

THE RECORDS AND ARCHIVES MANAGEMENT

ACT, 2002

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THE UNITED REPUBLIC OF TANZANIA



No. 4 OF 2002

ASSENT
Benjamin W. Mkandawire
President
28th March 2002.

An Act to make better provisions for development and promotion of rail transport service, to establish Reli Assets Holding Company Ltd, to provide for regulatory framework of railway transport by SUMATRA and to provide for related matters.

[.....]

ENACTED by the Parliament of the United Republic of Tanzania

PART I
PRELIMINARY PROVISIONS

1. This Act may be cited as the Railways Act, 2002.

Short title

2.-(1) This Act shall come into operation on such date as the Minister may by notice published in the *Gazette*, appoint.

Commencement

(2) The Minister may appoint different dates for the commencement of different Parts or provisions, including provisions relating to repeals.

3.-(1) Subject to sub-sections (2) and (3), this Act shall apply to railway transport in Mainland Tanzania.

Application

(2) Any working arrangements or agreements with the Railway organisations of neighboring countries shall continue notwithstanding the provisions of this Act.

(3) This Act shall not apply to the undertaking of the Tanzania-Zambia Railway Authority.

4. In this Act unless the context requires otherwise-

Interpretation

- "authorised officer" means any person authorised in writing by the Company to exercise the powers conferred on an officer by Part V of this Act;
- "Authority" means the Surface and Marine Transport Regulatory Authority established by section 4 of the Surface and Marine Transport Regulatory Authority Act, 2001;
- "Board" means the Board of Directors of the Company;
- "chase-in-action" means a claim or debt upon which a recovery may be made in a law suit, it is a right to sue;
- "Company" means Reli Assets Holding Company Limited as referred to in section 5;
- "concessionaire" means a person who has obtained a concession or a person who conceded;
- "concession assets" means rail infrastructure and other fixed and moveable equipment, rolling stock and other vehicles used in connection with the movement of railway trains by a person to whom powers of the Company are delegated pursuant to section 12;
- "Corporation" means the Tanzania Railways Corporation;
- "freight services" means a service for the carrying of goods by railway;
- "functions" includes powers and duties;
- "Minister" means the Minister responsible for railways transport;
- "passenger service" means a service for the carrying of passengers by railway;
- "rail transport operator" means any licensed person or organisation providing rail transport services on the railway;
- "rail infrastructure" means the facilities that are used to operate a railway and includes, but is not limited to, railway track, associated track structures and works (such as cuttings, tunnels, bridges, stations, platforms, excavations, land fill, track support earthworks and drainage works), over-track structures, under-track structures, service roads, signaling systems, rolling stock control system, communications systems notices and signs, electrical power supply systems and associated buildings, workshops, depots, yard, plants, machinery and equipment, but does not include rolling stock or wagon ferries;
- "rail transport service" means a service comprising access to or use of rail infrastructure by a rail transport operator for the purpose of providing passenger services, freight services or other transport services;

- "railway operator" means any person managing rail infrastructure or providing rail transport services;
- "railway operator's licence" means a licence issued under section 24 authorising a person to manage railway infrastructure or to provide railway transport service;
- "railway order" means an order made under section 42;
- "railway strip" means the land on both sides of a railway track measuring in an urban area fifteen metres and in a rural area thirty metres in width from the centre line of the track;
- "railway works" means any new works required for the purposes of a railway or any part of a railway, other than works in connection with the operation, maintenance, improvement or repair of an existing railway;
- "rolling stock" means a vehicle that operates on or uses the rail track and includes a locomotive, rail car, rail motor, rail carriage, light rail vehicle, train light inspection vehicle, road/rail vehicle, trolley or wagon;
- "safety plan" means a document prepared by a railway operator describing the components of its safety management system;
- "standards" except where the contrary is stated includes safety and environmental issues;
- "SUMATRA" means the Surface and Marine Transport Regulatory Authority established under section 4 of the Surface and Marine Transport Regulatory Authority Act, 2000;
- "transfer scheme" means a transfer scheme made under section 15 of this Act;
- "wagon ferry" means a vessel used for transporting rolling stock over water for the purposes of facilitating rail transport services.

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PART II
INCORPORATION OF RELI ASSETS HOLDING COMPANY
LIMITED

5.-(1) Subject to this Act, there shall be incorporated a company to be known as the Reli Assets Holding Company Limited.

(2) The Company shall have power to perform and exercise functions as are conferred under this Act, or any other written law.

Incorporation of
the Reli
Assets
Holding
Company
Ltd.

Object of
the
Company,
etc.

6.-(1) The principal objects of the Company shall be stated in the Memorandum and Articles of Association to include the following:

- (a) to acquire by operation of this Act or otherwise, the rail transport functions of the Tanzania Railways Corporation and such of its property, including choses-in-action, rights and liabilities transferred to it;
- (b) to secure the provision of, or to provide, rail infrastructure;
- (c) on behalf of the Government, to develop, promote and to manage the rail infrastructure assets.
- (d) to enter into agreements with other persons in order to secure the provision of rail transport services, whether by means of concession, joint venture, public, private partnership or other means, and to this end to delegate its own function of providing rail transport services to one or more railway operators:

Provided that in carrying out its business and functions the company shall take into account the objectives of the East African Community Treaty, Chapter 7 of the 1996 Protocol on Transport Communications, Meteorology of the Southern Africa. Transport and the Communications Commission of the Southern African Development Community or any other Treaties Conventions or protocols as from time to time may be acceded.

(2) The Company shall acquire the rail transport functions of the Tanzania Railways Corporation within twenty four months from a date on which it is incorporated but the Minister may, by order published in the *Gazette*, extend such period for twelve months.

Memo-
random
and
Articles
of
Associa-
tion of
the
Company

7.-(1) There shall be included in the Memorandum and Articles of Association of the Company such other provisions, including borrowing powers, as are necessary to enable it discharge its functions.

(2) Nothing in this section shall prevent or restrict the inclusion among the objects of the Company as stated in its Memorandum of Associational such objects and powers as are proper for or incidental or ancillary to the due attainment of the objects of the Company.

(3) The whole of the issued share capital of the Company shall be held by the Treasury Registrar.

Minister
may issue
certificate

8.-(1) The Minister may, for the avoidance of doubt, issue a certificate in respect of any specified property or class of property, including any chose-in-action certifying that the property referred to in any order made or purported to be made under the provisions of section 6 has or

was not, at the time the order was made, the property of the Corporation or its subsidiary and the certificate shall be conclusive evidence of the certified facts.

(2) Every chose-in-action transferred in accordance with subsection (1) may be sued upon and recovered or enforced by the Company and it shall not be necessary for the Company to give notice to the person who is bound by the chose-in-action of the transfer if effected.

9.-(1) The Minister may by order transfer to the Company such rights and liabilities or classes of rights or liabilities of the Corporation or of a subsidiary or subsidiaries of the Corporation by virtue of any contract or commitment entered into by it or them.

Minister's
power to
transfer
right and
liabilities

(2) Subject to the provisions of subsection (1), upon such transfer, the rights and liabilities specified in the order shall from that day stand transferred to the Company.

(3) Every right and liability transferred to the Company may be sued on, recovered or enforced by or against the Company and shall not be necessary for the Company to give notice to the person with respect of whose right or liability is so transferred.

(4) Where legal proceedings in relation to any right or liability transferred under the provisions of this section to which the Corporation or a subsidiary of the Corporation is a party are pending on the date of its transfer the proceedings shall be continued with the substitution of the Company for the Corporation or for a subsidiary or subsidiaries of the Corporation.

(5) An order made pursuant to the provisions of this section shall become effective on the date it was made, but if such order is made under the repealed law, it shall become effective on the terms as the Minister may, by order specify and shall be treated as though it was made on such earlier date on which it was actually made. .

10. For the avoidance of doubt, the Minister may issue a certificate in respect of any specified contract or commitment or class of contract or commitment certifying that the rights and liabilities accruing from any contract or commitment referred to in any order made or purported to be made under section 9 were or were not at the time the order was made rights or liabilities of the Corporation or a subsidiary of the Corporation and such rights or liabilities accordingly, as the case may be were or were not transferred to the Company under that section and the certificate shall be the conclusive evidence of the facts so certified.

Issuance
of
certifi-
cate in
respect of
Contract
or
Commit-
ment

Power to
operate
railway

11.-(1) The Company shall have all necessary and ancillary powers to operate the rail infrastructure and to provide rail transport service, and no cause of action based on nuisance shall be effective to prevent or diminish the exercise of these powers.

(2) The Company shall, where circumstances permit, exercise its powers under this section through a delegate.

(3) The Company may assume control of a railway operator in circumstances where, following delegation of its powers in accordance with subsection (2), the owner of that railway operator who fails or if he is unable to perform its obligations in relation to the operation of rail infrastructure or the provision of rail transport services.

(4) The Company may, in case of necessity and on a temporary basis pending the making of alternative arrangements for that railway operator, hold shares in or otherwise take control of a railway operator.

(5) The powers of the Company to delegate to its officers and staff shall extend to the delegation of the powers conferred on the Company by this Act.

Power to
delegate

12.-(1) The Company may delegate its powers to one or more persons and enter into such agreements as may, in the discretion of the Company, be necessary or desirable to give effect to such delegation in order to secure the operation of or provision of rail infrastructure and rail transport services.

(2) The Company may require or permit such person or persons to sub-delegate such powers in such manner and on such terms as the Company shall think fit.

(3) The delegation shall, where practicable, operate; through the granting of concessions for the management, operation, maintenance and development of the infrastructure, for the provision of freight services and for the provisions of passenger services or any combination of the foregoing.

(4) The Company may enter into arrangements with any person where that person's powers are sub-delegated to a subsidiary or subsidiaries of such person.

13. No stamp duty or other tax shall be chargeable on any agreement, contract, conveyance, assignment, grant or other instrument of transfer giving effect to a delegation or sub-delegation made under the provisions of this Act.

Exemption of stamp duty

14.-(1) For the purpose of facilitating or implementing agreements the purpose or intent of which are to secure the operation of rail infrastructure or the provision of rail transport services, the Minister may by one or more orders effective on such date and on such terms as the Company may specify, transfer the property, rights, including choses-in-action and liabilities specified in such order from the Corporation to any person, from the Company to any person or from any person to any other person.

Power to make transfer scheme

(2) On the date of coming into force of a scheme under subsection (1) the property, rights and liabilities affected by the scheme shall be transferred and vested in accordance with the scheme.

(3) A transfer scheme may define the property, rights and liabilities to be transferred by the scheme -

(a) by specifying the property, rights or liabilities in question: or

(b) by referring to all the property, rights and liabilities comprised in the whole or any specified part of the transferor's undertaking and may contain such supplementary, incidental and consequential provisions as may appear to the Company to be necessary or expedient including in particular, but without prejudice to the generality of that provision, with respect to the consideration to be provided by the transferee for any transfer under the scheme.

(4) The title to property of a transferee, under a transfer scheme shall be free of any encumbrance save as otherwise provided for in the transfer scheme.

(5) Subject to any agreement entered into between a transferor and a transferee which may modify or entirely exclude persons; other than the Corporation, whose property or property rights are affected by a transfer scheme shall be paid by or on behalf of the relevant transferee the fair value of such property or property right upon the coming into force of the transfer scheme.

(6) Any transfer of rail infrastructure shall be limited to the granting of a lease for a term not exceeding the period of the agreement for providing rail transport services on the rail infrastructure concerned, and shall include a clause for its termination should such rail transports services cease to be provided.

(7) No stamp duty or other tax shall be chargeable on the transfer made under this section.

Transfer
of staff
and their
rights

15.-(1) For the purpose of facilitating *or* implementing agreements the purpose or intent of which are to secure the operation of rail infrastructure or the provision of rail transport services, the Company may by one or more orders effective on such date as specified designate staff of the Corporation to be transferred to the Company or to any person to which powers of the Company are delegated.

(2) Nothing in this section shall operate so as to prevent any employee of the Corporation, the Company or of any person to which powers of the Company are delegated from resigning or being dismissed.

(3) The terms and conditions of employment of any employee transferred from the Corporation to the Company or to any person to which powers of the Company are delegated shall not be less favorable than those enjoyed by that employee immediately prior to the date on which the transfer was made.

(4) Any employee of the Corporation-

- (a) whose service continues with the Corporation; or
- (b) whose service is transferred to the Company,

shall be deemed to be contentious for the entire period from the date of first appointment with the Corporation.

(5) Where an employee whose service with the Corporation or the Company is deemed to be continuous is a member of any statutory, voluntary pension or any other superannuation scheme, such employee shall continue to be governed by the same laws and regulations governing such schemes and his service, for the purpose of such scheme, shall be deemed to be service with the Corporation and the Corporation or as the case may be the Company shall contribute to such scheme accordingly.

(6) Where an employee of the Corporation whose service is not transferred to the Company or whose service is transferred to any person to whom powers of the Company are delegated, his service with the Corporation shall terminate and where such employee is a member of any statutory, voluntary pension or other superannuation benefits scheme prior to such termination, such employee shall be paid terminal benefits in accordance with the laws and regulations governing such schemes immediately before such termination.

(7) Nothing in this section shall operate so as to create an entitlement for any employee of the Corporation to become employee of the Company or any person to whom functions or powers of the Company are delegated.

16.-(1) The Company shall have access to all records and documents of the Corporation and of its subsidiaries and be entitled to make copies of the same.

Access to records of the Corporation

(2) the Corporation and its subsidiaries and the staff shall cooperate with the Company by providing access to its records and documents and by providing further information as and when requested.

Review of concession

17.-(1) Every agreement involving or connected with the delegation of the Company's powers shall include terms permitting a periodic review of the concession terms.

(2) Upon review, the Company shall take such steps as may be appropriate to deal with any failure by such persons to perform adequately obligations under the agreements.

Railway Infrastructure Fund

18.-(1) The Company shall establish and operate a separate account with a bank or any other financial institution to be known as the Railway Infrastructure Fund.

(2) The objectives of the Railway Infrastructure Fund shall be funding of the renewal and development of existing and the provision of new rail infrastructure in accordance with arrangements approved by the Board.

Sources of the Railway Infrastructure Fund

19.-(1) The sources of the Railway Infrastructure Fund shall be:

(a) such sums of money as may be appropriated by the Parliament; (b) except as otherwise stipulated in any agreement with the donor,

any donor funds received by the Company;

(c) other sums from the Company's funds as may be determined by the Company.

(d) all any other funds as may be received by the Company from any other source.

(2) The funds of the Railway Infrastructure Fund shall be deemed to be held by the Company on irrevocable trust and shall not be liable for or available to discharge the debts or other liabilities of the Company except as provided for in this section.

(3) Expenditure from the Railway Infrastructure Fund shall be limited to administrative overheads directly attributable to its operation and management, and the funding of the renewal and development of existing and the provision of new rail infrastructure.

(4) The Company shall prepare separate accounts disclosing details of the sources and application of the funds of the Railway Infrastructure Fund, and shall subject the same to the auditing procedures provided for in the Companies Ordinance.

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(5) No stamp duty or other tax shall be chargeable in respect of any money charged on the Railway Infrastructure Fund.

Accounts
and audit

20.-(1) The Board shall ensure that the Company maintains such performance and accounting records as are required to comply with the requirement of the Companies Ordinance and this Act.

(2) Not later than six months after the close of every financial year, the account's including the balance sheet and statement of income and expenditure of the Company relating to that financial year shall be audited by qualified accountants,

(3) The audit report shall be submitted by the Company to the Minister who shall, as soon as practicable, lay a copy of that report before the National Assembly.

Protec-
tion of
assets
from
execution
or
attach-
ment etc.

21.-(1) Except with the consent in writing of the Company, the creditors of the Corporation shall not have recourse, by way of seizure, distraint, execution, attachment or otherwise, to the assets of the Company including, the rail infrastructure assets.

(2) Creditors of the Company or of any person exercising the delegated or sub-delegated or purported delegated or sub-delegated powers of the Company, shall not have recourse, by way of seizure, distraint,

execution, attachment or otherwise, to the assets of the Company or of such other person including the rail infrastructure assets which are used in connection with the movement of railway trains or the concession assets.

(3) The Chief Executive Officer of the Company or any person shall cause to be paid out of the revenue of the Company or of the said any person, as the case may be, such amounts as may be by Judgment or order be awarded against the Company or the said any person to the person entitled thereto.

PART III

REGULATION OF RAIL TRANSPORT

22.-(1) The SUMATRA shall also have economic regulatory powers in respect of the rail transport sector limited to the following specific situations:

Regulatory
powers

- (a) where there is captive traffic (being traffic in respect of which an alternative practicable means of transport is unavailable) and the shipper of the captive traffic and the rail transport operator fail to arrive at an agreed tariff SUMATRA may intervene, at the request of either party, to determine the appropriate tariff and such rate as determined by SUMATRA shall prevail;
- (b) where there is a section of the railway line with no alternative road transport and a complaint is lodged to SUMATRA on the , abuse of the monopoly position of the rail transport operator, and SUMATRA is satisfied of the existence of such abuse, it may direct the rail transport operator to discontinue such abuse and where the abuse concerns the tariff SUMATRA shall determine the appropriate tariff in case the rail transport operator does not adjust the tariff to a level that discontinues the abuse.
- (c) where it is satisfied that circumstances referred to in paragraph (a) or (b) exist but no request or complaint has been made SUMATRA may, on its own motion intervene and determine appropriate tariff or, as the case may be, discontinue the abuse;

(2) Without prejudice to subsection (1), SUMATRA shall have the following regulatory powers in respect of railway transport:-

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of 2001

- (a) to issue licences to railway operators;
- (b) to regulator tariffs.
- (c) to monitor rail transport service standards and standards of performance for the provisions of rail transport services;
- (d) to initiate and conduct investigations in relation to the quality of service provided by rail transport operators;
- (e) to collect and compile data on rail transport operators as it considers necessary for the performance of its functions under this Act and the Surface and Marine Transport Regulatory Authority Act, 2001;
- (f) to levy, charges and fees for the granting of licences and other services provided by SUMATRA as may in its opinion be appropriate;
- (g) to levy the rail transport industry up to one percent of total turnover;
- (h) to lay down standards, and codes of conduct in respect of rail transport operators and customers;
- (i) to perform other functions which are incidental or ancillary to functions stipulated under this section.

(3) Where a concessionaire is appointed before coming into operation of the Surface Marine Transport Regulatory Authority Act, 2001 or SUMATRA is constituted, the Minister shall assume all powers in respect of regulation of rail transport and issuance of safety regulation;

Applica-
bility of
the Fair
Competi-
tion
Commis-
sion Acts
Nos. 4 of
1994 and
9 of 2001

23.-(1) The provisions of the Fair Competition Act, 1994 shall not apply to the provisions of services in the rail transport sector save as provided for under section 34 of the Surface and Marine Transport Regulatory Authority Act, 2001.

(2) When deciding issue pursuant to section 22 (1), SUMATRA shall always consult with the Fair Competition Commission and the decision of SUMATRA shall be appealable to the Fair Competition Tribunal established under the Fair Competition Act, 1994.

24.-(1) Any person who wants to provide rail transport services shall make application to SUMATRA.

Applica-
tion for
railway
operator's
licence

(2) An application for a railway operator's licence shall be made in the prescribed form and shall be accompanied by the prescribed fee.

(3) Every application for a railway operator's licence shall;

- (a) identify the scope of services sought to be rendered under the railway operator's licence;
- (b) include a comprehensive safety plan;
- (c) include a comprehensive environmental impact assessment study in relation to the intended operations,.
- (d) include a feasibility study; and
- (e) provide any other information which SUMATRA may deem relevant for purposes of making a decision.

(4) Except with the consent in writing by SUMATRA, no person shall manage railway infrastructure or provide railway transport services without railway operator's licence.

(5) SUMATRA shall issue a consent to operate railway transport services in cases of necessity, on condition that application be made for a railway operators licence as soon as practicable and where the conditions attached to the consent are not satisfied with the prescribed time, SUMATRA may, without prior notice, revoke the consent.

25. Where the holder of a railway operators licence is in default of its obligations under this Act or the specific conditions of the licence, SUMATRA may serve upon the holder a default notice specifying the nature of the default and if within such reasonable time as SUMATRA may specify in the default notice the default has not been corrected it may, by notice terminate such railway operator's licence.

Termina-
tion of
operating
licence

26. Notwithstanding anything to the contrary, where there is conflict between this Act and the provisions of the Surface and Marine Transport Regulatory Authority Act 2001, the provisions of this Act shall prevail.

Conflict
of laws
Act No. 9
of 2001

PART IV

RAILWAY SAFETY

Functions
of
SUMATRA
in relation
to railway
safety

27.-(1) All powers for safety regulation of the railway are vested in SUMATRA.

(2) The functions of SUMATRA in relation to the railway safety shall include the following:-

- (a) to regulate and enforce railway safety;
- (b) to investigate accidents and incidents prejudicial to railway safety;
- (c) to approve new rail infrastructure, safety systems and unusual safety related features of rolling stock;
- (d) to promote railway safety; and
- (e) to ascertain the safety competence of the holders of railway operator's licences.

Regula-
tions

28.-(1) The Minister in Consultation with SUMATRA may make regulations for or in relation to any matter necessary to give effect to functions relating to safety and may revoke, amend or extend any such regulations.

(2) Without prejudice to subsection (1), the Minister may make regulations prescribing-

- (a) the functions (including powers and duties) of the Chief Inspector of Railway Safety;
- (b) the procedures for the approval of new works;
- (c) the procedures to be adopted by railway operators in connection with safety management, the preparation verification, submission, acceptance and amendments of safety plans;
- (d) the procedures to be adopted by railway operators for compliance with safety plans, their revision and upon a transfer of ownership or control of a railway operator;

- (e) the manner of appointing safety assessors and safety auditors;
- (f) the minimum requirements for the auditing of safety plans;
- (g) requirements relating to the reporting by railway operators of railway accident and incidents including the form of reporting and the classification of accidents and incidents to be reported;
- (h) investigation requirements in respect of railway accidents and incidents by railway operators and by the Chief Inspector of Railway Safety;
- (i) publication of reports of investigations;
- (j) improvement directions, improvement notices and prohibition notices to railway operators; -
- (k) safety standards for rail infrastructure and rolling stock;
- (l) the levels of training, medical fitness and competencies of categories of staff of railway operators;
- (m) requirements for continuous automatic brakes, block working interlocking of points and signals and passenger communication;
- (n) the rules for carriage of dangerous goods and substances;
- (o) safety barriers and operating procedures at level crossings; and
- (p) any other matters which the Minister considers necessary for the promotion of railway safety;

29.-(1) In carrying out railway operations it shall be the general duty of a railway operator to ensure the safety of persons affected by the operation of it railway.

General
duty of
railway
operators

(2) A railway operator shall, in preparing a safety plan or a revision to a safety plan, have regard to any guideline~ issued by the Chief Inspector of Railway Safety.

General
duty of
other
persons

30.-(1) It shall be the general duty of a person, (including but not limited to a person employed by a railway operator) being on or near rail infrastructure or on a railway train to conduct himself in such a way as to ensure in so far as is reasonably practicable that no person is exposed to danger as a consequence of any act or omission of that person.

(2) Any person who conducts himself in a manner which endangers rail infrastructure or railway train commits an offence.

Coopera-
tion
between
railway
operators

31.-(1) Where the activities of two or more railway operators overlap, railway operators concerned shall be under a duty to co-operate with one another with a view to agree on the systems and procedures regarding safety of operations and may enter into agreement in accordance with any guidelines to the preparation of safety plans that may be issued by the Chief Inspector of Railway Safety.

(2) A railway operator who fails to conduct himself in a manner which is contrary to subsection (1) commits an offence.

Appoint-
ment, etc
of the
Chief
Inspector
of
Railway
Safety

32.-(1) SUMATRA shall appoint a Chief Inspector of Railway Safety who shall also be the divisional director for rail transport sector as set out in section 14 of the Surface and Marine Transport Regulatory Authority Act, 2001.

(2) A person shall not be qualified for appointment as Chief Inspector of Railway Safety unless he-

- (a) is a graduate of a recognised university;
- (b) possesses at least ten years experience in the field of engineering railway operations; .
- (c) has knowledge and experience of railway transport;
- (d) has satisfied SUMATRA that he does not have a conflict of interest;
- (e) is willing to serve in the relevant capacity if appointed;
- (f) is otherwise in the opinion of SUMATRA well suited to perform the functions and duties of the office.

(3) The Chief Inspector of Railway Safety shall in the discharge of his function be accountable to the Director General of SUMATRA.

33. The principal functions of the Chief Inspector of Railway Safety shall be -

- (a) to advise SUMATRA on the safety competence of the holders of railway operator's licences;
- (b) to promote railway safety; and
- (c) to discharge any other functions conferred to him by

SUMATRA.

Functions
of the
Chief
Inspector
of
Railway
Safety

34.-(1) For the purpose of the exercise of functions under this Act, the Chief Inspector of Railway Safety may-

- (a) enter, inspect, examine and search at all times, any place which he has reasonable cause to believe is railway property;
- (b) take with him a member of the police if he has reasonable cause to apprehend any serious obstruction in the execution of his duty;
- (c) take with him any other person or any equipment or materials required for any purpose for which the power of entry is being exercised;
- (d) use reasonable force where necessary in order to enter the place of work, where he has reasonable cause to believe that at or in any place of work an offence under this Act has been or is being committed:

Provided that he is so authorised by a warrant issued by court;

- (e) make such examination and inquiry as may be necessary to ascertain whether the relevant statutory provisions of this Act are being complied with';
- (f) require the production of any books, registers, records, (whether kept in manual form or otherwise), certificates, notices, documents, maps and plans, required to be kept pursuant to any of the relevant statutory provisions, or any other documents which it is necessary for him to see for the purposes of any examination or inquiry under this Act and inspect, examine and copy them or require that a copy of them or of any entry therein be provided to him;

Powers of
the Chief
Inspector
of Railway
Safety

- (g) require any person whom he has reasonable cause to believe to be able to give information relevant to any examination or inquiry under this Act, to answer either alone or in the presence of any other person, as he thinks fit, such questions with respect to matters under this Act as he thinks fit to ask and sign a declaration of the truth of the answers given, provided that a person being asked a question must be told of his or her right not to answer any question put to him;
- (h) direct that any railway property or part thereof and anything therein shall be left undisturbed for so long as it is reasonably necessary for the purpose of any examination or inquiry under this Act;
- (i) take samples, or require the railway operator or any member of staff, or other person engaged by the railway operator, or any person who appears to him or her to be in possession of the article or substance, to supply without payment, for test, examination or analysis sufficient samples of it;
- (j) cause any article or substance found in the vicinity of a railway which appears to him to have caused or to be likely to cause danger to safety or health, to be dismantled or subjected to any process or test (but not so as to damage or destroy it unless the circumstances are such that it is necessary for the purposes of the process or test);
- (k) in relation to any article or substance referred to in paragraph (j) take possession of it and detain it for so long as is necessary for all or any of the following purposes, namely-
 - (i) to examine or arrange for the examination of it and do under paragraph (j);
 - (ii) to ensure that it is not tampered with before its examination is completed;
 - (iii) to ensure that it is available for use as evidence in any proceedings;
- (l) take any measurements or photographs or make any tape, electrical or other recordings which he considers necessary for the purposes of this Act;
- (m) require any person to afford him such facilities and assistance within that person's control or responsibilities as are reasonably necessary to enable him to exercise any of the powers conferred on him or under this Act; and exercise such other powers" as may be necessary for performance of his functions;

(n) exercise such other powers as may be necessary for performance of his functions.

(2) The Chief Inspector of Railway Safety may in writing delegate any, except his power to delegate functions to such suitably qualified staff of his office or to independent experts as he may determine.

35. The Chief Inspector of Railway Safety, his staff or any person engaged in the discharge of his duties in the exercise of power of performance of a function of the Chief Inspector of Railway Safety under this Act, shall have immunity against all actions or claims however arising' in respect of the discharge by him of his duties or the exercise of his powers or performance of function including the preparing and publication of a report of an investigation, unless it is proved that the person concerned did not act in a *bona fide* manner.

Immunity
for action-
ns in good
faith

PART V RAILWAY AND RAILWAY WORKS

36.-(1) An authorised officer may, on production of evidence of s such authorisation if required to do so, enter on any land or a dwelling a house and-

Surveys
and in-
spections

- (a) inspect and survey the land and make any inquiry, investigation or examination for the purpose of ascertaining whether or not the land is suitable for the purposes of the construction of a railway;
- (b) carry out any investigation or examination thereon preliminary or incidental to the purposes aforesaid;
- (c) bring thereon such other persons or equipment as he may reasonably consider necessary for the purposes of his or her functions under this section;
- (d) line sight, drill, bore, probe or excavate, or take such samples and carry out such tests as he reasonably considers necessary or expedient for the purposes of such functions.

(2) Before an authorised officer enters any land or a dwelling house he shall obtain the consent, of any owner or occupier of the dwelling house.

(3) Where an authorised officer is refused entry to any land, he may apply to the High Court for an order authorising entry and upon the hearing of the application the court may, by warrant authorise such entry.

(4) Where an authorised officer enters any land or a dwelling house pursuant to subsection (1), he shall be liable to make good all damage done to the land or a dwelling house entered upon or interfered with by the exercise of such functions and pay compensation in respect of any loss arising out of or in the course of the performance of the functions for which he is authorised to do under this section.

(5) Where there is a failure to pay compensation as provided under subsection (4) or if an agreement to pay out of court is not reached the matter can be taken to any court of competent jurisdiction.

Applica-
tion for a
railway
order

37.-(1) Any person may apply to the Company for a railway order authorising him to conduct railway works.

(2) An application under subsection (1) shall be made in writing in such form as the Company may specify and shall be accompanied by-

- (a) a draft of the proposed order;
- (b) a plan of the proposed railway works;
- (c) a book of reference to the plan indicating the identity of the owners of the lands described in the plan;
- (d) a statement of the likely effects on the environment subsequently in this Act referred to as an Environmental Impact of Assessment report the proposed railway works.

(3) Subject to subsection (2), the draft plan and book of reference shall be in such form as the Company may specify or in a form to the like effect.

(4) Upon an application to the Company for a railway order there shall be paid to the Company such reasonable fee as the Company may specify.

(5) The construction of railway works the subject of application under this section shall not be undertaken unless the Company has made an order in accordance with this section.

(6) For the avoidance of doubt it shall not be necessary for any

person to apply for a railway order for the construction or subsequent operation of railway works where such construction or operation does not require statutory powers.

38. For the purposes of railway works, each of the following shall be exempted development for the purposes of the Land Act, 1999, the Village Land Act, 1999 and the Town and Country Planning Ordinance-

- (a) development consisting of the carrying out by or on the authority of the Company of railway works, including the use of the railway works or any part of it for the purposes of the operation of a railway, authorised by the Company and specified in a railway order or of any incidental or temporary works connected with such development;
- (b) development consisting of the carrying out by or on the authority of the Company of other works not being the subject of a railway order for the operation, maintenance, improvement or repair of a railway.

Exempted
develop-
ment

Acts
Nos. 4
Of 1999
And Cap.
378

39.-(1) An Environmental Impact Assessment Report shall contain the following specified information:

- (a) a description of the proposed railway works comprising information about the site, design, size, physical characteristics and land use requirements of the railway works;
- (b) the data necessary to identify and assess the main effects which the proposed railway works are likely to have on the environment;
- (c) a description of the likely significant effects, direct and indirect on the environment of the proposed railway works, explained by reference to their possible Impact on-
 - (i) human beings, fauna and flora;
 - (ii) soil, water, air, climate and the landscape;
 - (iii) the inter-action between any of the matters referred to in subparagraphs (i) and (ii);
 - (iv) material assets; and
 - (v) the cultural heritage;
- (d) where significant adverse effects are identified with respect to

Environ-
mental
Impact
Assess-
ment Re-
port

any of the matters referred to in paragraph (c), a description of the measures envisaged in order to avoid, reduce and, if possible, remedy those effects;

- (e) where appropriate, an outline of the main alternative if any, studied and an indication of the main reasons for choosing the proposed alternative, taking into account the environmental effects;
- (f) a summary in non-technical language;
- (g) a certificate of compliance with any environmental requirement which may be issued by the National Environment Management Council;

(2) An Environmental Impact Assessment Report may include, by way of explanation or amplification of any of the specified information referred to in subsection (1), further information on any of the following matter:-

- (a) the estimated type and quantity of expected emissions resulting from the proposed railway works when in operation;
- (b) the likely significant direct and indirect effects, including secondary, cumulative, short, medium and long term, permanent and temporary, positive and negative effects, on the environment of the proposed railway works which may result from:-
 - (i) the use of natural resources;
 - (ii) the emission of pollutants, the creation of nuisances and the elimination of waste;
- (c) the forecasting methods used to assess any effects on the environment about which information is given under paragraph (b);
- (d) any difficulties, such as technical deficiencies or lack of knowledge, encountered in compiling any specified information.

40.-(1) When an application is made for a railway order, the applicant shall within seven days from the date on which application is made:

- (a) deposit and keep deposited at such place or places, being a place or places which are easily accessible to the public, as may be appointed by the Company, a copy of the draft order, the plan, the book of reference to the plan and the Environmental Impact Assessment Report which accompanied the application;
- (b) publish a notice in one or more newspapers circulating in the area to which the order relates-
 - (i) indicating that an application has been made for the railway order;

- (ii) indicating the times at which, the period, being not less than one month during which and the place or places where a copy of the draft order, plan, book of reference and Environmental Impact Assessment Report deposited under this section may be inspected;
 - (iii) stating that the Company shall consider any submissions in relation to the proposed order or in relation to the likely effects on the environment of the proposed railway works which are submitted in writing by any person not later than two weeks after the end of the period specified in the notice referred to in subparagraph (ii); and
 - (iv) stating that a copy of or extract from the draft order, plan, book of reference or environmental Impact Assessment Report may be purchased on payment of a fee not exceeding the reasonable cost of making such copy of extract;
- (c) serve on the planning authority in whose functional area, or any part thereof, the proposed railway works are proposed to be carried out and such person if any as the Company may direct a copy of the draft order, plan, book of reference, Environmental Impact Assessment Report and the notice referred to in paragraph (b).

(2) Members of the public may inspect a copy of a draft railway order, plan book of reference or Environmental Impact Assessment Report deposited under this section free of charge at the times and during the period specified in the notice referred to in subparagraph (ii) of paragraph (b) of subsection (1) and may purchase copies of or extracts from any of the documents referred to on payment of a fee to the applicant not exceeding reasonable cost of making such copies or extracts as may be fixed by the applicant.

(3) A person may, not later than two weeks after the end of the period specified in subsection (2), make submissions in writing to the Company in relation to the proposed railway order or the likely effects on the environment of the proposed railway works.

41.-(1) Where the Company is of opinion that an Environment Impact Assessment Report furnished pursuant to section 39 does not comply with the provisions of section 37, or where it otherwise considers, it necessary so to do, it shall require the applicant to furnish a document, containing such further information in relation to the likely effects

Further
informa-
tion to
Company

on the environment of the proposed railway works as the Company may specify and the applicant shall comply with any such requirement.

(2) If the document furnished pursuant to subsection (1) contains significant data in relation to the likely effects on the environment of the proposed railway works the Company shall require the applicant:

- (a) to deposit and keep deposited at the place or each of the places appointed by the Company, a copy of the aforesaid document;
- (b) to publish in one or more newspapers widely circulating in the area to which the proposed railway order relates a notice stating that further information in relation to the likely effects on the environment of the proposed railway works has been furnished to the Company, that copies of the document containing the information will be available for inspection free of charge and for purchase by members of the public, at the place or each of the places appointed by the Company at specified times during the period of four weeks beginning on the day of publication of the notice and that submissions in relation to the further information may be made to the Company before the expiration of that period;
- (c) to serve notice of the furnishing of the further information to the Company, together with relevant extracts from the aforesaid document on any person on whom notice was served pursuant to the provisions of subsection (1) of section 40 and to indicate to the person concerned that submissions in relation to the further information may be made to the Company during the period of four weeks beginning on the day on which the notice is sent by the applicant to the person concerned.

(3) The copies of further information in respect of which notice is published shall be made available for purchase by members of the public during the period specified therein for such fee as the applicant may fix not exceeding the reasonable cost of making such copies.

(4) Members of the public may inspect further information deposited under this section free of charge at the times and during the period specified in the notice referred to in the provisions of paragraph (b) of subsection (2),

(5) Any person may, during the appropriate period specified in subsection (2), make submissions in writing to the Company in relation to the further information deposited under this section.

42.-(1) Where application for railway order is made, the Board shall, before deciding whether to grant the order, consider the following-

Railway
order

- (a) the application;
- (b) the draft order, plan, book of reference to the plan and the Environmental Impact Assessment Report which accompanied the application;
- (c) any submission duly made to the Company under the provisions of section 37 or 38;
- (d) any submission duly made to the Company by a planning authority referred to under section 40;
- (e) any additional information furnished to the Company under section 41;

(2) If after such consideration, the Board is of the opinion that the application should be granted, it shall make an order authorising:-

- (a) the applicant to construct, maintain and improve the railway works specified in the order or any part thereof;
- (b) the use of the railway works or any part thereof for the purposes of the operation of a railway; and
- (c) the operation, maintenance and Improvement of a railway or any part of railway, in such manner and subject to such conditions, restrictions and requirements, and on such other terms, as the Board thinks proper and specifies in the order and the Company shall furnish the applicant with a copy of the order.

(3) The grant pursuant to the order shall be subject to the provisions of this Act; railway and the Presidential consent being granted for the acquisition of land and to the applicant obtaining any necessary railway operator's licence.

Amend-
ment of
railway
order

43.-(1) Subject to subsection (2) the Board may, if it considers it appropriate to do so, by orders amend a railway order or the plan or book of reference relating to it and amendments under this paragraph may include a provision varying the route of the railway.

(2) Where, in the opinion of the Company an amendment of a railway order would, if made, constitute a substantial material variation in the railway works the provision of sections 38, 39, 40 and 41 shall apply

in relation to the making of another order as they apply to a railway order and the application shall be deemed for the purposes of this Act to be an application for a railway order and this Act shall apply accordingly in relation to the application with any necessary modification'.

(3) The Board may, if there is any failure or refusal to comply with a condition, restriction or requirement specified in a railway order, revoke the order.

(4) Where the Board proposes to revoke an order in accordance with subsection (3), it shall notify the applicant in writing of its proposal and of the reasons for revocation.

(5) The applicant may, not later than three weeks from the date of the sending of the notification, make submissions in writing to the Company and the Board regarding reasons, if any, why revocation should not be made and the Company and the Board shall-

- (a) before deciding the matter, take into consideration any submissions duly made to it by the applicant; and
- (b) notify the applicant in writing of its decision and of the reasons for any action taken in relation to such railway order.

44.-(1) A railway order shall contain such provisions as the Board considers necessary or expedient for the purpose of the order.

(2) Without prejudice to the generality of subsection (1), the railway order shall:

- (a) specify the manner in which the railway works or any part thereof to which the order relates are to be constructed;
- (b) fix the period within which the construction of the railway works is to be completed;
- (c) the order may contain provisions as to the manner in which the railway works are to be operated and maintained;
- (d) contain such provisions as the Board thinks proper for the protection of the public generally, of local communities and of any persons affected by the order;
- (e) the order may provide for the determination by arbitration of any specified questions arising there under including the amount of compensation payable for land or other rights acquired;
- (f) contain such provisions ancillary or incidental to any of the matters aforesaid as the Board considers necessary and proper.

(3) The applicant shall seek the assistance of the Commissioner for Lands to seek Presidential consent for the acquisition of land or other property rights required in the public interest for the purposes of effecting an order and shall not enter upon any such land prior to obtaining the Presidential consent.

(4) The Company shall pay compensation equivalent to the value of the land or other property rights acquired having regard to the previous use of the land or such other property rights to the person or persons deprived of the land or property rights.

45. As soon as may be after obtaining a railway order, the applicant shall:

Notofica-
tion

(a) deposit at the head office of the applicant and at such other places as may be specified by the Company during the period of five years following the opening of the railway a copy of the order and the plan safety shall while so deposited, be open to inspection by members of the public free of charge at all reasonable times and copies of or extracts from any of the documents may be purchased on payment of a fee to the applicant not exceeding the cost of making such copies or extracts;

(b) serve a copy of relevant extracts from the railway order and the plan referred to it on every planning authority for the area or any part of it to which the order relates and to every owner of land referred to in the railway order.

46. A person shall not question the validity of a railway order otherwise than by way of an application for judicial review made within a period of six months commencing on the date on which the railway order was made.

Judicial
proceed-
ings

PART VI OFFENCES AND PENALTIES

47.-(1) Any person who by any unlawful, willful, negligent or careless act or omission:

Endanger-
ing safety

(a) obstructs or causes to be obstructed any train or vehicle using the rail;

(b) endangers or causes to be endangered the safety of any person in or upon any train or vehicle using the railway.

- (c) puts, places, casts or throws upon or across any railway line any wood, stone or other matter or thing;
- (d) takes up, removes or displaces any rail, sleeper or other component or rail infrastructure;
- (e) throws or causes to fall or strike at, against, into or upon any train or vehicle used upon a railway any wood, stone or other matter or thing with intent to injure or endanger the safety of any person being in or upon such train or vehicle;
- (f) sets fire to, destroys or in any way damages any railway track, way or the rails and appurtenances laid thereon or any station, engine house, ware house or other building, or any train or vehicle belonging or appertaining to the railway or any matter or thing contained therein; or
- (g) does or causes to be done any other thing with intent to obstruct, upset, overthrow, damage or destroy any train or vehicle using a railway or to endanger the safety of any person traveling by or being upon a railway,

commits an offence and is liable on conviction to a fine not exceeding five million shillings or to imprisonment for a term not exceeding eighteen months or to both such fine and imprisonment.

(2) Any person who aids, abets, assists, counsels or procures any act or omission referred to in subsection (1), commits an offence and is liable on conviction to a fine not exceeding four million shillings or to imprisonment for a term not exceeding twelve months or to both to such fine and imprisonment.

48.-(1) Any employee who while-

- (a) on duty and is present on any locomotive or in any guard's van;
- (b) on duty having responsibilities related to the movement of traffic or the operation or maintenance of any railway signaling or communication equipment or any part of the permanent way or to the repairs of any train;
- (c) on duty is found to be under the influence of drugs or alcohol as ascertained from a breath test or blood or urine sample taken,

commits an offence and is liable on conviction to a fine not exceeding three million shillings or to imprisonment for a term not exceeding nine months or to both to such fine and imprisonment.

Drunkenness while on locomotive, Etc.

(2) Any employee of a railway operator may be required to submit himself to a breath test or to provide a blood or urine sample to a medical establishment approved by the railway operator.

(3) An employee having the responsibilities described under this section and does not submit to a breath test or provide a blood or urine sample when requested to do so, commits an offence and is liable on conviction to a fine not exceeding one million shillings or to imprisonment for a term not exceeding six months or to both such fine and imprisonment.

49. Any person who:

- (a) not being specifically authorised in that behalf and not being an employee of a railway operator:-
- (i) is found on any premises occupied by a railway operator;
 - (ii) is found in any areas designated by a railway operator as dangerous or restricted by the erection of notice boards to that effect; or
 - (iii) refuses to leave premises occupied by a railway operator or any of its trains or vehicles after being lawfully requested to do so by any employee of the railway operator or police officer;
- (b) being on any premises occupied by a railway operator or any of its trains or vehicles-
- (i) when called upon by employee of the railway operator or police officer refuses to give his name or address, or gives a false name and address;
 - (ii) is in a state of intoxication and behaves in a violent or offensive manner to the annoyance of any other person;
 - (iii) discharges any firearm or does anything which may cause injury to any person on such premises or upon such train or vehicle,
 - (iv) commits any nuisance or act of indecency or uses profane, obscene, indecent or abusive language;
 - (v) without lawful excuse contravenes any direction lawfully given by an employee of the railway operator;

Trespass
related of-
fences

- (vi) except with the permission of an authorised employee of the railway operator hawk, sells or exposes for sale any article or touts, applies for, or solicits custom of any description; or
- (vii) smokes in any part of such premises, train or vehicle bearing a notice that smoking is prohibited in that part;
- (c) writes, draws or affixes any profane, obscene, indecent or abusive word, matter graffiti, presentation or character upon any premises occupied by a railway operator or upon any of its trains or vehicles;
- (d) defaces the writing on any board or any notice maintained upon any premises occupied by a railway operator or any of its trains or vehicles;
- (e) damages or without lawful excuse interferes with any property of a railway operator;
- (f) without lawful excuse, enters or leaves any train or vehicle of a railway operator while it is in motion or at a place other than that appointed by the railway operator for passengers to enter or leave or opens any outer door of any train while it is in motion;
- (g) in the absence of a gatekeeper, omits to shut and fasten, if any form of fastener is provided, any gate on a railway as soon as such person or any animal, vehicle or other thing under his charge has passed through the gate;
- (h) knowing, or having reason to believe that a train is approaching or without having exercised due care to ascertain whether a train is approaching, opens any gate, chain or bar set up on either side of a railway track, or drives any animal, vehicle or other thing onto or across such railway track;
- (i) permits or allows any animal to stray on any fenced premises occupied by a railway operator;
- (j) fails at the earliest possible opportunity to present to any authorised employee of a railway operator any property which there is reason to believe has been lost or forgotten and is found by that person on any premises, train or vehicle of the railway operator;
- (k) willfully obstructs or impedes an employee or agent of a railway operator in the performance of his duties;

- (l) throw from a train any article or substance likely to be a source of danger to, or cause injury to any other person;
- (m) without prior approval of the railway operator concerned, takes or sends or attempts to take or send upon a railway any dangerous substances or goods, or any dangerous animal not under proper control or any animal suffering from any contagious or infectious disease;
- (n) being an employee of a railway operator, receives from any passenger, or from any other person delivering goods to such railway operator for carriage or warehousing, or from any other person making use of the facilities provided by such railway operator any money and fails within a reasonable time not exceeding half an hour to issue a ticket or other receipt in respect of such money; or
- (o) without the permission of an authorised employee, travels in or upon any part of a train or vehicle of a railway operator other than the part ordinarily provided for passengers during travel, commits an offence against this Act, and is liable on conviction to a fine not exceeding two million shillings or to imprisonment for a term not exceeding six months or to both such fine and imprisonment.

50.-(1) Any person who-

- (a) willfully refuses to pay the fare or excess charge which, on demand, he is liable to pay under the conditions of carriage of a railway operator; or
- (b) travels on a train with a ticket or fee pass, purchased or obtained from any person other than an authorised employee of the railway operator concerned, commits an offence and is liable on conviction, in addition to the penalty imposed by the court, to pay the fare and any excess charge.

(2) Where any fare or excess charge is recovered under this section the amount so recovered shall be paid to the railway operator concerned.

51. Any person on any train who-

- (a) enters any part reserved for the use of another person or already containing the maximum number of persons authorised for that

Refusal to pay fare or unauthorised purchase of ticket

Failure to obey lawful instructions, obstructing etc.

part, and refuses to leave that part after being required to do so by an authorised employee of the railway operator;

- (b) resists or obstructs the lawful entry of any person into any part not already containing the maximum number of persons authorised for that part;
- (c) refuses or fails to obey any lawful direction of an authorised employee of the railway operator;
- (d) without reasonable cause, uses or interferes with any means of communication provided thereon for passengers and any employee therein; or
- (e) knowingly enters, or after being required to do so, refuses to leave, any part thereof provided for the exclusive use of persons of different sex or for persons entitled to a different class of accommodation,

commits an offence and is liable on conviction to a fine not exceeding fifty thousand shillings or to imprisonment for a term not exceeding three months or to both such fine and imprisonment.

Unauthorised sale of tickets

52. Any person not being an authorised employee or agent of a railway operator who sells or parts with any ticket or free pass, or any portion thereof, in order to enable any other person to travel therewith on a train, shall be guilty of an offence against this Act, and on conviction shall be liable to a fine not exceeding one hundred thousand shillings or to imprisonment for a term not exceeding three months or to both such fine and imprisonment.

False returns

53. Any person who makes, either knowingly or recklessly, any statement which is false in any material particular in any return, claim or other document which is required or authorised to be made to a railway operator, commits an offence against this Act, and is liable on conviction to a fine not exceeding fifty thousand shillings or to imprisonment for a term not exceeding three months or to both such fine and imprisonment.

Employee demanding improper fare

54. Any employee of a railway operator who, with intent to defraud, demands, solicits or receives from any passenger, or from any person delivering goods for carriage or warehousing or from any person making use of the railway operator's facilities any greater or lesser amount than he should demand or receive, commits an offence and is liable on conviction to a fine not less than thirty thousand shillings or to imprisonment for a term not exceeding six months or to both such fine and imprisonment.

55. Where a person is convicted of an offence under this Act and is operating a railway; SUMATRA may in its absolute discretion suspend or vary the terms of the operating licence of such person or impose such other condition as it may think fit, provided that any person aggrieved by the decision of SUMATRA pursuant to this Act may appeal to the Fair Competition Tribunal within sixty days from the date of such decision and the decision of the Fair Competition Tribunal shall be final.

Appeal to
the Fair
Competition
Tribunal

PART VII

MISCELLANEOUS PROVISIONS

56.-(1) A railway operator, with the consent of SUMATRA, may make internal regulations for the management, control and operation of its railway and, without prejudice to the generality of the foregoing, make regulations in relation to any one or more of the following matters:

Making
of internal
regulations
by
railway
operators

- (a) the regulation of the times of arrival and departure of railway vehicles,
- (b) the prevention of the commission of nuisances in or upon railway vehicles;
- (c) the prevention of damage to railway vehicles;
- (d) the general regulation, subject to the provisions of this Act, of the traveling upon or use of railway vehicles and the working of rail transport services by a railway operator; and
- (e) the safe custody and redelivery or disposal of any property found on or in any railway vehicle or property of a railway operator and the fixing of charges in respect thereof.

(2) Regulations under this section may contain such incidental, subsidiary and ancillary provisions as are reasonably necessary or expedient for the purposes of the regulations.

(3) Every railway operator wishing to make regulations under the provisions of subsections (1) and (2) hereof shall submit such draft regulations in writing to SUMATRA which may, within sixty days, approve, modify or reject such regulations.

(4) SUMATRA may at any time direct a railway operator to modify, improve or change regulations previously submitted to and a railway operator shall within thirty days from the day on which such direction was, made comply with such direction. .

(5) Any person aggrieved by a direction or decision of SUMATRA under this section may appeal to the Fair Competition Tribunal within thirty days of such direction or decision by SUMATRA and the Fair Competition Tribunal.

(6) Any person who contravenes a regulation under this section that is stated to be a penal provision shall be guilty of an offence.

Railway
strip

57.-(1) A railway strip constitutes land adjacent to the railway track reserved to facilitate future development of rail infrastructure.

(2) Except with the written permission of the Company, a person shall not erect any building or structure or execute any works on a railway strip.

(3) Where any person has erected or erects any building, or structure, or has executed or executes any works on a railway strip without the written permission of the Company, the Company shall give written notice to such person to demolish or modify such building, structure or works within thirty days of such notice.

(4) Where a person does not, within thirty days of the notice referred to in subsection (3), demolish or modify the building, structure or works the Company shall demolish or modify or cause to be demolished or modified, the building, structure or works and such person shall pay for the costs of such demolition or modification.

Power of
entry by
railway
operators
to pre-
vent
acci-
dents, etc.

58.-(1) Subject to any other law, a railway operator may for the purpose of safe operation of any rail transport service provided by it or when repairing any damage caused by any accident, enter upon any land; and

- (a) cut down or remove any tree or other obstruction, not being a building, which obscures the view of any fixed signal or which is likely to cause any obstruction or any danger to any rail transport service; and
- (b) execute such other works as may be necessary to prevent the occurrence of any accident or to repair any damage caused as a result of any accident.

(2) Where any tree or other obstruction is cut down or removed under paragraph (a) of subsection (1), the owner or occupier shall be entitled to adequate compensation from such railway operator.

(3) No such compensation shall be payable if the tree or other obstruction cut down or removed, as the case may be, which came into existence subsequent to the construction of the railway.

59.-(1) Subject to any other law, a railway operator may enter any land and alter the position of any pipe for the supply of gas, oil, water or compressed air, or the position of any electric, telephone or telegraphic wire or telecommunications cable or the position of any drain.

Entry on
land to al-
ter posi-
tion of
pipes etc.

(2) Where a railway operator exercises any power under subsection (1), he shall give reasonable notice of his intention so to do to the authority or person having control of the pipe, wire, cable or drain and-

- (a) such authority or person may authorise a representative to superintend such work and may require the railway operator to execute such work to the satisfaction such representative;
- (b) the railway operator shall make arrangements for the maintenance of the supply of gas, oil, water, compressed air or electricity, or for the continuance of the telephone, telegraphic or telecommunications services or for the maintenance of the drain- age, as the case may be, during the execution of the work.

(3) Where any damage is caused by reason of the exercise of the powers conferred by this section, the person suffering such damage shall be entitled to adequate compensation therefore from the railway operator.

60. Subject to any other law regulating the use of water a railway p operator may for railway purposes take any water from any natural water u source.

Power to
take water

61.-(1) In this section, "accommodation works" means such crossings, bridges or other works for the purposes of making good any interruption caused by the construction of a railway to the use of the lands through which the railway was constructed and such culverts, drains or other works necessary to convey water as freely as practicable from or to such adjoining lands as were constructed by the Corporation or as may be specified in a railway order.

Accomm-
odation
works

(2) The Company shall make arrangements for the adequate maintenance of any accommodation works on its rail infrastructure including but not limited to stipulations in that behalf in agreements pertaining to the delegation of its powers.

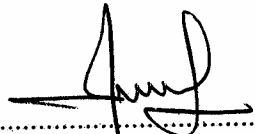
62.-(1) Subject to subsection (2) the Tanzania Railways Corporation Act, 1977 is repealed.

(2) Notwithstanding subsection (1) the Minister may; as and when circumstances require, by order published in the *Gazette* repeal any Part, Parts, any Section or Sections of the Tanzania Railway Corporation Act, 1977.

(3) Notwithstanding the repeal of the Tanzania Railways Corporations Act, 1977, any order, directive, notice, rules, or regulations made under that Act or under the East African Railways Corporations Act, 1967 (Acts of Community) shall, in so far as they are not inconsistent with the provisions of this Act remain in force until they are revoked or as the case may be cancelled by an order, directive, notice, rules or regulations made under this Act.

(4) Section 53 of the Surface and Maritime Transport Regulatory Authority Act, 2001 is repealed.

Passed in the National Assembly on 5th February, 2002.



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Clerk of the National Assembly