

Bill No. LVII of 2008

THE RAILWAYS (AMENDMENT) BILL, 2008

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BILL

further to amend the Railways Act, 1989

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

1. (1) This Act may be called the Railways (Amendment) Act, 2008.

Short title
and
commencement.

(2) It shall be deemed to have come into force on the 31st day of October, 2008.

24 of 1989.
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2. In section 2 of the Railways Act, 1989 (hereinafter referred to as the principal Act), after clause 39, the following clause shall be inserted, namely:—

Amendment
of section 2.

‘(39A) “Railway Authority” means the Railway Tariff Regulatory Authority constituted under sub-section (1) of section 3.

3. After section 32 of the principal Act, the following new chapter shall be inserted, namely:—

Insertion of
new chapter
VIA.

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CHAPTER VIA

RAILWAY TARIFF REGULATORY AUTHORITY

“32A. (1) The Central Government shall, by notification, constitute a Railway Authority to be known as the Railway Tariff Regulatory Authority to exercise the powers conferred on, and to perform the functions assigned to it under this Act.

Constitution
of Railway
Tariff
Regulatory
Authority.

(2) The Railway Authority shall consist of the following persons, namely,—

(a) a Chairperson, who shall be of the rank of Cabinet Secretary having domain knowledge and expertise in the railway management;

(b) not more than three members of the rank of Secretary to the Government of India to be appointed by the Central Government from amongst persons having experience in the fields of technology, tariff, economy and judiciary”. 5

(3) The Chairperson and other members of the Railway Authority shall hold office on such salary and allowances, and terms and conditions as may be prescribed.

(4) The Railway Authority may appoint such other officers and employees as it considers necessary for the efficient discharge of its functions under this Act with the previous approval of the Central Government. 10

(5) The terms and conditions of service of officers and employees of the Railway Authority shall be such as may be prescribed.

Powers and functions of Railway Authority.

“32B. (1) The powers and functions of the Railway Authority, shall, *inter alia*, include,— 15

(i) to recommend tariffs which shall include enhancement, fixation, revision or reduction of railway tariff for all classes of carriage including passenger and freight;

(ii) to study the economics of routes including new routes or any or all such routes as may be specifically referred to and recruitment accordingly; 20

(iii) to recommend conversion of routes from meter gauge to broad gauge and *vice versa*, if considered necessary including repairs, renewal and upgradation of tracks;

(iv) to make recommendations on subjects such as optimum utilisation of assets of the railways in terms of new routes and lines, gauge conversions including consideration of the techno-economic options; 25

(v) to foster public private partnership on railway routes, carriage of freight and all matters incidental thereto; and

(vi) to consider economics of multi-model transport system and from time to time evaluate the cost benefit ratio of alternative means of transport”. 30

(2) The Railway Authority shall determine its own procedure for discharge of powers and functions assigned to it under this Act.

Power to make rules.

32C. (1) The Central Government may, by notifications in the Official Gazette, make rules to carry out the purposes of this chapter.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:— 35

(a) the composition of the Railway Authority;

(b) the method of appointment of the chairperson and member of the Railway Authority; and

(c) any matter not expressly provided for in the Act, but considered necessary for functioning of the Railway Authority. 40

STATEMENT OF OBJECTS AND REASONS

Tariff regulation has assumed importance and become more competitive in view of the effect of the globalisation of commerce. Railway has been lagging behind in the carriage of goods *vis a vis* road transport in the matter of speed as well as freight for most of the time. Likewise, the passenger traffic preferred cheaper air fares instead of higher and sometimes unrealistic railway fares. Hence, the need to respond competitively to these spheres so that realistic fare and freight regime can be introduced by wider consultations among technically competitive personnel.

Hence this Bill.

N. K. SINGH

FINANCIAL MEMORANDUM

Clause 3 of the Bill seeks to constitute the Railway Tariff Regulatory Authority and makes provisions for salary and allowances of the Members, officers and employees of the Authority.

The Bill, if enacted will involve an additional expenditure from the Consolidated Fund of India. It is estimated that a sum of rupees two hundred crore may involve as recurring expenditure from the Consolidated Fund of India.

A non-recurring expenditure of rupees fifty crore is also likely to be incurred.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 3 of the Bill empowers the Central Government to make rules for carrying out the purposes of the Bill. The rules will relate to matters of details only. As such the delegation of legislative power is of normal character.

ANNEXURE

EXTRACTS FROM THE RAILWAYS ACT, 1989

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2. Definitions.— In this Act, unless the context otherwise requires,—

(1) “authorized” means authorized by a railway administration;

(1A) “Authority” means the Rail Land Development Authority constituted under section 4A;

(2) “carriage” means the carriage of passengers of goods by a railway administration;

(3) “Claims Tribunal” means the railway Claims Tribunal established under section 3 of the Railway Claims Tribunal Act, 1987 (54 of 1987);

(4) “Classification” means the classification of commodities made under section 31 for the purpose of determining the rates to be charged for carriage of such commodities;

(5) “Class rates” means the rate fixed for a class of commodity in the classification;

(6) “Commissioner” means the Chief Commissioner of Railway Safety or the Commissioner of Railway Safety appointed under section 5;

(7) “Commodity” means a specific item of goods;

(7A) “competent authority” means any person authorised by the Central Government, by notification, to perform the functions of the competent authority for such area as may be specified in the notification;

(8) “consignee” means the person named as consignee in a railway receipt;

(9) “consignment” means goods entrusted to a railway administration for carriage;

(10) “consignor” means the person named in a railway receipt as consignor, by whom or non whose behalf goods covered by the railway receipt are entrusted to a railway administration for carriage;

(11) “demurrage” means the charge levied for the detention of any rolling stock after the expiry of free time, if any, allowed for such detention;

(12) “endorsee” means the person in whose favour an endorsement is made, and in the case of successive endorsements, the person in whose favour the last endorsement is made;

(13) “endorsement” means the signing by the consignee or the endorsee after adding a direction on a railway receipt to pass the property in the goods mentioned in such receipt to a specified person;

(14) “ferry” means the charge levied for the carriage of passengers;

(15) “ferry” includes a bridge of boats, pontoons or rafts, a swing bridge, a fly-bridge and a temporary bridge and the approaches to, and landing places of, a ferry;

(16) “forwarding note” means the document executed under section 64;

(17) “freight” means the charge levied for the carriage of goods including transshipment charges, if any;

(18) “General Manager” means the General Manager of a Zonal Railway appointed under section 4;

(19) “goods” includes—

(i) containers, pallets or similar articles of transport used to consolidate goods; and

(ii) animals;

(20) “Government railway” means a railway owned by the Central Government;

(21) “in transit”, in relation to the carriage of goods by railway, means the period between the commencement and the termination of transit of such goods, and unless otherwise previously determined—

(a) transit commences as soon as the railway receipt is issued or the consignment is loaded, whichever is earlier;

(b) transit terminates on the expiry of the free time allowed for unloading of consignment from any rolling stock and where such unloading has been completed within such free time, transit terminates on the expiry of the free time allowed, for the removal of the goods from the railway premises;

(22) “level crossing” means an inter-section of a road with lines of rails at the same level;

(23) “luggage” means the goods of a passenger either carried by him in his charge or entrusted to a railway administration for carriage;

(24) “lump sum rate” means the rate mutually agreed upon between a railway administration and a consignor for the carriage of goods and for any service in relation to such carriage;

(25) “non-Government railway” means a railway other than a Government railway;

(26) “notification” means a notification published in the Official Gazette;

(26A) “officer authorised” means an officer authorised by the Central Government under sub-section (2) of section 179;

(27) “parcel” means goods entrusted to a railway administration for carriage by a passenger or a parcel train;

(28) “pass” means an authority given by the Central Government or a railway administration to a person allowing him to travel as a passenger, but does not include a ticket;

(29) “passenger” means a person travelling with a valid pass or ticket;

(29A) “person interested” includes,—

(i) all persons claiming an interest in compensation to be made on account of the acquisition of land under this Act;

(ii) tribals and other traditional forest dwellers, who have lost any traditional rights recognised under the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006;

(iii) a person interested in an easement affecting the land; and

(iv) persons having tenancy rights under the relevant State laws;

(30) “prescribed” means prescribed by rules made under this Act;

(31) “railway” means a railway, or any portion of a railway, for the public carriage of passengers or goods, and includes—

(a) all lands within the fences or other boundary marks indicating the limits of the land appurtenant to a railway;

(b) all lines of rails, sidings, or yards, or branches used for the purposes of, or in connection with, a railway;

(c) all electric traction equipments, power supply and distribution installations used for the purposes of, or in connection with, a railway;

(d) all rolling stock, stations, officers warehoused, wharves, workshops, manufactories, fixed plant and machinery, road and streets, running rooms, rest housed, institutes, hospitals, water works and water supply installations staff dwellings and any other works constructed for the purpose of, or in connection with, railway;

(e) all vehicles which are used on any road for the purposes of traffic of a railway and owned, hired or worked by a railway; and

(f) all ferries, ships, boats and rafts which are used on any canal, river, lake or other navigable inland waters for the purposes of the traffic of a railway and owned, hired or worked by railway administration,

but does not include—

(i) a tramway wholly within a municipal area; and

(ii) lines of rails built in any exhibition ground, fair, park or any other place solely for the purpose of recreation;

(32) “railway administration”, in relation to—

(a) a Government railway, means the General Manager of a Zonal Railway; and

(b) a non-Government railway, means the persons who is the owner or lessee of the railway or the person working the railway under an agreement;

(32A) “railway land” means any land in which a Government railway has any right, title or interest;

(33) “railway receipt” means the receipt issued under section 65;

(34) “railway servant” means any person employed by the Central Government or by a railway administration in connection with the service or a railway including member of the Railway Protection Force appointed under clause (c) of sub-section (1) of section 2 of the Railway Protection Act, 1957;

(35) “rate” includes any fare, freight or any other charge for the carriage of any passenger or goods;

(36) “regulations” means the regulations made by the Railway rates Tribunal under this Act;

(37) “rolling stock” includes locomotives, tenders, carriages, wagons, rail-cars, containers, trucks, trolleys and vehicles of all kinds moving on rails;

(37A) “Special railway project” means a project, notified as such by the Central Government from time to time, for providing national infrastructure for a public purpose in a specified time-frame, covering one or more States or the Union territories;

(38) “station to station rate” means a special reduced rate applicable to a specific commodity booked between specified stations;

(39) “traffic” includes rolling stock of every description, as well as passengers and goods;

(40) “Tribunal” means the Railway Rates Tribunal constituted under section 33;

(41) “wharfage” means the charge levied on goods for not removing them from the railway after the expiry of the free time for such removal;

(42) “Zonal Railway” means a Zonal Railway constituted under section 3.

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32. Power of railway administration to charge certain rates.— Notwithstanding anything contained in this Chapter, a railway administration may, in respect of the carriage of any commodity and subject to such conditions as may be specified,—

(a) quota a station to station rate;

(b) increase or reduce or cancel, after due notice in the manner determined by the Central Government, a station to station rate, not being a station to station rate introduced in compliance with an order made by the Tribunal;

(c) withdraw, alter or amend the conditions attached to a station to station rate other than conditions introduced in compliance with an order made by the Tribunal; and

(d) charge any lump sum rate.

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RAJYA SABHA

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further to amend the Railways Act, 1989.

(Shri N.K. Singh, M.P.)