



Railways Act 1921

1921 CHAPTER 55

PART III

RAILWAY CHARGES.

Exceptional Charges.

36 Provisions as to existing exceptional rates.

- (1) On and from the appointed day all exceptional rates in operation immediately before the appointed day on the railway of any amalgamated company or any company to which a schedule of standard charges has been applied shall cease to operate, with the exception of such exceptional rates as—
- (a) are not less than five per cent. below the standard rates which would otherwise on and from the appointed day become chargeable; and
 - (b) have been continued by agreement in writing between the railway company and the trader concerned or, failing agreement, have been notified in writing to the secretary of the railway company by the trader with a request that they should be referred to the rates tribunal for determination by them, in which case the rates shall continue until determined by the rates tribunal, and the onus of proving that any such rates should be altered or discontinued shall be upon the railway company;

so nevertheless that no rate which has not been applied to the charging of merchandise actually forwarded within the two years preceding the first day of January, nineteen hundred and twenty-three, shall be continued unless the trader can prove to the satisfaction of the railway company or, failing agreement with the railway company, to the satisfaction of the rates tribunal—

- (i) that its non-application is solely due to abnormal conditions of trade; or
- (ii) that a rate of equal amount to the same destination remains in operation at other stations or sidings in the same group or area :

Provided that, if the trader and the railway company agree to continue any rate which will be more than forty per cent. below the standard rate chargeable as aforesaid, the

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rate shall, before the appointed day, be referred to the rates tribunal, and, if so referred, shall continue until the tribunal have determined the matter.

- (2) Any such agreement or determination may provide for the continuance of any exceptional rate at the same or any higher figure or charge, not being, in the case of an agreement between a railway company and a trader, less than five per cent. nor more than forty per cent. below the standard rate chargeable, and for a specified period of time.

37 New exceptional rates.

- (1) On and after the appointed day an amalgamated company or a railway company to which a schedule of standard charges has been applied shall be at liberty to grant new exceptional rates in respect of the carriage of any merchandise, which rates shall within fourteen days, or such longer period as the Minister may allow, be reported to the Minister; so, however, that a new exceptional rate so granted shall not, without the consent of the rates tribunal, be less than five per cent. or more than forty per cent. below the standard rate chargeable.
- (2) If the Minister is of opinion that any company is granting new exceptional rates in such manner as prejudicially to affect any class of users of the railway not benefited by such rates, or so as to jeopardise the realisation of the standard revenue of such company, he may refer the matter to the rates tribunal, who may, after giving all parties interested an opportunity of being heard, take either or both of the following courses:—
 - (a) revise the standard charges of that company or any of them:
 - (b) cancel or modify all or any of such exceptional rates.
- (3) Any trader may, at any time, apply to the rates tribunal to fix a new exceptional rate.

38 Variation of exceptional rates.

- (1) An amalgamated company or a railway company to which a schedule of standard charges has been applied shall not be entitled to increase or cancel any exceptional rate which has been fixed by the rates tribunal without first obtaining the sanction of that tribunal.
- (2) Any such company may, at any time, reduce any exceptional rate, so, however, that the rate shall not, without the consent of the rates tribunal, be reduced so as to be more than forty per cent. below the standard rate which would be chargeable, but any such reduction shall be reported to the Minister in like manner as if it were the grant of a new exceptional rate.
- (3) Any such company may, at any time, increase any exceptional rate which has not been fixed by the rates tribunal on giving thirty days' notice in such manner as the rates tribunal may prescribe of the proposed increase, and on the expiration of such notice may, if no objection be raised by any trader interested, forthwith bring the increased rate into force, provided that it is not less than five per cent below the standard rate chargeable but, if such an objection be raised-or if the rate when increased would be less than five per cent below the standard rate chargeable, the increase shall not have effect unless and until the rates tribunal, after giving the company an opportunity of being heard, so determine :

Provided that no trader shall be entitled to object to an increase of an exceptional rate reduced by a railway company since the appointed day unless the effect of the

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increase is to make the rate applicable to his traffic higher than the rate applicable thereto immediately before the reduction.

- (4) Any such company may, at any time, cancel any exceptional rate which has not been fixed by the rates tribunal on giving thirty days' notice in such manner as the rates tribunal may prescribe of the proposed cancellation, and on the expiration of such notice may, if no objection be raised by any trader interested, forthwith cancel the rate as proposed, but if any such objection be raised, the cancellation shall not have effect unless and until the rates tribunal, after giving the company an opportunity of being heard, so determine:

Provided that no trader shall be entitled to object to the cancellation of an (Exceptional rate granted by a railway company since the appointed day unless the effect of the cancellation is to make the rate applicable to his traffic higher than the rate applicable thereto at the date when the exceptional rate was granted.

- (5) No such increase or cancellation shall take effect in the case of any exceptional rate referred to the rates tribunal under paragraph (b) of subsection (1) of section thirty-six of this Act pending the decision of the tribunal with reference thereto, and any exceptional rate agreed under the said section thirty-six shall not be increased or cancelled for a period of twelve months after the appointed day except as part of a general increase under this Part of this Act or to abate an undue preference.
- (6) Any trader or representative body of traders interested in the rate, or any such company, shall be entitled to apply to the rates tribunal at anytime to cancel or vary any exceptional rate.
- (7) Any such company may cancel any exceptional rate existing after the appointed day which for a period of two years shall not have been applied to the charging of merchandise actually forwarded by railway.

39 Review of competitive exceptional rates.

If and whenever representations are made to the Minister by any body of persons who, in the opinion of the Board of Trade, are properly representative of the interests of shipping or canals, that exceptional rates are being charged which are competitive with coastwise shipping or canals in such a manner as to be detrimental to the public interest, and which are inadequate having regard to the cost of affording the service or services in respect of which the rates are charged, the Minister shall (if satisfied that a prima facie case has been made out) refer the matter to the rates tribunal for review, and the rates tribunal may, after hearing all parties whose interests are affected, vary or cancel such rates or make such other order as may seem to them expedient.

40 Disintegration of exceptional rates.

- (1) Where application is made to the rates tribunal to fix or sanction any exceptional rate for the carriage of merchandise between two stations, or between a station and a siding, or between two sidings, or between either a station or a siding and a junction, the rates tribunal in fixing or sanctioning the exceptional rate shall determine the amounts (if any) to be included in the rate for the following services:—
- (a) conveyance;
 - (b) station terminals;
 - (c) service terminals;

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- (d) accommodation provided and services rendered at or in connection with a private siding.
- (2) Where an amalgamated company or a railway company to which a schedule of standard charges has been applied grants an exceptional rate for the carriage of merchandise between two stations, or between a station and a siding, or between two sidings, or between either a station or a siding and a junction, without referring to the rates tribunal, and the company shows in the quotation for the rate and in the rate book the amount (if any) included therein for such several services as aforesaid, the disintegration of the exceptional rate as so shown shall be conclusive unless a trader interested in the rate complains that the amount allocated to any particular service is unreasonable, in which event the onus of proof shall be on the railway company.
- (3) Where any such company in granting such an exceptional rate has not distinguished in the quotation for the rate or in the rate book the amounts included therein for such several services as aforesaid—
- (a) the rate, in the case of a station-to-station rate, shall be deemed to be composed of conveyance rate and terminal charges in proportion to the amounts included in the corresponding standard rate for the same service and -accommodation in respect of similar goods between the same stations; and
 - (b) in the case of any other rate, the company shall, within fourteen days after application in writing by any person interested in the disintegration of the rate, afford that person information of the amounts (if any) included in the rate for the several services aforesaid.
- (4) Any dispute as to the disintegration of any such exceptional rate shall be determined by the rates tribunal at the instance of either a trader or the railway company.
- (5) For the purposes of determining any question of an alleged undue or unreasonable preference or advantage, the Railway and Canal Commission shall not have regard to the separate component parts of any rate as shown in the rate book or as determined by this section, but shall, unless in any case in which an application has been made for the purpose it is proved to the satisfaction of the Commission that a consideration of the component parts of the rate would be fair and reasonable, determine the question in reference to the total rate for carriage applicable to the merchandise in respect of which such undue or unreasonable preference or advantage is alleged to arise and the conditions under which the rate applies.

41 Exceptional fares.

- (1) Any amalgamated company or railway company to which a schedule of standard charges has been applied may charge fares below the standard fares in such circumstances as the company may think fit, but the circumstances in which such exceptional fares, if below ordinary fares, may be charged, and the amount of reduction below the standard fare, shall be reported to the Minister within fourteen days, or such longer period as the Minister may allow, after the decision has been arrived at.
- (2) If the Minister is of opinion that any company has granted exceptional fares in such a manner as prejudicially to affect any other class of users of the railway, or so as to jeopardise the realisation of the standard revenue of the company, he may refer the matter to the rates tribunal, who may, after giving the parties interested an opportunity of being heard, cancel or modify all or any of the exceptional fares so granted.