



Regulation of Railways Act 1871

1871 CHAPTER 78 34 and 35 Vict

[^{F1} Preliminary

Textual Amendments

F1 Act repealed (E.W.S.) (10.5.1997) by [S.I. 1997/553](#), reg. 12(1), [Sch. Pt. I](#)

1 Construction of Act and short title.

This Act so far as is consistent with the tenor thereof shall be construed as one with the Acts mentioned in Schedule Two to this Act and with the ^{M1}Regulation of Railways Act 1868 and those Acts and this Act may be cited together as “The Regulation of Railways Acts 1840 to 1871”; and this Act and each of the Acts mentioned in Schedule Two to this Act may be cited as “The Regulation of Railways Act” of the year in which it was passed.

Marginal Citations

M1 1868 c. 119.

2 Interpretation of terms.

In this Act—

The term “railway” means the whole or any portion of a railway or tramway, whether worked by steam or otherwise, which has been authorized by any special Act of Parliament [^{F2}the Channel Tunnel Act 1987] or by any certificate under Act of Parliament:

The term “company” means a company incorporated either before or after the passing of this Act [^{F3}(a)] for the purpose of constructing, maintaining, or working a railway in the United Kingdom (either alone or in conjunction with any other purpose) [^{F4}, or (b) which works a railway, or operates a station or a train, in the United Kingdom], and includes, except when otherwise expressed,

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any individual or individuals not incorporated [^{F5}who work a railway, or operate a station or train, in the United Kingdom or who are owners or lessees of a railway or station in the United Kingdom or parties to an agreement for working a railway or operating a station or train in the United Kingdom]:

The term “person” includes a body corporate:

[^{F6}The term “court of summary jurisdiction” means any justices of the peace, [^{F7} . . . stipendiary magistrate, [^{F8}sheriff principal, sheriff], or other magistrate, or officer by whatever name called, who is capable of exercising jurisdiction in summary proceedings for the recovery of penalties.]

[^{F9}The term “relevant transport system” has the meaning assigned to it by regulation 2 of the Reporting of Injuries, Diseases and Dangerous Occurrences Regulations 1995.]

Textual Amendments

- F2** Words inserted by [Channel Tunnel Act 1987 \(c. 53, SIF 102\)](#), ss. 43, 45, [Sch. 6 para. 1](#), [Sch. 7 Pt. VI para. 2](#) (by s. 43 it is provided that Sch. 6 to that 1987 Act shall have effect for making miscellaneous provisions about the application of railway regulation enactments in relation to the tunnel system, the concessionaires and certain other persons operating services by way of the tunnel system)
- F3** Word in s. 2 inserted (1.10.1994) by [S.I. 1994/2229](#), art. 2(1), [Sch. para. \(a\)\(i\)](#)
- F4** Words in s. 2 substituted (1.10.1994) by virtue of [S.I. 1994/2229](#), art. 2(1), [Sch. para. \(a\)\(ii\)](#)
- F5** Words in s. 2 substituted (1.10.1994) by [S.I. 1994/2229](#), art. 2(1), [Sch. para. \(a\)\(iii\)](#)
- F6** Definition repealed (N.I.) by [Northern Ireland Act 1962 \(c. 30\)](#), [Sch. 4 Pt. IV](#)
- F7** S. 2: words in definition of “court of summary jurisdiction” repealed (31.8.2000) by [1999 c. 22](#), s. 106, [Sch. 15 Pt. V\(3\)](#) (with s. 107, [Sch. 14 paras. 7\(2\), 36\(9\)](#)); [S.I. 2000/1920](#), [art. 3\(c\)](#)
- F8** Words substituted by virtue of [Sheriff Courts \(Scotland\) Act 1971 \(c. 58\)](#), [s. 4](#)
- F9** Words in s. 2 added (E.W.S.) (1.4.1996) by [S.I. 1995/3163](#), [reg. 14\(2\)](#)

Modifications etc. (not altering text)

- C1** S. 2: definition of “railway” extended (18.12.1996) by [1996 c. 61](#), s. 20, [Sch. 9 Pt. II para. 5](#)

Inspection of Railways

3 Board of Trade may appoint inspectors of railways.

The Board of Trade may from time to time appoint any person to be inspector for the purpose of inspecting [^{F10}any railway or station and of making any inquiry with respect to any railway or station or into the cause of any railway accident or any accident at any station] which the Board of Trade are authorized to make or direct, and of enabling the Board of Trade to carry the provisions of any general Act relating to railways into execution, or for any of such purposes: [^{F11}Provided that no person so appointed shall exercise any powers of interference in the affairs of any company].

Textual Amendments

- F10** Words in s. 3 substituted (1.4.1994) by [S.I. 1994/857](#), art. 2, [Sch. para. 4\(b\)](#)
- F11** Words in s. 3 repealed (E.W.S.) (31.1.1993) by [Transport and Works Act 1992 \(c. 42, SIF 102\)](#), ss. 42(2), 68(1), [Sch. 4 Pt. I](#); [S.I. 1992/3144](#), art. 3, [Sch.](#)

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Modifications etc. (not altering text)

- C2 S. 3 extended by [Road and Rail Traffic Act 1933 \(c. 53\)](#), [s. 41\(2\)](#)
- C3 Expression “company” extended by [Channel Tunnel Act 1987 \(c. 53, SIF 102\)](#), ss. 43, 45, [Sch. 6 para. 3](#), [Sch. 7 Pt. VI para. 2](#)

4 Powers of inspectors of railways.

Every inspector under this Act shall for the purposes of any inspection or inquiry which he is directed by the Board of Trade to make or conduct have the following powers; (that is to say,)

- [^{F12}(1) He may enter and inspect any railway or station and any works, buildings or offices belonging thereto and may inspect any stock, plant or machinery used in connection with any railway or station;]
- (2) He may by summons under his hand require the attendance of any person who is engaged in the management, service, or employment of a company as defined by this Act, and whom he thinks fit to call before him and examine for the said purpose, and may require answers or returns to such inquiries for the said purpose as he thinks fit to make from such person or company:
- (3) He may require and enforce the production of all books, papers, and documents of a company which he considers important for the said purpose.

Textual Amendments

- F12 S. 4(1) substituted (1.4.1994) by [S.I. 1994/857](#), art. 2, [Sch. para. 4\(c\)](#)

Modifications etc. (not altering text)

- C4 S. 4 extended by [Road and Rail Traffic Act 1933 \(c. 53\)](#), [s. 41\(2\)](#) and [Transport Act 1968 \(c. 73\)](#), [s. 125\(2\)](#)
- C5 Expression “company” extended by [Channel Tunnel Act 1987 \(c. 53, SIF 102\)](#), ss. 43, 45, [Sch. 6 para. 3](#), [Sch. 7 Pt. VI para. 2](#)

5 ^{F13}

Textual Amendments

- F13 S. 5 repealed by [Road and Rail Traffic Act 1933 \(c. 53\)](#), [Sch. 3](#); s. 5 repealed (N.I.) (*prosp.*) by 2002 c. 8 (N.I.), ss. 7, 8(2), [Sch. 2](#)

Accidents

^{F14F15}**6**

Textual Amendments

- F14 S. 6 repealed (E.W.S.) (1.4.1996) by [S.I. 1995/3163](#), [reg. 14\(1\)](#)

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F15 S. 6 repealed (N.I.) (2.6.2004) by [Reporting of Injuries, Diseases and Dangerous Occurrences \(Amendment\) Regulations \(Northern Ireland\) 2004 \(S.R. 2004/196\)](#), **reg. 3(1)**

7 **Inquiry into accidents and formal investigation in serious cases.**

The Board of Trade may direct an inquiry to be made by an inspector into the cause of any ^{F16}accident or occurrence which arises from the operation of a relevant transport system and which is required to be reported by regulation 3(1) of the Reporting of Injuries, Diseases and Dangerous Occurrences Regulations 1995^{F17} [accident or occurrence which arises and is required to be reported by regulation 3(1) of the Reporting of Injuries, Diseases and Dangerous Occurrences Regulations (Northern Ireland) 1997]; and where it appears to the Board of Trade, either before or after the commencement of any such inquiry, that a more formal investigation of the accident ^{F18}[^{F19}or occurrence], and of the causes thereof, and of the circumstances attending the same, is expedient, the Board of Trade may, by order, direct such investigation to be held, and with respect to such investigation the following provisions shall have effect:

- (1) The Board of Trade may, by the same or any subsequent order, appoint any person or persons possessing legal or special knowledge to assist an inspector in holding the same, or may direct the county court judge, [^{F20}District Judge (Magistrates' Courts), stipendiary magistrate,] or other person or persons named in the same or any subsequent order, to hold the same with the assistance of an inspector or any other assessor or assessors named in the order:
- (2) The persons holding any such formal investigation (hereinafter referred to as the court) shall hold the same in open court in such manner and under such conditions as they may think most effectual for ascertaining the causes and circumstances of the accident ^{F18}[^{F19}or occurrence], and enabling them to make the report in this section mentioned:
- (3) The court shall have for the purposes of such investigation all the powers of a court of summary jurisdiction when acting as a court in the exercise of its ordinary jurisdiction, and all the powers of an inspector under this Act, and in addition the following powers; namely,
 - (a) They may enter and inspect any place or building the entry or inspection whereof appears to them requisite for the said purpose:
 - (b) They may by summons under their hands require the attendance of all such persons as they think fit to call before them and examine for the said purpose, and may for such purpose require answers or returns to such inquiries as they think fit to make:
 - (c) They may require and enforce the production of all books, papers, and documents which they consider important for the said purpose:
 - (d) They may administer an oath, and require any person examined to make and sign a declaration of the truth of the statements made by him in his examination:
 - (e) Every person so summoned not being a person engaged in the management, service, or employment of a company, or otherwise connected with a company, shall be allowed such expenses as would be allowed to a witness attending on subpoena before a court of record; and in case of dispute as to the amount to be allowed, the same shall be referred by the court to a master of one of the superior courts, who, on request under the hands of the members of the court, shall ascertain and certify the proper amount of such expenses:

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- (4) The inspector making an inquiry into any accident ^{F18}[^{F19}or occurrence] and the court holding an investigation of any accident ^{F18}[^{F19}or occurrence] shall make a report to the Board of Trade stating the causes of the accident ^{F18}[^{F19}or occurrence] and all the circumstances attending the same, and any observations thereon or on the evidence or on any matters arising out of the investigations which they think right to make to the Board of Trade, and the Board of Trade shall cause every such report to be made public in such manner as they think expedient.

Textual Amendments

- F16** Words in s. 7 substituted (E.W.S.) (1.4.1996) by S.I. 1995/3163, **reg. 14(2)(b)**
- F17** Words in s. 7 substituted (N.I.) (2.6.2004) by Reporting of Injuries, Diseases and Dangerous Occurrences (Amendment) Regulations (Northern Ireland) 2004 (S.R. 2004/196), **reg. 3(2)(a)**
- F18** Words in s. 7 added (N.I.) (2.6.2004) by Reporting of Injuries, Diseases and Dangerous Occurrences (Amendment) Regulations (Northern Ireland) 2004 (S.R. 2004/196), **reg. 3(2)(b)**
- F19** Words in s. 7 added (E.W.S.) (1.4.1996) by S.I. 1995/3163, **reg. 14(2)(c)**
- F20** Words in s. 7(1) substituted (31.8.2000) by 1999 c. 22, s. 78, **Sch. 11 para. 9** (with s. 107, Sch. 14 paras. 7(2), 36(9)); S.I. 2000/1920, **art. 3(a)**

Modifications etc. (not altering text)

- C6** Expression “company” extended by Channel Tunnel Act 1987 (c. 53, SIF 102), ss. 43, 45, Sch. 6 para. 3, **Sch. 7 Pt. VI para. 2**

8 Appointment of an assessor to coroner.

Where any coroner in England holds or is about to hold an inquest on the death of any person occasioned by an ^{F21}accident or occurrence—

- (a) which arises from the operation of a relevant transport system, and
- (b) which is required to be reported under regulation 3(1) of the Reporting of Injuries, Diseases and Dangerous Occurrences Regulations 1995,]

and makes a written request to the Board of Trade in this behalf, the Board of Trade may appoint an inspector or some person possessing legal or special knowledge to assist in holding such inquest, and such appointee shall act as the assessor of the coroner, and shall make the like report to the Board of Trade, and the report shall be made public in like manner as in the case of a formal investigation of an accident ^{F22}or occurrence]under this Act.

Textual Amendments

- F21** Words in s. 8 substituted (1.4.1996) by S.I. 1995/3163, **reg. 14(2)(d)**
- F22** Words in s. 8 inserted (1.4.1996) by S.I. 1995/3163, **reg. 14(2)(e)**

9, 10. ^{F23}

Textual Amendments

- F23** Ss. 9, 10 and Sch. 1 repealed with saving by Statute Law Revision Act 1960 (c. 56), s. 1(2), **Sch.**

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Miscellaneous

11 Disobedience to or obstruction of inspector or court.

If any person, without reasonable excuse (proof whereof shall lie on him), does any of the following things; namely,

- (1) Having been summoned, and having had the expenses (if any) to which he is entitled tendered to him, fails to attend as a witness before any inspector under this Act, or before a court holding an investigation under this Act, or fails when required by the inspector or such court in pursuance of this Act so to do, to make any answer, or to give any return, or to produce any document, or to make or sign any declaration; or
- (2) Prevents or impedes the inspector or such court in the execution of his or their duty, he shall for every such offence incur a penalty not exceeding [^{F24}level 1 on the standard scale], and in the case of a refusal to make any return or produce any document, not exceeding ten pounds during every day that such failure continues; and where the offence consists of preventing or impeding as aforesaid, the inspector, or any member of such court, or any person called by him to his assistance, may seize and detain the offender until he can be conveniently taken before a court of summary jurisdiction, to be dealt with according to law.

Textual Amendments
F24 Words “level 1 on the standard scale” substituted (E.W.S.) by virtue of (E.W.) [Criminal Justice Act 1982 \(c. 48, SIF 39:1\), s. 46](#) and (S.) [Criminal Procedure \(Scotland\) Act 1975 \(c. 21, SIF 39:1\), s. 289G](#)

12 ^{F25}

Textual Amendments
F25 S. 12 repealed by [Transport Act 1962 \(c. 46\), s. 95\(3\), Sch. 12 Pt. I](#)

13 ^{F26}

Textual Amendments
F26 S. 13 repealed by [Statute Law Revision Act 1950 \(c. 6\)](#)

^{X1}**14 Penalty for trespassers on railways.**

Section twenty-three of “The Regulation of Railways Act, 1868,” shall have effect as if the words “after having once received warning” were substituted therein for the words “after having received warning.” ^{F27} . . .

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Editorial Information

X1 The text of s. 14 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991

Textual Amendments

F27 Words repealed by [Statute Law Revision Act 1883 \(c. 39\)](#), [Sch.](#)

15 Recovery, &c. of penalties.

Every penalty imposed by this Act shall be recovered and applied in the same manner as penalties imposed by the ^{M2}Railways Clauses Consolidation Act 1845 and the ^{M3}Railways Clauses Consolidation (Scotland) Act 1845 (as the case may require), are for the time being recoverable and applicable.

Marginal Citations

M2 1845 c. 20.

M3 1845 c. 33.

16 Application of Act to Scotland.

In the application of this Act to Scotland—

- (1) The term “attending on subpoena before a court of record” means attending on citation the Court of Justiciary.
- (2) The Queen’s and Lord Treasurer’s Remembrancer shall perform the duties of a master of one of the Superior Courts under this Act.
- (3) The term “stipendiary magistrate” means [^{F28}sheriff principal or sheriff] .

Textual Amendments

F28 Words substituted by virtue of [Sheriff Courts \(Scotland\) Act 1971 \(c. 58\)](#), [s. 4](#)

17 ^{F29}

Textual Amendments

F29 [S. 17](#) repealed by [Statute Law Revision Act 1883 \(c. 39\)](#)

18] ^{F30}

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Textual Amendments

F30 S. 18 repealed by [Statute Law Revision \(No. 2\) Act 1893 \(c. 54\)](#)

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