

Zambia

## Tanzania-Zambia Railway Act, 1995

### Chapter 454

Legislation as at 31 December 1996

FRBR URI: /akn/zm/act/1995/10/eng@1996-12-31

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## Zambia

# Tanzania-Zambia Railway Act, 1995

## Chapter 454

Commenced on 28 April 1995

*[This is the version of this document at 31 December 1996.]*

*[Act No. 10 of 1995]*

**An Act to give effect to the Agreement relating to the Tanzania-Zambia Railway made between the Government of the United Republic of Tanzania and the Government of the Republic of Zambia, dated 28th September, 1993; to provide for the continued existence of the Tanzania-Zambia Railway Authority; to provide for a Council of Ministers and a Board of Directors; to define the functions and powers of the Authority, the Council and the Board; to provide for and regulate the manner in which the Tanzania-Zambia Railway Authority shall be operated; to repeal and replace the Tanzania-Zambia Railway Act; and to provide for matters connected with or incidental to the foregoing.**

### Part I – Preliminary

#### 1. Short title

This Act may be cited as the Tanzania-Zambia Railway Act.

#### 2. Interpretation

(1) In this Act, unless the context otherwise requires—

"**Agreement**" means the Agreement made between the Government of the United Republic of Tanzania and the Government of the Republic of Zambia relating to the Tanzania-Zambia Railway Authority;

"**authorised employee**" means an employee authorised by the Managing Director to exercise the powers or perform the duties in relation to which the expression is used;

"**Authority**" means the Tanzania-Zambia Railway Authority established by section four,

"**Board**" means the Board of Directors established by section eleven;

"**booking office**" means a place at which tickets may be obtained from, or charges paid to, the Authority;

"**branch line**" means any railway track joining the main line but does not include a siding;

"**Chairman**" means the Chairman of the Council or the Board, as the case may be;

"**charges**" means all sums received or receivable, charged or chargeable, for, or in respect of, the carriage or warehousing of goods by the Authority or for, or in respect of, any other services or facilities provided by the Authority;

"**committee**" means a committee of the Council or the Board, as the case may be;

"**consignee**" means the person, firm or body to whom goods accepted for carriage by the Authority are addressed;

"**consignment**" means one or more packages of goods, tendered for carriage by one consignor to one consignee on one consignment note and accepted for carriage by the Authority;

"**consignor**" means the person, firm or body who has tendered goods accepted for carriage by the Authority;

"**Contracting State**" means the Government of the United Republic of Tanzania or the Government of the Republic of Zambia;

"**Council**" means the Council of Ministers established under section nine;

"**customs law**" means any law relating to customs and excise duties, sales tax, value added tax or consumption tax, as the case may be;

"**Deputy Managing Director**" means the person appointed Deputy Managing Director under section fourteen;

"**employee**" means any person in the service of the Authority;

"**fare**" includes all sums received, charged or chargeable for the carriage of a passenger by the Authority;

"**free pass**" means any written authority for the carriage of any person as a passenger by the Authority without payment of any fare;

"**goods**" means luggage, animals (whether live or dead) and all other moveable property of any description;

"**Government**", in relation to either of the Contracting States, includes any person or authority authorised to act on behalf of that Contracting State;

"**inspector of railways**" means a public officer appointed under section forty-five;

"**light engine**" means a locomotive without a vehicle attached to it;

"**luggage**" means such articles of personal apparel or for personal use, together with their containers, as are usually carried by passengers for their personal use; but does not include goods which, though carried in any such container or otherwise are not intended for any such use;

### 3. Goods in transit

For the purposes of this Act, goods shall be deemed to be in transit from the time the goods are accepted by the Authority for carriage until the expiry of twenty-four hours after the goods have arrived at the place to which the goods have been consigned; and thereafter the goods shall, so long as they remain in the custody of the Authority, be deemed to be in such custody otherwise than for the purpose of carriage:

Provided that—

- (a) where such goods are delivered to the consignee within such period of twenty-four hours, the goods shall cease to be in transit as from the time they are so delivered;
- (b) where such goods are perishable goods and the Authority, in the exercise of its powers under this Act, disposes of such goods within such period of twenty-four hours, the goods shall cease to be in transit as from the time they are so disposed of;
- (c) where such goods are consigned to a place at which the Authority does not maintain any staff for the receipt thereof, the goods shall cease to be in transit as from the time they arrive at that place;
- (d) where such goods are consigned for delivery to a place other than a railway station by means of a delivery service operated from a railway station by the Authority and such goods cannot, due to causes beyond the control of the Authority, be delivered at that place within twenty-four hours after the time of their arrival at the railway station from which the delivery service is operated, such goods shall cease to be in transit after the time such goods are tendered for delivery at that place or after the time of their arrival at the railway station from which the delivery service is operated, whichever is the earlier.

## Part II – Tanzania-Zambia Railway Authority

### 4. Establishment of Authority

- (1) The Tanzania-Zambia Railway Authority as established under the Tanzania-Zambia Railway Act, shall continue to exist as if established under this Act and shall be a body corporate with perpetual succession and a common seal, capable of suing and of being sued in its corporate name, and with power, subject to the other provisions of this Act, to do all such acts and things as a body corporate may by law do or perform.
- (2) The provisions of Part I of the First Schedule shall apply to the Authority.
- (3) The headquarters of the Authority shall be at Dar-es-salaam in the United Republic of Tanzania.
- (4) The Authority shall establish regional offices in Tanzania and Zambia, which shall be self-sustaining units of the Authority, as cost and profit centres, operating on sound commercial principles.

*[Cap. 768]*

### 5. General duty of Authority

- (1) It shall be the duty of the Authority to provide, on sound commercial principles General duty of of operation, a secure, efficient and safe system of public transport of passengers and Aiiittwhty goods by rail between and within Zambia and Tanzania
- (2) The Authority shall
  - (a) generate positive rates of return on freight and passenger services and shall not subsidise passenger services by freight services or freight services by passenger services;
  - (b) not be required by either Contracting State to provide to either Contracting State, to any authority or person, any transport service, either gratuitously or at a rate or charge which is less than that specified in the Tariff Book for that service, unless that Contracting State provides a direct subsidy for such service.

### 6. Vesting of movable and immovable property

Any movable or immovable property placed at the disposal of the Authority, before the commencement of this Act, by a Contracting State for the use of the Authority, shall, without further assurance, be transferred to, and vest in, the Authority.

### 7. Functions of Authority

- (1) The Authority may—
  - (a) carry passengers and goods by rail;
  - (b) manufacture parts and provide maintenance and repair services at any foundry, workshop or other factory owned or operated by the Authority;
  - (c) operate road-rail services;
  - (d) provide storage facilities in Tanzania and Zambia for goods to be carried by the Authority;
  - (e) provide for the consignment of goods to and from any place in Tanzania or Zambia or any other place;

- (f) provide in Tanzania and Zambia such other amenities and facilities for passengers and other persons making use of the services provided by the Authority as the Board may consider necessary or desirable;
  - (g) acquire, construct, manufacture, maintain or repair waterworks or electric generating plant or any other works, plant or apparatus necessary or desirable for the supply or transmission of water or of electric energy for the purpose of the Authority;
  - (h) subject to the approval of the Government, alter the course of, or raise or lower the level of, any watercourse or road if such alteration, raising or lowering is necessary for the purposes of the Authority;
  - (i) determine, impose or levy rates, fares and other charges for any service performed by the Authority or for the use by any person of the facilities provided by the Authority or for the grant to any person of any licence, permit or certificate;
  - (j) enter into agreement with any person carrying on business as a carrier of passengers or goods within or outside Tanzania or Zambia providing for the carriage of passengers or goods by, or on behalf of, the Authority, and of that other person, under one contract or at a through-fare or rate;
  - (k) apply for, purchase or otherwise acquire any patent, concession and the like, conferring any right to use any invention capable of being used for any of the purposes of the Authority, and to use, grant licences for use of, or otherwise turn to account, any rights so acquired;
  - (l) enter into partnership or into any arrangement for sharing profits, union of interests, joint ventures, reciprocal concession or co-operation with any person carrying on or engaged in, any business or transaction which the Authority is authorised to carry on or engage in, or any business or transaction capable of being conducted so as directly or indirectly to benefit the Authority; and to take or otherwise acquire and hold shares or stocks in any securities and to sell, hold, re-issue, with or without guarantee, or otherwise deal with such shares or securities; and
  - (m) do all other acts and things which, in the opinion of the Board, are necessary to facilitate the proper performance of the functions of the authority.
- (2) The Authority may sell, let or otherwise dispose of, whether absolutely or for a term of years, any part of its undertakings or any property which in the opinion of the Board is not required for the performance of the functions of the Authority under this Act, including any part of its undertakings which is carried on outside Tanzania and Zambia and any property which is situated outside Tanzania and Zambia;

Provided that nothing in this subsection shall be construed as exempting the Authority from the provisions of any other written law imposing restrictions, limitations, obligations or conditions in relation to any disposition or alienation of any land, or any right, title or interest in or over any land, or in relation to any rent which the Authority may recover as a landlord.

## 8. New railway lines and branches

No new railway line or branch line shall be constructed by the Authority unless, prior to such construction, a feasibility study report on such proposed undertaking has been made by the Board to the Council and has been approved by the Council.



### Part III – Council of Ministers

#### 9. Establishment and composition of Council

- (1) There shall be a Council of Ministers, which shall consist of the three Ministers responsible for finance, transport and trade respectively, in Tanzania and the three Ministers responsible for finance, transport and commerce respectively, in Zambia.
- (2) The Ministers responsible for transport in Tanzania and Zambia shall rotate as Chairman at the beginning of every financial year of the Authority.
- (3) The provisions of Part II of the First Schedule shall apply to the Council.

#### 10. Functions of Council

- (1) The functions of the Council shall be to—
  - (a) consider and approve long-term development plans of the Authority;
  - (b) authorise the raising of additional share capital;
  - (c) consider and approve the construction of new railway lines or branch lines;
  - (d) approve and submit to the National Assembly the Authority's annual report;
  - (e) determine any matter of an international character involving agreement with, or the interest of, the Government of any country other than the Contracting States; and
  - (f) give directions to the Board on matters of public interest.

### Part IV – Board of Directors

#### 11. Establishment and composition of the Board

There shall be a Board of Directors which shall consist of six members as follows:

- (a) the Permanent Secretary in the Ministry responsible for Transport in Zambia;
  - (b) the Principal Secretary in the Ministry responsible for transport in Tanzania;
  - (c) two members with experience in either transport, commerce, industry or finance appointed by the Minister responsible for transport in Zambia;
  - (d) two members with experience in either transport, commerce, industry or finance appointed by the Minister responsible for transport in Tanzania.
- (2) The Members referred to in paragraphs (a) and (b) shall rotate as Chairman at the beginning of every calendar year.
  - (3) The Minister shall appoint, simultaneously with appointment of members referred to in subsection (1), alternate members of the Board who shall attend meetings of the Board when the substantive member is unable to attend and such alternate member shall have the same rights and duties of the substantive member for the purposes of that meeting.
  - (4) The provisions of Part III of the First Schedule shall apply to the Board.

*[Please note: numbering as in original.]*

#### 12. Functions of Board

- (1) Subject to the other provisions of this Act, the Board shall exercise the functions of the Authority.

- (2) Without prejudice to the generality of subsection (1), and subject to the other provisions of this Act, the Board shall—
- (a) approve the annual budget of the Authority;
  - (b) approve the investment plans of the Authority;
  - (c) approve the appropriation of surplus funds generated by the Authority;
  - (d) recommend to the Council policies relating to the construction of new railway or branch lines;
  - (e) approve any changes exceeding fifty per cent in the tariffs, rates, fares and services and facilities provided by the Authority;
  - (f) appoint and dismiss the Managing Director, Deputy Managing Director and senior management staff;
  - (g) approve the organisational structure and establishment of the Authority;
  - (h) approve any changes exceeding twenty *per centum* in salaries and conditions of service for employees of the Authority;
  - (i) approve the Authority's financial regulations;
  - (j) approve any pension schemes for employees of the Authority; and
  - (k) approve the disposal of capital items.

### 13. Delegation

- (1) Notwithstanding section twelve, the Board may, in writing, under the hand of the Chairman, delegate to any member, to any committee of the Board or to the Managing Director, any of its functions under this Act, other than the powers delegated to the Managing Director under section fifteen or to a Regional General Manager under section eighteen, and where such delegation has been made, the delegated function shall be exercised by the delegate in accordance with the terms of the instrument of delegation.
- (2) A delegation under this Act may be made to a holder of an office specifying the office but without naming the holder and each person who acts in, occupies or performs the duties of that office may, without any further authority, exercise the delegated functions in accordance with the delegation made.

## Part V – Administration

### 14. Managing Director and Deputy Managing Director

- (1) There shall be a Managing Director for the Authority who shall be appointed, by the Board, from the Republic of Zambia.
- (2) There shall be a Deputy Managing Director for the Authority who shall be appointed, by the Board, from the United Republic of Tanzania.
- (3) In appointing the persons referred to in subsections (1) and (2), the Board shall have regard to the desirability of appointing persons having wide experience in, and having shown capacity in, matters pertaining to the operation and administration of railways.
- (4) The Managing Director and the Deputy Managing Director, shall attend meetings of the Council or of the Board and may attend meetings of any committee established by the Council or the Board and may address such meetings, but shall not vote on any matter:

Provided that the person presiding at any such meeting, may for good cause, require the Managing Director or the Deputy Managing Director to withdraw from the meeting.

- (5) The provisions of paragraph 4 of Part II of the First Schedule shall apply, with the necessary modifications, to the Managing Director and the Deputy Managing Director.

## 15. Functions of Managing Director and delegation

- (1) The Managing Director shall be the Chief Executive Officer of the Authority and, subject to the control of the Board, be responsible for the administration of the affairs of the Authority.
- (2) The Board shall delegate to the Managing Director, subject to any specific or general conditions that the Board may impose, such of the functions of the Authority under this Act as are necessary to enable him transact the day-to-day business of the Authority.
- (3) Notwithstanding subsection (2), and subject to section five, the functions of the Managing Director shall be to—
  - (a) exercise supervision and control over the acts and proceedings of all employees in matters of operation and administration of the railway;
  - (b) approve any change, recommended by a Regional General Manager, in the tariff, rates, fares and other charges made for the services performed and facilities provided by the Authority where such change does not exceed fifty *per centum* of the approved tariff, rates, fares and other charges;
  - (c) adjust tariffs, rates, fares and other charges where this is necessary due to the fluctuation of the exchange rates in either of the Contracting States;
  - (d) fix rates, fares and other charges for goods and passengers where such rates, fares and such other charges are not specified in the Tariff Book;
  - (e) grant concessionary rates or rebates where the value of such concessionary rates or rebates does not exceed twenty percentum;
  - (f) vary operating expenditure within the approved budget where the amount of such variation does not exceed twenty percentum of the approved expenditure of that item and provided that it is notified to, and ratified by, the Board;
  - (g) accept tenders for purchase or acquisition of goods and services in accordance with tender and financial regulations; and
  - (h) approve revision of salaries, wages or allowances of the employees of the Authority, where such revision of salaries, wages or allowances does not exceed twenty percentum.
- (4) In the exercise of the powers under subsection (3), and those delegated to him by the Board, the Managing Director shall comply with any direction of policy or of a general nature given to him by the Board and shall not, without the prior approval of the Board, whether given generally or specifically, depart or permit any departure from the approved estimates of expenditure, the approved establishment of the Authority or the normal proceedings for dealing with any particular matter.

## 16. Functions of Deputy Managing Director

- (1) The Deputy Managing Director shall assist the Managing Director in the day-to-day administration of the Authority.
- (2) In the event of the Managing Director being absent for any cause, the Deputy Managing Director shall, subject to this Act, discharge the functions of the Managing Director.

## 17. Delegation of Managing Director's powers

Notwithstanding section fifteen, the Managing Director may, in writing under his hand, delegate to the Regional General Manager or any other employee, other than powers delegated to the Regional General Manager under section eighteen, any of his functions under this Act, and where such delegation has been made, the delegated function shall be exercised by the delegate in accordance with the terms of the instrument of delegation.

## 18. Regional General Manager

- (1) There shall be a Regional General Manager for each region who shall be under the control and supervision of the Managing Director and who shall be appointed by the Board.
- (2) The Managing Director shall delegate to the Regional General Manager, subject to any specific or general conditions that he may impose, such of his functions under this Act as are necessary to enable the Regional General Manager to carry out the day-to-day operations of the region.
- (3) In addition to the functions delegated under subsection (2), and subject to section five, the functions of the Regional General Manager shall be to—
  - (a) exercise supervision and control over the acts and proceedings of all employees in matters of operation and administration of the railway in the region;
  - (b) adjust tariff, fares and other charges where this is necessary due to the fluctuation of the exchange rates in the region;
  - (c) grant concessionary rates or rebates where the value of such concessionary rates or rebates does not exceed ten per centum;
  - (d) accept tenders for purchase or acquisition of goods and services in accordance with tender procedures; and
  - (e) approve incentive productivity schemes, and award such monetary incentives to employees in the region, as may be appropriate.
- (4) In the exercise of the powers under subsection (3), and those delegated to him by the Managing Director, the Regional General Manager shall comply with any direction of policy or of a general nature given to him by the Managing Director and shall not, without the prior approval of the Managing Director, whether given generally or specifically, depart or permit any departure from the approved estimates of expenditure, the approved establishment of the Authority or the normal proceedings for dealing with any particular matter.

## Part VI – Financial provisions

### 19. Funds of Authority

- (1) The funds of the Authority shall consist of such moneys as may—
  - (a) be appropriated by Parliament for the purposes of the Authority;
  - (b) be paid to the Authority by way of services rendered;
  - (c) be paid to the Authority by way of grants or donations; and
  - (d) vest in or accrue to the Authority.
- (2) The Authority may—
  - (a) accept moneys by way of grants or donations from any source in Tanzania or Zambia and, subject to the approval of the council, from any source outside Tanzania or Zambia;

- (b) subject to the approval of the Board, raise by way of loans or otherwise, such moneys as it may require for the discharge of its functions; and
  - (c) charge and collect fees in respect of programmes, seminars, consultancy services, and other services provided by the Authority.
- (3) There shall be paid from the funds of the Authority—
- (a) all expenses incurred by the Council or the Board or their committees in the performance of their functions under this Act;
  - (b) the salaries, allowances, pensions or loans for the employees of the Authority;
  - (c) such allowances for members, or members of any committee, of the Council or the Board, when engaged on the business of the Council or the Board, at such rates as the Council may determine;
  - (d) any moneys required for the service of any loans obtained by the Authority;
  - (e) the auditor's fees;
  - (f) any dividends to be paid to the Contracting States; or
  - (g) any other expenses incurred by the Authority in the performance of its functions.
- (4) Any moneys of the Authority which are not immediately required for the purposes of the Authority may be invested by the Authority in such manner as the Board may consider proper.

## 20. Annual and supplementary budget

- (1) The Managing Director shall, not less than one month before the beginning of any financial year, submit to the Board for its approval and in such detail as the Board may require, an annual budget of the amounts expected to be received and disbursed by the Authority during that financial year.
- (2) If in any financial year the Authority requires to make disbursement on any item not provided for, or disbursement of any amount in excess of the amount provided for, in any item in the annual budget for that year, the Managing Director shall submit to the Board for its approval a supplementary budget detailing such disbursement.
- (3) The Managing Director may, subject to submitting a supplementary budget to the Board for its approval during the next meeting of the Board after the preparation of such budget, and subject to satisfactory arrangements being made for the funds required by re-appropriation from funds allocated for other items in the approved budget, authorise expenditure on any item not exceeding twenty per centum over the cost entered in the approved budget for that item.

## 21. Financial year

The financial year of the Authority shall be the period of twelve months ending on the 30th June in each year.

## 22. Accounts and auditors

- (1) The Board shall cause to be kept proper books of account and other records relating to the accounts of the Authority.
- (2) The accounts of the Authority shall be audited annually by independent auditors appointed from time to time by the Council.

- (3) The auditors shall make a report to the Board on the accounts examined by them and on the statement of accounts prepared for the financial year to which they relate, and such report shall state—
  - (a) Whether the auditors have obtained all the information and any explanation which they have required; and
  - (b) whether, in the opinion of the auditors, the balance sheet contained in the statement of accounts is properly drawn up so as to exhibit a true and correct view of the state of the affairs of the Authority according to the information and explanations given to them and as shown by the books of the Authority.
- (3) The auditors shall have a right of access at all times to the books, accounts, vouchers and other related documents of the Authority and shall be entitled to require from the members of the Board, and from any person employed by the Authority, such information and explanations as may be necessary for the performance of their duties under this section.

*[Please note: numbering as in original.]*

### **23. Annual report**

- (1) As soon as practicable, but not later than six months after the expiry of each financial year, the Board shall submit to the Council a report concerning the activities of the Authority during such financial year.
- (2) The report referred to in subsection (1) shall include information on the operations and financial affairs of the Authority, and there shall be appended thereto—
  - (a) an audited balance sheet;
  - (b) an audited statement of income and expenditure; and
  - (c) such other information as the Council may require.
- (3) The Council shall, not later than seven days after the first sitting of the National Assembly next after the receipt by the Council of the report referred to in subsection (1), lay it before the National Assembly.

## **Part VII – Operations of the Authority**

### **24. Conditions for carriage of passengers and luggage**

The Authority may, subject to the provisions of this Act—

- (a) determine the conditions upon which passengers and luggage shall be carried by the Authority and different conditions may be determined in different cases and such conditions shall be published in the Tariff Book;
- (b) determine the fares and other charges for the carriage of passengers and luggage by the Authority; and such fares and other charges shall be notified to the public:

Provided that provision shall be made for the carriage of a specified amount of baggage by a passenger free of charge and different amounts may be determined for passengers travelling by different classes; and
- (c) determine the different classes of accommodation available to passengers on trains of the Authority.

## 25. General right of persons to be carried as passengers

Subject to the other provisions of this Act, any person who has tendered to an authorised employee the proper fare for the ticket he desires shall be entitled to obtain such ticket and to be carried as a passenger by the Authority in accordance with the conditions subject to which such ticket is issued.

## 26. General conditions for issue of tickets

Every ticket and free pass shall be issued by the Authority subject to the other provisions of this Act and to the conditions specified in the Tariff Book.

## 27. Travelling without valid ticket, etc.

Notwithstanding section twenty-eight, no person shall travel on any train of the Authority without the permission of the Authority, and any person found on any such train without such permission may, without prejudice to any other action which may be taken against him, be required by any authorised employee to leave the train and, if he does not do so, may be removed therefrom.

## 28. Fares payable by person travelling without valid ticket, etc.

(1) Any person who—

- (a) travels on any train of the Authority without a valid ticket or free pass; or
- (b) being in, or having come from, any such train, does not present his ticket or free pass for examination or does not deliver up his ticket or free pass in accordance with the conditions on which the ticket or free pass is issued;

shall be liable to pay, on demand by an authorised employee, the fare for the distance he has travelled or proposes to travel and, in addition, such excess charges as may be specified in the Tariff Book; and for the purpose of ascertaining such fare it shall be presumed that such person has travelled from the station—

- (i) from which the train originally started; or
- (ii) if the tickets or free passes of passengers have been examined during the journey, from the place where they were last examined and found to be in order;

unless he satisfies such authorised employee to the contrary.

(2) Any person who—

- (a) travels in a class of a train higher than for which he is in possession of a valid ticket or free pass; or
- (b) travels on a train beyond the place authorised by his ticket or free pass;

shall be liable to pay, on demand by an authorised employee, a fare equal to the difference between the fare he has paid and that which he should have paid and, in addition, such excess charges as may be specified in the Tariff Book.

(3) If, on demand by an authorised employee, any person refuses to pay the fare and excess charge for which he is liable under this section, any authorised employee or any police officer may arrest and detain that person, without warrant, and bring him, as soon as practicable, before a court to deal with him in accordance with this Act.

## 29. Conditions for carriage of goods

- (1) The Authority may, subject to the other provisions of this Act—
  - (a) determine the conditions upon which goods shall be carried or warehoused by the Authority and different conditions may be determined in different cases; and such conditions shall be published in the Tariff Book;
  - (b) determine the rates and other charges for the carriage or warehousing of goods and for any other service or facility provided by the Authority; and such rates and other charges shall be published in the Tariff Book.

## 30. General right to have goods carried

Subject to the other provisions of this Act, any person who has tendered to an authorised employee at the appropriate rates and other charges, and has complied with the conditions upon which goods may be accepted for carriage by the Authority, shall be entitled to obtain a receipt for such goods and have such goods carried by the Authority in accordance with the conditions of carriage:

Provided that if, in the opinion of an authorised employee—

- (a) any animal tendered for carriage is wild, dangerous or appears to be suffering from any infectious or contagious disease;
- (b) any goods tendered for carriage are goods to which section thirty-five applies;
- (c) any goods tendered for carriage exceed the maximum weight or dimension specified in the Tariff Book;
- (d) any goods tendered for carriage are improperly or insufficiently packed;
- (e) the carriage of any goods would at any stage of the transit thereof be contrary to any law; or
- (f) facilities for dealing with the goods tendered for carriage are not available at the place where such goods are tendered or at the place or destination or at any place enroute;

the person tendering such goods for carriage shall not be entitled to have such goods carried by the Authority unless such goods are accepted for carriage in accordance with any special provisions dealing with the carriage of such goods.

## 31. Description etc., of goods to be delivered

- (1) The consignor of, or the person tendering any goods to the Authority for carriage or warehousing, and on request by an authorised employee, the consignee of, or person receiving, any goods which have been carried or warehoused by the Authority shall deliver to an authorised employee an account in writing signed by such consignor, person or consignee, as the case may be, containing such a description of the goods as may be sufficient to enable such employee to determine the value of those goods and the rates and charges payable for carriage or warehousing by the Authority.
- (2) Any authorised employee shall, for the purpose of checking any account delivered under subsection (1), require such consignor, person or consignee, as the case may be, to permit the authorised employee to examine such goods, and shall, in order to ascertain the value of those goods, examine or cause goods to be examined.
- (3) If such consignor, person or consignee fails to deliver the account referred to in subsection (1), or to permit such goods to be examined as required under subsection (2), an authorised employee may—
  - (a) in respect of goods which are tendered to the Authority for carriage or warehousing, refuse to accept the goods for carriage or warehousing unless a rate or charge not exceeding the highest rate or charge payable for that class of goods is paid; or



- (b) in respect of goods which have been carried by the Authority, refuse to deliver such goods unless a rate or charge not exceeding such highest rate or charge as is referred to in paragraph (a) is paid.
- (4) If, in respect of goods which have been carried or warehoused by the Authority, an account delivered under subsection (1) is found to be false in any material particular with respect to the description of any goods to which it purports to relate, an authorised employee may refuse to deliver such goods unless, in respect of the carriage or warehousing of the goods, a rate or charge not exceeding double the highest rate or charge payable for that class of goods is paid.

### 32. Goods to be sold to pay charges, rates, etc.

- (1) Where any person fails to pay, on demand made by an authorised employee, any rate or charge due from him in respect of any goods, the Authority may detain the whole or any part of such goods or if the value of the goods is, in the opinion of the authorised employee, insufficient to pay for such rate or charge due, or if such goods have been removed from the possession of the Authority, may detain any other goods of such person which may be in, or may thereafter come into, the possession of the Authority.
- (2) Where any goods have been detained under subsection (1), the Authority may, if the rate or charge due is not sooner paid, sell by public auction such quantity of the goods to recover the rate or charge so owing as well as the expenses of such detention and sale and in the case of—
  - (a) perishable goods, such auction may take place at once;
  - (b) any other goods, such auction may take place on the expiry of at least fifteen days' notice, published in the *Gazette* and one or more local newspapers, of the intended auction:

Provided that no imported goods shall be sold under this section until they have been cleared in accordance with the provisions of any customs law in force.

- (3) The Authority may, out of the proceeds of any sale effected under subsection (2), retain a sum equal to the rate or charge due as well as the expenses of the detention and sale and shall deliver the balance, if any, of such proceeds together with such of the goods, if any, as remain unsold to the person appearing to the Managing Director to be entitled thereto.
- (4) Nothing in this section shall prejudice the right of the Authority to recover any such rate or charge, or any part thereof, by any other lawful means.

### 33. Unclaimed goods in possession of Authority

- (1) Where any goods in the possession of the Authority are not claimed by the owner or any other person appearing to the Authority to be entitled thereto, the Authority shall, if such owner or person is known, cause a notice to be served upon him requiring him to remove the goods.
- (2) If—
  - (a) the owner of any goods in the possession of the Authority is not known or no person appears to be entitled thereto;
  - (b) the notice referred to in subsection (1) cannot for any reason be served; or
  - (c) there has been non-compliance with the provisions of any notice served under subsection (1);

the Authority may, after a period of not less than three months (except in the case of perishable goods) sell the goods and retain the proceeds of the sale thereof:

Provided that no imported goods shall be sold under this section until they have been cleared in accordance with the provisions of any customs law in force.

**34. Indemnity where goods claimed by two persons, etc.**

Where—

- (a) any goods, or the proceeds of the sale of any goods, are in the possession of the Authority and such goods or proceeds are claimed by two or more persons; or
- (b) any person claiming any goods in the possession of the Authority does not produce valid documents showing that he is entitled to take delivery thereof;

the Authority may withhold delivery of such goods or proceeds until the person appearing to the Managing Director to be entitled thereto has given an indemnity to his satisfaction against the claim of any other person with respect to such goods or proceeds.

**35. Dangerous or offensive goods, etc.**

- (1) This section applies to goods which by their physical nature or chemical are likely to cause damage to persons or property.
- (2) No person shall take with him upon any train or vehicle of the Authority, or tender to the Authority for carriage or warehousing, any goods to which this section applies without giving notice of the nature of such goods—
  - (a) in the case of goods taken by a person, to the employee in charge of the station at which such person commences his journey; or
  - (b) in the case of goods tendered to the Authority for carriage or warehousing, to the employee to whom such goods are tendered.
- (3) An authorised employee may—
  - (a) refuse to permit any goods to which this section applies to be taken by any person upon any train or vehicle of the Authority;
  - (b) refuse to accept such goods for carriage or warehousing or accept them only in accordance with any special provisions dealing with the carriage or warehousing of any such goods; or
  - (c) require any such goods to be marked and packed in such manner as he may direct.
- (4) Nothing in this section shall—
  - (a) derogate from the provisions of any written law in force relating to the possession or transportation of explosives, petroleum, firearms or ammunition;
  - (b) apply to any goods carried by any member of any military force established for the defence of the Republic, or by any police officer, in the course of his duty.
- (5) Where any authorised employee has reason to believe that any goods to which this section applies are being carried or warehoused, or have been accepted for carriage or warehousing, in contravention of subsection (2) or (3), he may examine such goods and if, on examination, they are found to be goods to which this section applies, he may order their removal from any train or vehicle of, or from premises occupied by, the Authority.

**36. Tariff book, time-tables etc.**

- (1) The Authority shall prepare and publish in such manner as the Board may direct—
  - (a) a Tariff Book containing all matters which under this Act are required to be contained therein; and
  - (b) such other books, time-tables and other documents as are required to be kept under this Act.

- (2) There shall be available for public inspection at every booking office—
  - (a) a copy of the Tariff Book containing all amendments for the time being in force;
  - (b) a list specifying the fares for the carriage of passengers by the Authority from the place at which the list is kept to every other place to which bookings are commonly made; and
  - (c) a time-table of the passenger transport services operated by the Authority.

### **37. Maximum load**

The Authority shall determine—

- (a) the maximum load for every wagon of the Authority and no wagon shall, except with the permission of the Managing Director, be loaded in excess of such maximum load;
- (b) the maximum number of passengers that may be carried in any coach or compartment of a coach of a train of the Authority, and such maximum number shall not be exceeded except with the permission of the Managing Director.
- (2) The Managing Director shall cause the maximum load and number of passengers determined under subsection (1) in respect of every wagon or coach, to be marked in a conspicuous manner on each wagon or coach.

*[Please note: numbering as in original.]*

## **Part VIII – Responsibility of Authority as carrier and warehouseman**

### **38. Liability for loss of life, etc., of passengers**

- (1) The Authority shall not be liable for the loss of life of, or personal injury to, any passenger except where the loss of life or personal injury is caused by the negligence of any employee of the Authority, subject to any law relating to compensation for accidents.
- (2) The Authority shall not be liable for the loss of life of, or personal injury to, any passenger—
  - (a) who is travelling, with or without permission, in any part of a train or vehicle other than a part normally provided for the use of passengers during travelling;
  - (b) who, not being an employee on duty is travelling with or without permission over a railway in the course of construction; or
  - (c) who, at the time such loss of life or injury occurred, is being carried by any transport service other than one provided by the Authority or under the control of the Authority.
- (3) For the purposes of this section it shall not be necessary for any notice to be given to such passenger of the conditions on which he travels, and it shall be immaterial whether or not such passenger is an infant.

### **39. No liability for delay to passengers**

The Authority shall not be liable for any loss arising from the delay to any passenger caused—

- (a) by the failure of any train to start on or complete any journey; or
- (b) by the late starting or late arrival of any train;

arising from any cause.

#### 40. Liability for loss etc., of goods in transit

- (1) Subject to the other provisions of this Act, except when the owner or consignor or his representative accompanies the property and retains control thereof, the Authority shall be liable for any loss, misdelivery of, or damage to, goods occurring while the goods are in transit or otherwise from any cause unless the Authority proves that such loss, misdelivery or damage arose from—
- (a) an act of war or an act of an enemy of the Republic;
  - (b) seizure under legal process;
  - (c) an act or order of the Government;
  - (d) an act or omission of the consignor, his servant or agent;
  - (c) a latent or inherent wastage in or natural deterioration of the goods;  
*[Please note: numbering as in original.]*
  - (f) fire or explosion; or
  - (g) civil war and acts beyond the control of the Authority.
- (2) Notwithstanding subsection (1), the Authority shall not be liable for loss, misdelivery or damage of goods in the following cases:
- (a) in relation to which an account false in any material particular has been given under subsection (1) of section thirty-one or an incorrect or insufficient address for delivery has been given;
  - (b) where there has been fraud on the part of the consignor;
  - (c) unless a document acknowledging receipt of such goods for carriage by the Authority has been given;
  - (d) where such goods are being carried by any transport service other than one provided by the Authority or under the control of the Authority;
  - (e) where there is a loss of a particular market, whether held daily or at intervals;
  - (f) where there is improper or insufficient packing;
  - (g) where there is a riot, civil commotion, strike, lockout, stoppage or restraint of labour from whatever cause, whether partial or general; and
  - (h) from earthquake, floods, landslides or any other natural cause.

#### 41. Liability for delay, etc. of goods

The Authority shall not be liable for any loss arising from delay to, detention of, or deviation in, the carriage of goods unless such delay, detention or deviation is caused by the negligence of any employee or agent of the Authority:

Provided that the Authority shall not be liable for any loss arising from delay to, detention of, or deviation in, the carriage of goods as follows:

- (a) where there has been fraud on the part of consignor;
- (b) unless a document acknowledging the receipt of such goods for carriage by the Authority has been given;
- (c) where such goods are being carried by any transport service other than one provided by the Authority or under the control of the Authority;

- (d) where there is a loss of a particular market, whether held daily or at intervals;
- (e) where there is improper or insufficient packing or an incorrect address;
- (f) where there is riot, civil commotion, strike, lockout, stoppage or restraint of labour from whatever cause, whether partial or general;
- (g) earthquake, floods, landslides or any other natural cause.

#### **42. Limitation of liability for animals**

The liability of the Authority in respect of any animal that dies or is injured while in the possession of the Authority shall not in any case exceed the appropriate amount set out in the Tariff Book, unless at the time of the acceptance of such animal by the Authority for carriage, the consignor or his agent declared that the value of the animal exceeds such appropriate amount and paid, or agreed to pay, such additional charges as may be specified in the Tariff Book in respect of such excess value and thereupon the liability of the Authority shall not in any case exceed such declared value.

#### **43. Limitation of liability for loss, etc., of specified article**

- (1) The liability of the Authority in respect of any article specified in the Second Schedule, and contained in any parcel or package shall not exceed the declared value at the time of acceptance of such parcel or package by the Authority for carriage.
- (2) It shall be a condition of the carriage of any parcel or package containing any article, the value of which has been declared, that the contents of such parcel or package shall be inspected by an authorised employee at the time of such declaration.
- (3) The Minister may, upon recommendation of the Board, by regulation, amend the Second Schedule.

#### **44. Limitation of liability for loss etc., of goods deposited in cloakroom**

- (1) The liability of the Authority for any loss or mis-delivery of, damage to, delay in the delivery of, any goods deposited in a cloakroom shall not in any case exceed the declared value at the time of the deposit.
- (2) For the purpose of this section, the expression "cloak room" means any place provided by the Authority in connection with rail services provided by the Authority as a facility for the temporary deposit of goods by passengers and other persons.

### **Part IX – Inspections, new railways and rolling stock**

#### **45. Inspector of railways**

- (1) The Minister may appoint suitably qualified public officers as inspectors of railways for the purposes of this Act.
- (2) Notice of the appointment of every inspector of railways shall be published in the *Gazette*.

#### **46. Functions of inspectors of railways**

The functions of an inspector of railway shall be to—

- (a) inspect the railway or rolling stock used thereon with a view to determining whether they are fit for the public carriage of passengers or goods; and to report thereon to the Minister;
- (b) inspect the railway or rolling stock used thereon for the purpose of ascertaining whether the provisions of any written law or of any regulations made under this Act relating to the safety and protection of passengers or goods carried by rail are being complied with by the Authority;

- (c) conduct inquiries, in accordance with the provisions of this Act, into the cause of any accident on the railway;
- (d) perform such other functions as are conferred or imposed upon him under the provisions of this Act or any other written law; and
- (e) perform any other functions as the Minister may direct in relation to the safety and protection of passengers or goods carried by rail.

#### **47. Powers of inspectors of railways**

- (1) Every inspector of railways shall, for the purpose of performing his functions under this Act, have power—
  - (a) to enter, inspect and examine any premises of the Authority at all reasonable times;
  - (b) to interview and take written statements from any employee;
  - (c) to examine and conduct inquiries regarding the state and condition of any building, works, rolling stock or other thing used for, or intended to be used for, or in connection with, the public carriage of passengers or goods by railway;
  - (d) by notice in writing under his hand addressed to the Managing Director, to require the attendance before him of any employee and to require such answers or returns to such inquiries conducted by him as he may consider necessary to make form such employee.
- (2) No action or other legal proceeding shall be instituted against an inspector of railways in respect of any act done or omitted to be done by him in good faith in the exercise or purported exercise of his functions under this Act.

#### **48. Means of entry and information to be provided to inspector of railways**

It shall be the duty of the Authority to give an inspector of railways such assistance as may be required for the efficient performance of his functions under this Act, and to provide such information to him as he may require for the purpose of, or in connection with, the exercise of his functions under this Act.

#### **49. New rolling stock or new railway**

Subject to the provisions of sections fifty-one, fifty-two and fifty-three, the Authority may open a new railway or put into service a new type of rolling stock.

#### **50. Notice of intended opening of new railway or use of new rolling stock**

- (1) Subject to subsection (2), the Authority shall, not less than one month before it intends to open a railway for the public carriage of passengers or goods by rail, or put into service a new type of rolling stock, give to the Minister notice in writing of its intention to do so.
- (2) The Minister may, in any particular case reduce the period of or dispense with, the notice required under subsection (1).

#### **51. Conditions for opening new railway or putting into service new rolling stock**

A railway shall not be opened for the public carriage of passengers or goods, or a new type of rolling stock shall not be put into service on a railway, until an inspector of railways has approved, in writing, the opening of such railway or the putting into service of such new type of rolling stock on the railway.

## 52. Procedure for approval

- (1) The approval in writing required under section fifty-one shall not be given until the inspector of railways has satisfied himself that—
  - (a) a careful inspection of the railway and the rolling stock has been made by him;
  - (b) the moving and fixed dimensions prescribed by the Authority have not been infringed;
  - (c) the weight of rails, strength of bridges, general structural character of the works and the size of, and maximum gross load upon, the axles of rolling stock are such as have been prescribed by the Authority;
  - (d) the regulations and instructions necessary for the working of the railway when open for the public carriage of passengers and goods, or for putting into service the new type of rolling stock, have been issued by the Authority; and
  - (e) the railway may be opened for the public carriage of passengers and goods, or the new type of rolling stock may be put into service, without danger to passengers or goods carried by rail.
- (2) If the railway cannot be opened, or the new type of rolling stock cannot be put into service, without danger to passengers or goods carried by rail, the inspector of railways shall give reasons therefor and shall direct the Authority to postpone the opening of the railway or the putting into service of the new type of rolling stock and the Authority shall give effect to every such direction.
- (3) The approval in writing required under section fifty-one may be either absolute or subject to such conditions as may be considered necessary for the safety of passengers or goods carried by rail.
- (4) Where the approval in writing required under section fifty-one is given subject to conditions, the Authority shall not open the railway or put into service the new type of rolling stock until the conditions are fulfilled to the satisfaction of an inspector of railways.

## 53. Alteration of railways

- (1) Sections fifty-one and fifty-two shall apply, with the necessary modifications, to the opening of works to which this section applies when such works form part of, or are directly connected with, a railway used for the public carriage of passengers or goods and have been inspected prior to such construction before the plans and designs are approved by the Authority.
- (2) This section applies to additional lines of railway, deviation lines, sidings, stations, junctions, level crossings, bridges and any alteration or re-construction materially affecting the structural character of the railway.

## 54. Temporary suspension of traffic

- (1) When an accident has occurred resulting in the temporary suspension of traffic and the employee in charge of the works undertaken due to such accident has certified, in writing to the Authority, that the lifting of the suspension shall not, in his opinion, be attended with delay to passengers or goods carried by rail, he may—
  - (a) open the restored line; or
  - (b) open the temporary diversion so laid;before an inspector of railways has conducted an inspection.
- (2) A notice by telecommunication of the opening of the line or the diversion referred to in subsection (1), shall be sent by the Authority, as soon as practicable, to an inspector of railways.

**55. Power to close railway or to discontinue use of rolling stock**

- (1) When, after inspecting a railway used for public carriage of passengers or goods or rolling stock used thereon, an inspector of railways is of the opinion that the continued use of the railway or of any specified rolling stock will be attended with danger to passengers or goods carried by rail, he shall state that opinion, together with his reasons therefor, to the Minister.
- (2) The Minister may, upon receiving the opinion of the inspector of railways in accordance with subsection (1), direct the Authority that—
  - (a) the railway be closed for the public carriage of passengers or goods; or
  - (b) the use of the rolling stock specified in the direction, be discontinued or the railway or the rolling stock specified in the direction, be used for the public carriage of passengers or goods on such terms and conditions as may be specified in such direction.
- (3) Any direction given by the Minister under subsection (1) shall state the grounds on which such direction is based.

**56. Re-opening of closed railway, etc.**

- (1) When a railway has been closed under the provisions of section fifty-five, it shall not be re-opened for the public carriage of passengers or goods until—
  - (a) an inspector of railways has made a report to the Minister; and
  - (b) the Minister has approved, in writing, the re-opening thereof.
- (2) When the Minister has directed under section fifty-five that the use of rolling stock specified in the direction be discontinued, the Authority shall not put into service the specified rolling stock until—
  - (a) an inspector of railways has made a report to the Minister, and
  - (b) the Minister has approved, in writing, that the rolling stock may be put into service.

**Part X – Accidents****57. Duty to report accidents**

When an accident occurs in the course of any operations carried on by the Authority which—

- (a) has resulted or could have resulted in the loss of human life or serious injury to any person or damage to property;
- (b) involves any collision or averted collision between two or more trains;
- (c) involves the derailment of any train or any part thereof;
- (d) involves any collision between a train and any motor vehicle;
- (e) occurs in a section and the line is likely to be interrupted for twenty-four hours or more;
- (f) involves cases of landslides or breaches by rain or floods causing interruption of through communication for twenty-four hours or more; or
- (g) occurs in such circumstances or is of such kind as the Minister may specify, in writing, to the Authority;

the Managing Director shall, as soon as possible, give notice of the occurrence to the Minister and to an inspector of railways and, in the case of an accident involving loss of life or serious injury to any person, an authorised officer shall cause the matter to be reported to a police station nearest to the scene of the accident.



## 58. Inquiries into accidents

- (1) The Minister may order an inquiry to be held into any accident referred to in section fifty-seven by an inspector of railways or any other person and for that purpose he may prescribe the procedure for the conduct of such inquiry, specify the person by whom it shall be conducted, the remuneration to be paid to such person and to witnesses, and the place where, and the time at which it shall be held.
- (2) Any expense incurred in connection with an inquiry held under subsection (1) shall be paid for by the Authority.
- (3) The inspector of railways or the person conducting an inquiry under subsection (1) shall, for the purpose of such inquiry, have such powers relating to the summoning and examination of witnesses and the production of documents as the Minister may, by statutory instrument, prescribe.
- (4) The inspector of railways or the person by whom an inquiry is conducted under subsection (1) shall prepare a report on the accident, setting out, *inter alia*, the probable cause of the accident, the persons, if any, responsible for the accident, the adequacy of relief measures and the steps, if any, which have been taken, or should be taken, with a view to avoiding a recurrence thereof and shall submit such report to the Minister.

## 59. Submission of returns

The Managing Director shall send to the Minister a return of all accidents occurring on the railway in such form and in such manner and at such intervals as the Minister may direct.

## Part XI – Railway under construction

### 60. Acquisition of land for purposes of Authority

- (1) Where any piece or parcel of land is required for the purposes of the Authority and the Authority is unable to acquire such land by agreement, the Authority may make representations to the Government and the Government may, if it considers it proper so to do, acquire such land in accordance with the provisions of the law relating to the acquisition of land and allocate the land to the Authority.
- (2) Any compensation which becomes payable to the occupier of any land acquired pursuant to subsection (1) shall be payable by the Authority in such manner as the Government may direct.

### 61. Entry on land for survey, excavation, construction, etc.

- (1) Subject to any other law, any authorised employee may, for the purposes of the Authority, enter upon—
  - (a) any land and survey such land or any portion thereof;
  - (b) any land contiguous to any premises occupied by the Authority and—
    - (i) excavate, take away and use any earth, stone, gravel or similar materials out of such land;
    - (ii) cut, take away and use any timber on any such land;
    - (iii) lay, construct, erect and maintain thereon any poles, posts, standards, cables wires, cords, pipes, tubes or other things required for, or in connection with, the

operation and maintenance by the Authority of telegraphic or telephonic means of communication:

Provided that every such cable or cord which crosses any road or street above the surface of the ground shall be placed not less than 5.50 metres above the ground and in such manner as not to hinder or obstruct the free use and enjoyment of such road or street by users thereof.

- (2) Where any material or timber are taken away in, or any damage is caused by reason of, the exercise of the powers conferred by this section, the owner or occupier of the land shall be entitled to adequate compensation therefor from the Authority.

## **62. Railway strip**

- (1) Except with the written permission of the Authority, a person shall not erect any building or structure or execute any works on the railway strip.
- (2) 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 Authority, the Authority shall give notice to such person to demolish or modify such building, structure or works within thirty days of such notice.
- (3) Where a person does not, within thirty days of the notice referred to in subsection (2), demolish or modify the building, structure or works, the Authority 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.

## **63. Entry on land to prevent accidents, etc.**

- (1) Subject to any other law, any authorised employee may, for the purpose of safe operation of any rail transport services provided by the Authority or 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 services;
  - (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 of the land shall be entitled to adequate compensation therefor from the Authority:

Provided that no such compensation shall be payable if the tree or other obstruction cut down or removed, as the case may be, came into existence subsequent to the construction of the railway.

## **64. Entry on land to alter position of pipes, etc.**

- (1) Subject to any other law, any authorised employee may, for the purposes of the Authority, enter upon 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 the position of any drain.
- (2) Where the Authority exercises any power under subsection (1), it shall give reasonable notice of its intention so to do to the Authority or person having control of the pipe, wire or drain and—
  - (a) such authority or person may authorise a representative to superintend such work and may require the Authority to execute such work to the satisfaction of such representative;
  - (b) The Authority shall make arrangements for the maintenance of the supply of gas, oil, water, compressed air or electricity, or for the continuance of the telephonic or telegraphic

communications or for the maintenance of the drainage, as the case may be, during the execution of such 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 therefor from the Authority.

## 65. Power to take water

Subject to any other law regulating the use of water the Authority may take any water from any natural water course.

## 66. Accommodation works

- (1) Subject to subsection (2), the Authority shall, during the construction of a railway or branch line or as soon as practicable thereafter, construct and maintain the following accommodation works for the benefit of the owners and occupiers of land adjoining the land on which the railway or branch line is constructed—
- (a) such crossings, bridges or other works as, in the opinion of the Authority, are necessary for the purpose of making good any interruption caused by the construction of the railway or branch line to the use of lands through which the railway or branch line is constructed;
  - (b) such culverts, drains or other works, as, in the opinion of the Authority, are necessary to convey water freely, or as nearly thereto as practicable, from or to such adjoining lands as existed before the construction of the railway or branch line:

Provided that nothing in this section shall require the construction or maintenance of any accommodation works—

- (i) in such manner as to prevent or obstruct the proper operation of the railway;
  - (ii) where the owners or occupiers, or their predecessors in title, of the lands have received an agreed amount of compensation in consideration of such works not being constructed or maintained; or
  - (iii) at any time after a period of five years from the date on which the railway or branch line passing through the lands was first opened for the public carriage of passengers or goods.
- (2) The Authority shall not be required to construct accommodation works for the crossing of any road or watercourse if suitable accommodation works for the crossing of such road or watercourse have been constructed under this section and such road or watercourse is afterwards diverted by some person other than the Authority.

## 67. Additional accommodation works

If at any time—

- (a) the owner or occupier of any land on which a railway or branch line is constructed desires any accommodation works in addition to those, if any, constructed by the Authority under section sixty-six; or
- (b) any authority proposes to construct a public road or any other works across a railway or branch line:

such owner, occupier or authority, as the case may be, may require the Authority to construct such accommodation works—

- (i) as may be agreed between the Managing Director and the owner, occupier or authority; and

- (ii) if such agreement is not reached, as may be determined by an inspector of railways;

and the cost of constructing such accommodation works shall be borne by the owner, occupier or authority requiring them.

#### **68. Construction of railway crossing public road**

- (1) Where, in the exercise of powers under this Act, the Authority proposes to construct a railway track across a public road, an inspector of railways may, subject to subsection (3), require the Authority to execute such works as may be necessary for the safety of the public, and the Authority shall comply with such requirements.
- (2) Where any railway track has been constructed so as to cross a public road an inspector of railways may, subject to subsection (3), require the Authority—
- (a) to erect gates or provide other safety measures if the crossing is on the same level; or
  - (b) to raise or lower the level of the public road so that it crosses the railway track above or below and not on the same level.
- (3) An inspector of railways shall, before making any requirement under this section, communicate with the authority responsible for the maintenance of public roads and shall take into consideration any representations made by such authority or any person directly affected by the proposed construction.
- (4) Where, as a result of a requirement made by an inspector of railways under this section, any works are to be constructed by the Authority, the manner of the construction of such works and the apportionment of the cost of construction and maintenance thereof shall be determined by agreement between the Authority and the authority responsible for the maintenance of public roads or, if no such agreement is reached, it shall be determined by the inspector or railways.

#### **69. Use of railway under construction**

Nothing in this Act shall prohibit the use of a railway or branch line by Authority, its employees or its agents while such railway or branch line is under construction.

### **Part XII – Offences and penalties**

#### **70. Endangering safety**

- (1) Any person who by any unlawful, wilful, negligent or careless act or omission—
- (a) obstructs or causes to be obstructed any train or vehicle using the railway;
  - (b) endangers or cause 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 matter or thing belonging to the Authority;
  - (e) throws or causes to fall or strike at, against, into or upon any train or vehicle used upon the 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, warehouse or other building or any

train or vehicle belonging to 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 such railway or to endanger the safety of any person travelling by or being upon such railway;

shall be guilty of an offence and shall be liable, upon conviction, to imprisonment for a term not exceeding twenty-five years.

- (2) Any person who aids, abets, assists, counsels or procures any act or omission referred to in subsection (1) shall be guilty of an offence and shall be liable, upon conviction, to imprisonment for a term not exceeding twenty-five years.

## 71. Miscellaneous offences

Any person who—

- (a) not being authorised in that behalf and not being an employee or agent of the Authority—
- (i) is found during the hours of darkness on any premises occupied by the Authority;
  - (ii) is found in any area designated by the Authority as dangerous or restricted by the erection of notice-boards to that effect; or
  - (iii) refuses to leave premises occupied by the Authority or any train or vehicle of the Authority after being lawfully warned to do so by any employee or Police Officer;
- (b) being on any premises occupied by the Authority or upon any train or vehicle of the Authority—
- (i) when called upon to do so by an employee or Police Officer, refuses to give his name and address, or gives a false name or address, for the purpose of avoiding prosecution;
  - (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 indelicacy or uses profane, obscene, indecent or abusive language;
  - (v) without lawful excuse contravenes any direction lawfully given by any employee;
  - (vi) except with the permission of an authorised employee, hawks, 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, representation or character upon any premises occupied by the Authority or upon any train or vehicle of the Authority;
- (d) defaces the writing on any board or any notice authorised to be maintained upon any premises occupied by the Authority or upon any train or vehicle of the Authority;
- (e) damages or without lawful excuse interferes with any property of the Authority;
- (f) without lawful excuse, enters or leaves any train or vehicle of the Authority while it is in motion or at a place other than that appointed by the Authority for passengers to enter or leave or opens any outer door or any train while it is in motion;

- (g) in the absence of a gate-keeper, omits to shut and fasten, if any form of fastener is provided, any gate on the 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 the Authority;
- (j) fails to deliver at the earliest possible opportunity to any authorised employee any property which there is reason to believe has been lost or forgotten and is found on any premises, train or vehicle of the Authority;
- (k) wilfully obstructs or impedes an employee or agent of the Authority in the performance of his duties;
- (l) throws from a train any article or substance likely to be a source of danger to, or to cause injury to, any other person;
- (m) without the prior approval of the Authority, takes or sends or attempts to take or send upon any railway any dangerous animal or any animal not under proper control or any animal suffering from any contagious or infectious disease;
- (n) being an employee, receives from any passenger, or from any other person delivering goods to the Authority for carriage or warehousing, or from any other person making use of the facilities provided by the Authority, 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 the Authority other than the part ordinarily provided for passengers during travel;

shall be guilty of an offence and shall, upon conviction, be liable to a fine not exceeding five thousand penalty units or to imprisonment for a term not exceeding six months, or to both.

## **72. Refusal to pay fare or unauthorised purchase of ticket**

- (1) Any person who—
  - (a) wilfully refuses to pay the fare or excess charge which, on demand, he is liable to pay under this Act; or
  - (b) travels on a train of the Authority with a ticket or free pass, purchased or obtained by him from any person other than an authorised employee;

shall be guilty of an offence and liable, upon conviction, to a fine not exceeding ten thousand penalty units or to imprisonment for a term not exceeding twelve months, or to both and, in addition, shall be liable 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 Authority.

## **73. Failure to obey lawful instructions, obstructing, etc.**

Any person on any train of the Authority who—

- (a) enters any part thereof reserved for the use of another person or already containing the maximum number of persons authorised for that part, and refuses to leave that part after being required to do so by an authorised employee;
- (b) resists or obstructs the lawful entry of any person into any part thereof 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;
- (d) without reasonable cause, uses or interferes with any means of communication provided thereon for communication between passengers and any employee therein; or
- (e) knowingly enters, or after being required so to do, refuses to leave, any part thereof provided for the exclusive use of persons of a different sex or for persons entitled to a different class of accommodation;

shall be guilty of an offence and shall be liable upon conviction to a fine not exceeding two thousand five hundred penalty units or to imprisonment for a term not exceeding three months, or to both.

#### **74. Unauthorised sale of tickets**

Any person who, not being an authorised employee or agent, 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 and shall be liable, upon conviction, to a fine not exceeding five thousand penalty units or to imprisonment for a term not exceeding six months, or to both.

#### **75. False returns**

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 for the purposes of the Authority under this Act shall be guilty of an offence and shall be liable upon conviction to a fine not exceeding twenty thousand penalty units or to imprisonment for a term not exceeding two years, or to both.

#### **76. Unlawfully transporting dangerous goods**

Any person who contravenes section thirty-five shall be guilty of an offence and shall be liable, upon conviction, to a fine not exceeding fifty thousand penalty units or to imprisonment for a term not exceeding five years, or to both.

#### **77. Employee demanding improper amount**

Any employee who, with intent to defraud, demands, solicits or receives from any passenger, or from any person delivering goods to the Authority for carriage or warehousing or from any person making use of the facilities provided by the Authority, any greater or lesser amount than he should demand or receive, shall be guilty of an offence and shall be liable, upon conviction, to a fine not exceeding ten thousand penalty units or to imprisonment for a term not exceeding twelve months, or to both.

#### **78. Drunkenness while on locomotive, guard's van etc.**

Any employee who while—

- (a) present, even if not on duty, on any locomotive or in any guard's van; or
- (b) on duty having responsibilities related to the movement of traffic or the operation or maintenance of any railway signalling or communication equipment or any part of the permanent way or to the repairs of any train;

is found having consumed alcohol as ascertained from a breath test taken under section seventy-nine shall be guilty of an offence and shall be liable, upon conviction, to a fine not exceeding fifty thousand penalty units or imprisonment for a term not exceeding five years, or to both.

**79. Breath test**

- (1) Subject to subsection (2), an employee may be required to subject himself to a breath test by an authorised employee if the authorised employee has reasonable cause to suspect him of having consumed alcohol.
- (2) An employee having the responsibilities referred to under section seventy-eight shall, before undertaking such responsibilities, submit himself to a breath test.
- (3) Any employee who fails to submit himself to a breath test under this section shall be guilty of an offence and shall be liable on conviction to a fine not exceeding ten thousand penalty units or to imprisonment for a term not exceeding twelve months, or to both.

**80. Offences which are offences under other laws**

Any person who commits an offence under this Act, which is also an offence under the Penal Code or under any other written law, may be proceeded against under this Act or under the Penal Code or under such other written law and section seventy-two shall apply in respect of the recovery of any fare or excess charge.

*[Cap. 87]*

**81. Arrest of employee**

- (1) Where the safe operation of any rail transport service of the Authority will be endangered by the immediate arrest, with or without warrant, of any employee, the police officer intending to make such arrest shall—
  - (a) request the superior officer of such employee to relieve such employee of his duties as soon as practicable; and
  - (b) refrain from arresting such employee until he is so relieved and shall, until he is so relieved, take all necessary steps to ensure that such employee does not escape.
- (2) When any request is made to a superior officer under this section, it shall be his duty to relieve the employee in respect of whom the request is made with the least possible delay.

**82. Particulars of offences and penalties to be exhibited**

The Authority shall publish brief particulars of every offence for which any penalty is imposed by this Act and of the amount of fine or the term of imprisonment for every such offence, and shall cause such particulars to be exhibited at every booking office or such other places as the Board may direct and such particulars shall be renewed as often as the same or any part thereof is obliterated or destroyed:

Provided that the failure to publish such brief particulars of any such offence or penalty or the failure to exhibit them shall not be a defence to a charge in respect of any offence.

**Part XIII – General provisions****83. Liability for damages caused by fire**

- (1) The Authority shall not be liable for any loss or damage caused by fire from any rolling stock of the Authority to any building, or any property therein, if any part of such building is within the railway strip.
- (2) Subject to the provisions of subsection (1), the Authority shall be liable for any loss or damage caused by fire from any rolling stock of the Authority if such loss or damage is caused to the owner or occupier of any land which is contiguous to land occupied by the Authority:



Provided that the owner or occupier suffering any such loss or damage shall, within thirty days, give written notice of the occurrence to the Managing Director together with any particulars of the claim.

#### **84. Notice of claim**

- (1) No person shall be entitled to compensation for non-delivery of the whole of a consignment of goods, or of any separate package forming part of such consignment, accepted by the Authority for carriage or warehousing unless a claim in writing, giving such particulars as may reasonably be necessary, is given to the Managing Director within ninety days of the date on which such goods were contracted to be delivered by the Authority.
- (2) No person shall be entitled to compensation for any goods missing from a packed or unpacked consignment of, or for mis-delivery of, damage or delay to, detention of, or deviation in the carriage of, any goods accepted by the Authority for carriage or warehousing unless a claim in writing, giving such particulars as may reasonably be necessary, is given to the Managing Director within ninety days of the date on which such goods were contracted to be delivered by the Authority.

#### **85. Restriction on execution against property of Authority**

Notwithstanding anything to the contrary contained in any written law, where any judgment or order has been obtained against the Authority, no execution or attachment, or process in the nature thereof, shall be issued against the Authority or against any property of the Authority, but the Managing Director shall cause to be paid out of the revenue of the Authority such amounts as may, by the judgement or order, be awarded against the Authority to the person entitled thereto.

#### **86. Service of notice, etc. on Managing Director**

- (1) Any notice or other document required or authorised under this Act to be served on the Authority of the Managing Director may be served—
  - (a) by delivery of the notice or other document to the Managing Director or to any authorised employee;
  - (b) by leaving it at the office of the Managing Director or the regional office of the Authority; or
  - (c) by sending it by registered post to the Managing Director.

#### **87. Regulations**

The Minister may, after consultations with the Board, by statutory instrument, make regulations generally with respect to the services performed and the facilities provided by the Authority under this Act, for the maintenance of order on any premises occupied by the Authority or on any train or vehicle operated by the Authority and, in particular, but without prejudice to the generality of the foregoing with respect to—

- (a) the prohibition of smoking in any portion of any such premises, train or vehicle;
- (b) the proper control, management and protection of any such premises, train or vehicle, and any property of the Authority;
- (c) the control of all persons on any such premises, the maintenance of order thereon and the admission thereon or the exclusion therefrom of persons and the charges, if any, to be made for such admission;
- (d) the defining of dangerous or offensive goods and the conditions under which they may be carried or stored by the Authority;
- (e) the control of the use of lights or illuminated signs showing any or all of the colours, or shades of the colours, red, green, white or amber in or near any premises occupied by the Authority;

- (f) the safety and protection of passengers and goods carried, and of persons employed, by the Authority;
- (g) the procedure to be followed in the conduct of inquiries into accidents;
- (h) the sale, disposal or writing off of any property or assets of the Authority;
- (i) the acceptance of any tender for goods or services; or
- (j) any matter authorised to be prescribed under this Act.

## **88. Repeal and savings Cap. 768 of the old edition**

- (1) The Tanzania-Zambia Railway Act is hereby repealed.
- (2) Notwithstanding the repeal of the Tanzania-Zambia Railway Act, all the assets and liabilities of the Authority existing immediately before the commencement of this Act shall continue to vest in or, as the case may be, subsist against the Authority, together with all the rights and obligations arising out of any contract or otherwise as if this Act has not come into force.

## **First Schedule (Sections 4, 9 and 11)**

### **Part I – Tanzania-Zambia Railway Authority**

#### **1. Seal of Authority and execution of contracts and documents**

- (1) The seal of the Authority shall be such device as may be determined by the Board and shall be kept by the Secretary.
- (2) The affixing of the seal of the Authority shall be authenticated by the Chairman and the Secretary or by the Managing Director and the Secretary or one other person authorised in that behalf by a resolution of the Board.
- (3) Any contract or instrument which, if entered into or executed by a person not being a body corporate, would not be required to be under seal, may be entered into or executed without seal on behalf of the Authority by the Managing Director or the Secretary or any other person authorised in that behalf by the Board.
- (4) Any document purporting to be a document executed under the seal of the Authority or issued on behalf of the Authority shall be received in evidence and shall be deemed to be a document so executed or issued, as the case may be, without further proof, unless the contrary is proved.

### **Part II – Council of Ministers**

#### **2. Proceedings of Council**

- (1) Subject to the provisions of this Act, the Council may regulate its own procedure.
- (2) The Council shall meet for the transaction of business at least once in every year at such places and at such times as the Chairman may decide.
- (3) A meeting of the Council shall be presided over by—
  - (a) the Chairman; or
  - (b) where the Chairman is unable for any cause to preside, such member as the Chairman may designate in that behalf; or

- (c) where the Chairman is unable for any cause to preside and—
  - (i) no member has been designated under paragraph (b); or
  - (ii) the member designated under paragraph (b) is unable for any cause to preside such member as the members present may elect for the purpose.
- (4) Three members shall form a quorum at any meeting of the Council:  
Provided that each Contracting State shall be represented at the meeting.
- (5) All decisions of the Council shall be unanimous.
- (6) The Secretary shall serve as the Secretary to the Council.
- (7) The Council may invite any person, whose presence is in its opinion desirable, to attend and participate in the deliberations of a meeting of the Council, but such person shall have no vote.
- (8) The Council may establish committees for the purpose of performing its functions under this Act and may delegate to any such committee such of its functions as it thinks fit.
- (9) The Council may appoint as members of a committee established by paragraph (8), persons who may or may not be members of the Council and such persons shall hold office for such period as the Council may determine.
- (10) Subject to any specific or general direction of the Council, any committee established under paragraph (8) may regulate its own procedure.

### **3. Expenses of Council**

All expenses incurred by the Council in the performance of its functions under this Act shall be paid out of the funds of the Authority.

### **4. Disclosure of interest**

- (1) If a person is present at a meeting of the Council at which any matter is the subject of consideration and in which matter the person or his spouse is directly or indirectly interested in a private capacity, he shall, as soon as practicable after the commencement of the meeting, disclose such interest and shall not, unless the Council otherwise directs, take part in any consideration or discussion of, or vote on, any question touching such matter.
- (2) A disclosure of interest made under this section shall be recorded in the minutes of the meeting at which it is made.

### **5. Immunity of Council members**

No action or other proceedings shall lie or be instituted against any Council member for or in respect of any act or thing done or omitted to be done in good faith in the exercise or purported exercise of his functions under this Act.

## **Part III – Board of Directors**

### **6. Tenure of office**

- (1) A member other than a member referred to in paragraphs (a) and (b) of subsection (1) of section eleven shall hold office for a period of three years on such terms and conditions as may be specified at the time of appointment, and shall, on the expiry of such period, be eligible for re-appointment.

- (2) A member, other than a member referred to in paragraphs (a) and (b) of subsection (1) of section eleven, may resign at any time, in writing, to the Minister and may be removed by the Minister at any time.

## 7. Remuneration of members

A member shall be paid such remuneration or allowances as the Council may, from time to time, determine.

## 8. Proceedings of Board

- (1) Subject to the other provisions of this paragraph, the Board may regulate its own procedure.
- (2) For the transaction of its business, the Board shall meet at least four times in a year, at such times and at such places as the Board may determine.
- (3) Three members of the Board shall form a quorum at a meeting:  
Provided that each Contracting State is represented at the meeting.
- (4) A meeting of the Board may be called by the Chairman, or in his absence by any other member authorised in that behalf by the Chairman, upon giving fourteen days' notice to its members:  
Provided that if the urgency of any particular matter does not permit the giving of fourteen days' notice, a special meeting may be called upon giving a shorter notice.
- (5) The Chairman shall preside at any meeting of the Board or in the absence of the Chairman such member as the members may elect for the purpose of that meeting.
- (6) A decision of the Board or any question shall be by a majority of the members present and voting at the meeting and shall include an affirmative vote of at least one member from each Contracting State and in the event of an equality of votes the person presiding at the meeting shall have a casting vote in addition to his deliberative vote.
- (7) The Board may invite any person, whose presence is in its opinion desirable, to attend and to participate in the deliberations of a meeting of the Board but such person shall have no vote.
- (8) The provisions of paragraph 4 of this Schedule shall apply, with the necessary modifications, to the Board meetings.
- (9) The validity of any proceedings, act or decision of the Board shall not be affected by any vacancy in the membership of the Board or by any defect in the appointment of any member or by reason that any person not entitled so to do took part in the proceedings.
- (10) The Board shall cause minutes to be kept of the proceedings of every meeting of the Board and of every meeting of any committee established by it.
- (11) The Secretary shall serve as the Secretary to the Board.

## 9. Committees of Board

- (1) The Board may establish committees for the purposes of performing its functions under this Act and may delegate to any such committee such of its functions as it thinks fit.
- (2) The Board may appoint as members of a committee established under subsection (1), persons who may or may not be members of the Board and such persons shall hold office for such period as the Board may determine.
- (3) Subject to any specific or general direction of the Board, any committee established under subsection (1) may regulate its own procedure.

## 10. Immunity of members and committee members

The provisions of paragraph 5 of this Schedule shall apply, with the necessary modifications, in respect of members and members of any committee established by the Board.

## Part IV – Administration

### 11. Secretary and other staff

- (1) There shall be a Secretary to the Authority, who shall be appointed by the Board on such terms and conditions as the Board may determine.
- (2) The Secretary shall, under the control and supervision of the Managing Director, be responsible for keeping the records or proceedings of the Council and the Board and shall perform such other functions as the Board may prescribe.
- (3) The Board may appoint such other persons as are necessary to carry out the functions of the Authority.
- (4) The Managing Director may, by notice in writing, authorise any employee appointed under this section to maintain order upon any premises occupied by the Authority or in any train or vehicle of the Authority, and any employee so authorised shall, in the performance of such duty, have all the powers, rights, privileges and protection, of a police officer.

### 12. Conditions of service

- (1) Subject to the provisions of this Act, the Board may make general orders for determining the conditions of service of employees and for regulating their conduct while on duty and in particular, but without prejudice to the generality of the foregoing, such orders may relate to—
  - (a) the appointment, dismissal, discipline, hours of employment, pay and leave of employees;
  - (b) appeals by employees against dismissal or other disciplinary actions;
  - (c) the establishment and administration of pension schemes and pension funds, medical aid schemes and medical aid funds and other schemes and funds of any kind whatsoever for the benefit of employees or their dependants or the dependants of deceased employees, and the appointment, removal and replacement of trustees of any such scheme or fund;
  - (d) the grant of pensions, gratuities and other terminal benefits to employees and their dependants and to the dependants or estates of deceased employees; and
  - (e) the deduction from the salary or wages of employees of—
    - (i) contributions payable to any fund under the conditions of service;
    - (ii) rent payable to the Authority for housing or accommodation provided by the Authority;
    - (iii) repayment of money lent by the Authority together with interest thereon; and
    - (iv) payment due to the Authority in respect of any electricity, water or other services.
- (2) Different orders may be made under this paragraph in relation to different categories of employees, and such orders may be made so as to have effect as from a date prior to the date on which they are made when they relate to—
  - (a) a pension scheme or pension fund; or

- (b) conditions of service.

that are either generally beneficial to the persons affected or give each such person an option to accept such revised conditions of service or to remain on his existing conditions of service.

### 13. Surcharges and security and attachment of property of employees

The provisions of sections eleven, twelve and thirteen of the Finance (Control and Management) Act shall apply, with the necessary modifications, in respect of any employee alleged to be guilty of any act or wilful default or gross negligence under the said Act, subject to the following modifications:

- (a) reference to "employee", "Authority", "Managing Director", "moneys belonging to or owing to the Authority", and "property of the Authority" shall respectively be substituted for references to "officer", "Government", "Permanent Secretary", "public money" and "public stores";
- (b) references to "Managing Director" shall be substituted for reference to "Attorney-General"; and
- (c) references to "Board" shall be substituted for references to "the Republic".

[Cap. 347]

### 14. Protection of pensions payable under this Act

No pension or right to a pension payable under any scheme or from any fund established under the powers conferred by this Act shall be liable to be attached, sequestered or levied upon for, or in respect of, any debt or claim.

### 15. Summary dismissal of convicted employee

Any employee who is convicted of an offence under section seventy or seventy-one may be summarily dismissed from the service of the Authority by the Managing Director without any further proceedings being taken under any orders relating to discipline.

### 16. Authority may consult with organisations of employees

The Authority may, for the purposes of this Part, give consideration to any representations made by any person or organisation and in particular, but without prejudice to the generality of this paragraph, the Authority may give consideration to proposals made by organisations and associations of, or representing, employees relating to salaries, salary scales, wages, allowances or other conditions of service.

## Second Schedule (Section 43)

### Specified articles

1. Gold, silver and other precious metals, coined or uncoined, manufactured or unmanufactured.
2. Precious and semi-precious stones, jewellery and trinkets.
3. Watches, clocks and timepieces of any description.
4. Government securities.
5. Stamps.
6. Bills of exchange, promissory notes, bank notes, currency notes and orders or other securities for payment of money.
7. Maps, plans, writings and title-deeds.
8. Paintings, engravings, lithographs, pictures, photographs, carvings, statuary, sculpture, antique furniture and other works of art.

9. Art pottery, glass, china and marble.
10. Cameras and cinematograph apparatus (including films).
11. Lace, furs and feathers.
12. Opium and narcotic preparations.
13. Musk, sandalwood oil and other essential oils used in the preparation of perfumes.
14. Pyrethrum extract.
15. Musical and scientific instruments, wireless and television sets, radio-grams, record players, tape recorders and all other electronic instruments and equipment.
16. Ivory in any form.