wife or widow or any member of his family or his representative refuses or neglects, after notice in writing for that purpose, to deliver up to the railway administration or to a person appointed by the railway administration, in this behalf, any station, office or other building with its appurtenances, or any books, papers, keys, equipment or other matters, belonging to the railway administration and in the possession or custody of such railway servant at the occurrence of any such event as aforesaid, any Metropolitan Magistrate or Judicial Magistrate of the first class may, on application made by or on behalf of the railway administration, order any police officer, with proper assistance, to enter upon the station, office or other 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 railway administration or to a person appointed by the railway administration in that behalf.

Section 191 - Proof of entries in records and documents

Entries made in the records or other documents of a railway administration shall be admitted in evidence in all proceedings by or against the railway administration, and all such entries may be proved either by the production of the records or other documents of the railway administration containing such entries or by the production of a copy of the entries certified by the officer having custody of the records or other documents under his signature and stating that it is a true copy of the original entries and that such original entries are contained in the records or other documents of the railway administration in his possession.

Section 192 - Service of notice, etc., on railway administration

Any notice or other document required or authorised by this Act to be served on a railway administration may be served, in the case of a Zonal Railway, on the General Manager or any of the railway servant authorised by the General Manager, and in the case of any other railway, on the owner or lessee of the railway or the person working the railway under an agreement.

- (a) by delivering it to him; or
- (b) by leaving at his office; or
- (c) by registered post to his office address.

Section 193 - Service of notice, etc., by railway administration

Unless otherwise provided in this Act or the rules framed thereunder, any notice or other document required or authorised by this Act to be served on any person by a railway administration 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 registered post addressed to the person at his usual or last known place of abode.

Section 194 - 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.

Section 195 - Representation of railway administration

- (1) A railway administration may, by order in writing, authorise any railway servant or other person to act for, or represent it, as the case may be, in any proceeding before any civil, criminal or other court.
- (2) A person authorised by a railway administration to conduct prosecutions on its behalf shall, notwithstanding anything in section 302 of the Code of Criminal Procedure, 1973 (2 of 1974), be entitled to conduct such prosecutions without the permission of the Magistrate.

Section 196 - Power to exempt railway from Act

- (1) The Central Government may, by notification, exempt any railway from all or any of the provisions of this Act.
- (2) Every notification issued under sub-section (1) shall be laid as soon as may be after it is issued before each House of Parliament.

Section 197 - Matters supplemental to the definitions of "railway" and "railway servant"

- (1) For the purposes of sections 67, 113, 121, 123, 147, 151 to 154, 160, 164, 166, 168, 170, 171, 173 to 176, 179, 180, 182, 184, 185, 187 to 190, 192, 193, 195 and of this section, 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 clause (31) of section 2.

(2) For the purposes of sections 7, 24, 113, 146, 172 to 176 and 188 to 190, the expression "railway servant" includes a person employed under a railway in connection with the service thereof by a person fulfilling a contract with the railway administration.

Section 198 - General power to make rules

Without prejudice to any power to make rules contained elsewhere in this Act, the Central Government may make rules generally to carry out the purposes of this Act.

Section 199 - Rules to be laid before Parliament

Every rule made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

Section 200 - Repeal and saving

(1) The Indian Railways Act, 1890 (9 of 1890), is hereby repealed.

(2) Notwithstanding the repeal of the Indian Railways Act, 1890 (9 of 1890) (hereinafter referred to as the repealed Act)--

(a) anything done or any action taken or purported to have been done or taken (including any rule, notification, inspection, order or notice made or issued, or any appointment or declaration made or any licence, permission, authorisation or exemption granted or any document or instrument executed or any direction given or any proceedings taken or any penalty or fine imposed) under the repealed Act shall, in so far as it is not inconsistent with the provisions of this Act, be deemed to have been done or taken under the corresponding provisions of this Act;

(b) any complaint made to the Railway Rates Tribunal under sub-section (1) of section 41 of the repealed Act but not disposed of before the commencement of this Act and any complaint that may be made to the said Tribunal against any act or omission of a railway administration under the repealed Act, shall be heard and decided by the Tribunal constituted under this Act in accordance with the provisions of Chapter VII of this Act.

(3) The mention of particular matters in sub-section (2) shall not be held to prejudice or affect the general application of section 6 of the General Clauses Act, 1897 (10 of 1897), with regard to the effect of repeal.

Amending Act 1 - AMENDMENT ACT 1

THE RAILWAYS (AMENDMENT) ACT, 2003

[Act, No. 56 of 2003]

[30th December, 2003]

PREAMBLE

An Act further to amend the Railways Act, 1989.

Be it enacted by Parliament in the Fifty-fourth Year of the Republic of India as follows:--

1. Short title and commencement

(1) This Act may be called the Railways (Amendment) Act, 2003.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint:

2. Amendment of section 137

In section 137 of the Railways Act, 1989 (24 of 1989) (hereinafter referred to as the principal Act), in sub-section (3), for the words "fifty rupees", the words "two hundred and fifty rupees" shall be substituted.

3. Amendment of section 138

In section 138 of the principal Act, in sub-section (3), for the words "fifty rupees", the words "two hundred and fifty rupees" shall be substituted.

Amending Act 2 - RAILWAYS (AMENDMENT) ACT, 2005

THE RAILWAYS (AMENDMENT) ACT, 2005

[Act No. 47 of 2005]

[15th September, 2005]

PREAMBLE

An Act further to amend the Railways Act, 1989.

BE it enacted by Parliament in the Fifty-sixth Year of the Republic of India as follows:--

1. Short title and commencement

(1) This Act may be called the Railways (Amendment) Act, 2005.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. Amendment of section 2

In section 2 of the Railways Act, 1989 (hereinafter referred to as the principal Act),--

(a) after clause (1), the following clause shall be inserted, namely:--

'(1A) "Authority" means the Rail Land Development Authority constituted under section 4A.;

(b) after clause (32), the following clause shall be inserted, namely:--

'(32A) "railway land" means any railway land in which a Government railway has any right, title or interest'.

3. Insertion of new Chapter IIA

After Chapter II of the principal Act, the following Chapter shall be inserted, namely:--

"CHAPTER IIA

RAIL LAND DEVELOPMENT AUTHORITY

4A. Establishment of Railway Land Development Authority. The Central Government may, by notification, establish an authority to be called the Rail Land Development Authority to exercise the powers and discharge the functions conferred on it by or under this Act.

4B. Composition of Authority. (1) The Authority shall consist of a Chairman, Vice-Chairman and not more than four other members.

(2) The Member Engineering, Railway Board shall be the Chairman, ex officio of the Authority.

(3) The Vice-Chairman and three other members shall be appointed by the Central Government from amongst persons who are or have been working in the Civil Engineering, Finance and Traffic disciplines of a railway administration and having adequate experience in the relevant discipline as the Central Government may consider necessary.

(4) The Central Government shall also appoint a member who shall be a person from outside the railway administration and having adequate experience in such field as it may consider necessary.

4C. Terms and conditions of appointment of Vice-Chairman and other Members. The terms and conditions of appointment of the Vice-Chairman and the other Members of the Authority, other than the Chairman, and the manner of filling casual vacancies among them shall be such as may be prescribed.

4D. Functions of Authority. (1) The Authority shall discharge such functions and exercise such powers of the Central Government in relation to the development of railway land and as are specifically assigned to it by the Central Government.

(2) In particular, and without prejudice to the generality of the foregoing power, the Central Government may assign to the Authority all or any of the following functions, namely:--

(i) to prepare scheme or schemes for use of railway land in conformity with the provisions of this Act;

(ii) to develop railway land for commercial use as may be entrusted by the Central Government for the purpose of generating revenue by non-tariff measures;

(iii) to develop and provide consultancy, construction or management services and undertake operation in India in relation to the development of land and property;

(iv) to carry out any other work or function as may be entrusted to it by the Central Government by order in writing.

4E. Powers of Authority to enter into agreements and execute contracts. Subject to such directions as may be given to it by the Central Government, the Authority shall be empowered to enter into agreements on behalf of the Central Government and execute contracts.

4F. Procedure of transaction of business of Authority. The Authority shall have power to regulate, by means of regulations made by it, its own procedure (including quorum at its meetings) and the conduct of all business to be transacted by it, the constitution of Committees and Sub-Committees of Members and the delegation to them any of the powers (excluding the power to make regulations under this Chapter) and to perform duties of the Authority.

40. Appointment of officers and other employees of Authority. (1) For the purpose of enabling it efficiently to discharge its functions under this Act, the Central Government shall provide the

Authority with such officers and other employees, and the Authority shall, subject to the rules as may be made by the Central Government in this behalf, appoint, whether on deputation or otherwise, such number of officers and other employees as it may deem necessary.

(2) The salaries and allowances payable to, and the other terms and conditions of service of, the officers and other employees appointed for the purpose of the Authority, shall be such as may be prescribed.

4H. Salaries, allowances, etc., to be defrayed out of Consolidated Fund of India. The salaries and allowances payable to the Vice-Chairman and other Members of the Authority and the administrative expenses including the salaries, allowances and pensions payable to the officers and other employees of the Authority shall be defrayed out of the Consolidated Fund of India.

4-I. Power of Authority to make regulations. (1) The Authority may, with the previous approval of the Central Government, make regulations, consistent with this Act and the rules made thereunder for carrying out the provisions of this Chapter.

(2) Every regulation made by the Authority under this Chapter shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the regulation or both Houses agree that the regulation should not be made, the regulation shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that regulation."

4. Amendment of section 11

In section 11 of the principal Act, after clause (d), the following clause shall be inserted, namely:--

"(da) developing any railway land for commercial use;"

Amending Act 3 - RAILWAYS (SECOND AMENDMENT) ACT, 2003

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