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THE RAILWAYS ACT, 2017

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THE UNITED REPUBLIC OF TANZANIA



NO. 10 OF 2017

I ASSENT

JOHN POMBE JOSEPH MAGUFULI
President

[8th October, 2017]

An Act to establish the Tanzania Railways Corporation; to make better provisions for the development, maintenance and promotion of rail infrastructure, rail transport services and to provide for other related matters.

ENACTED by the Parliament of the United Republic of Tanzania.

PART I
 PRELIMINARY PROVISIONS

Short title and
 commencement

1. This Act may be cited as the Railways Act, 2017 and shall come into operation on such date as the Minister may, by notice published in *Gazette*, appoint.

Application

2.-(1) This Act shall apply in mainland Tanzania.
 (2) This Act shall not apply to the undertaking of the Tanzania Zambia Railway Authority.

Interpretation

3.-(1) In this Act unless the context otherwise requires-
 “animals” means animate things of any kind except human beings;

- “authorised officer” means any person authorised in writing by the Corporation or the Regulator to exercise the powers or perform the duties conferred to such officer under this Act;
- “Board” means the Board of Directors of the Corporation established under section 11;
- “booking office” means a place at which tickets may be obtained or charges paid to the Corporation;
- “branch line” means any railway track joining the main line but does not include a siding;
- “carried by the Corporation” means accepted by an employee or agent of the Corporation in accordance with the provisions of this Act;
- “chose-in-action” means a right to sue where a claim or debt recovery may be made by a law suit;
- “committee” means a committee established by the Board under section 15;
- “consignee” means a person, firm or body of persons, to whom goods accepted for carriage are addressed;
- “consignment” means one or more packages of goods or a quantity of goods tendered for carriage;
- “consignor” means a person, firm or body of persons who has tendered goods which have been accepted for carriage;
- “Corporation” means the Tanzania Railways Corporation established under section 4;
- “Director General” means the Chief Executive Officer of the Corporation appointed under section 20;
- “effective date” means the date on which this Act comes into operation;
- “employee” means any person in the service of the Corporation;
- “fare” includes all sums received or receivable, charged or chargeable, for the carriage of a passenger;
- “goods” includes luggage, animals (alive or dead), trophies, minerals or mineral concentrate and all other movable property of any description;

- “inward goods” means goods which have been transported by rail and have arrived at final destination waiting to be taken by the consignee;
- “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 enroute;
- “main line” means the main railway line;
- “Minister” means the Minister responsible for railways;
- “Ministry” means a ministry responsible for railways;
- “outward goods” means goods which have been tendered by the customer to be transported by rail to the final destination;
- “passenger service” means a service of carrying passengers by railway;
- “perishable goods” means goods liable to rapid deterioration and, in particular, means fish, fruit, vegetables, potatoes, plant, bread, meat, game, butter, eggs, milk, cheese, birds, poultry, small animals, and any other things which the Minister may by notice in the *Gazette* declare to be perishable goods;
- “planning authority” means city council, municipal council and town council;
- “rail infrastructure” means the facilities that are used to operate a rail and includes, but is not limited to, railway track, associated track structures and works (such as cuttings, tunnels, bridges, stations, platforms, excavations, land fill, track support, earthworks and drainage works), over-track structures, under-track structures, service roads, signalling systems, rolling stock control system, communications systems notices and signs, electrical power supply systems and associated buildings, workshops, depots, yard, plants, machinery and equipment, but does not include rolling stock or wagon ferries;

- “rail transport service” means services for the purpose of providing passenger, freight or other transport services by rail;
- “railway order” means an order which a person may apply to the Corporation authorising such person to conduct railway works;
- “railway strip” means the land on both sides adjacent to the railway track measuring thirty metres in width from the centre line of the track reserved for safety purpose and for facilitating future development of rail infrastructure;
- “railway works” means works required for the purposes of a railway or any part of a railway;
- “railway” means the whole or any portion of the main line, branch line or siding, signalling and telecommunication and all other movable and immovable properties vested in, or placed for use in connection with the railway track;
- “Regulator” means the Regulator responsible for railways referred to under section 59;
- “rolling stock” means a vehicle that operates on or uses the rail track;
- “season ticket” means a ticket entitling a person to whom it is issued to be carried by the Corporation as a passenger between places specified thereon on the number of occasions or during the period specified thereon;
- “siding” means a railway line serving railway oriented industries from the main line and does not include a branch line;
- “standards” includes safety and environmental issues, except where the contrary is stated;
- “tariff book” means a book published by the Corporation specifying among other things, fares, rates, fees and charges for services rendered;

“ticket” means a paid document that gives the holder a right to travel by rail as a passenger and shall include a single ticket, a return ticket, a season ticket and any other written authority for the carriage of a person by the Corporation;

“train” means a locomotive with a vehicle attached or, a light locomotive or motor trolleys which is designated as a train;

“vehicle” means any wagon, coach, trolley, van or other conveyance used for transport by the Corporation; and

“water course” means any river, stream, drain, gully, canal or other channel, whether artificial or not, in which water flows, whether constantly or intermittently.

PART II TANZANIA RAILWAYS CORPORATION

Establishment of
Corporation

4.-(1) There is established a Corporation to be known as the Tanzania Railways Corporation also known in its acronym as TRC.

(2) The Corporation shall be a body corporate with perpetual succession and a common seal and shall, in its own name, be capable of-

- (a) suing and being sued;
- (b) acquiring, holding and alienating movable or immovable property;
- (c) borrowing and lending;
- (d) entering into any contract or other transaction;
- (e) doing or suffering to do all such other acts and things which a body corporate may lawfully perform, do or suffer to be done; and

(f) have power to exercise and perform such other powers and functions as are conferred by or under this Act or any other written law.

(3) Notwithstanding the preceding provisions of this section, the Attorney General shall have the right to intervene in any suit or matter instituted by or against the Corporation.

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(4) Where the Attorney General intervenes in any matter pursuant to subsection (3), the provisions of the Government Proceedings Act, shall apply in relation to the proceeding of that suit or matter as if it was instituted by or against the Government.

(5) The Corporation shall have a duty of notifying the Attorney General of any impending suit or intention to institute a suit or matter for or against it.

Objects of Corporation

5. The objects of the Corporation shall be to-

- (a) provide rail transport services, infrastructure and superstructure;
- (b) develop, promote and manage rail infrastructure;
- (c) maintain and ensure rail infrastructure safety and security; and
- (d) enter into contractual agreements with other persons in order to secure the provision of rail transport services, whether by means of concession, joint venture, public private partnership or other means, and to this end to delegate its function of developing or maintaining rail infrastructure services.

Functions of Corporation

6.-(1) Subject to the provisions of this Act, the functions of the Corporation shall be to-

- (a) provide rail transport services and manage rail infrastructure;
- (b) manage contracts on railways operations within the rail infrastructure network;

- (c) administer environmental safeguard issues, railways safety and security in general;
- (d) protect railway reserve, maintain rail infrastructure and rolling stock;
- (e) provide, on sound commercial principles of operation, secure efficient and safe system of transport of passengers and goods by rail and wagon ferries in inland waterways;
- (f) ensure safe storage of inward and outward goods;
- (g) consign goods on behalf of other persons from and to any place within or outside the United Republic;
- (h) provide safe passenger transport and other amenities or facilities for passengers carried by the Corporation;
- (i) acquire, operate trains, manufacture, maintain or, repair anything required for the purposes of the Corporation;
- (j) carry on any business necessary or desirable to be carried on for the purposes of the Corporation and to act as the agent of any person or of the Government of any foreign country, in the provision of any agreed function;
- (k) determine, impose levy, rates, fares, charges, dues or fees for any service performed by the Corporation with the approval of the Regulator established under section 59;
- (l) prohibit and control-
 - (i) the use by any person of the services performed, or the facilities provided, by the Corporation; or
 - (ii) the presence of any person, vehicle or goods within premises occupied by the Corporation.

- (m) enter into agreement with any person carrying on business as a carrier of passengers or goods, providing for the carriage of passengers or goods by or on behalf of the Corporation, and of that person, under one contract or through fare or rate;
- (n) enter into any arrangement with any person or any relevant entity which, in the opinion of the Board, shall promote or secure the provision, or improved provision, of any service or facilities which may separately provide and without prejudice to the generality thereof any such arrangement or agreement may include provisions relating to-
 - (i) the use by either party of the facilities or equipment maintained by the other;
 - (ii) the charges made in respect of the use of any service or facility to which the arrangement or agreement relates;
 - (iii) the financing of any project by either or both parties;
 - (iv) research connected with any existing service or facility provided by either party or in relation to any service or facility under consideration; and
 - (v) the joinder in the arrangement or agreement by any other person.
- (o) develop, promote and manage rail infrastructure;
- (p) conduct inquiries, in accordance with the provisions of this Act, into the cause of any accident on the railways; and
- (q) promote local and foreign investments in rail services and facilities.

(2) In addition to the functions specified under subsection (1), the Corporation may undertake such other functions as the Minister may assign to it.

Protection of assets from execution or attachment

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

(2) Creditors of the Corporation or any person exercising the delegated, sub-delegated or purported delegated powers of the Corporation, shall not have recourse, by way of seizure, distraint, execution, attachment or otherwise, to the assets of the Corporation or of such other person including the rail infrastructure assets which are used in connection with rail transport services.

(3) The Director General shall cause to be paid out of the revenue of the Corporation such amounts as may be by judgment or order be awarded against the Corporation or any person entitled thereto.

Power to develop, maintain and provide rail infrastructure and services

8. The Corporation shall have all necessary and ancillary powers to develop, maintain and provide rail infrastructure and services and no cause of action based on nuisance shall be effective to prevent or diminish the exercise of these powers.

Power to delegate

9.-(1) The Corporation may, where circumstances permit, delegate its powers and functions to one or more persons and enter into such agreements as may, in the discretion of the Corporation, be necessary or desirable to give effect to such delegation in order to secure the provision of rail infrastructure and services.

(2) The Corporation may assume control of any person in circumstances where, following delegation of

its powers in accordance with subsection (1), if such person fails or he is unable to perform its obligations in relation to developing, maintaining and providing rail infrastructure and services.

(3) A person who is delegated powers by the Corporation to design, construct, maintain, operate, upgrade or develop any part of the infrastructure shall ensure that security and safety of rail infrastructure is observed.

(4) Any person engaged or delegated by the Corporation to design, construct, maintain, operate, upgrade or develop any part of the infrastructure shall establish a register, maintain, communicate the stock position and condition of all infrastructure items and elements within the jurisdiction.

Preparation of
Tariff Book

10.-(1) The Corporation shall prepare or cause to be prepared and published in such manner as it may think fit-

- (a) a Tariff Book containing all matters which under this Act are required to be contained together with such other matters as may be determined by the Corporation; and
- (b) manuals, books, timetables and other documents required to be kept.

(2) There shall be available for public inspections at every booking office-

- (a) a copy of the Tariff Book containing all amendments;
- (b) a list specifying the fares, rates and other charges by the Corporation; and
- (c) a timetable of the passengers regarding transport services operated by the Corporation.

PART III
BOARD OF THE CORPORATION

Establishment of Board

11. There shall be a Board which shall be responsible for the management of the business and affairs of the Corporation.

Composition of Board

12.-(1) The Board shall consist of-

- (a) a Chairman who shall be a non-executive, appointed by the President for amongst persons with knowledge and experience in railways sector; and
- (b) seven non-executive members who shall be appointed by the Minister.

(2) In appointing members under paragraph (1)(b), due regard shall be paid to the gender, qualification, experience and involvement of the person in the core business of the Corporation such as engineering, human resources, business administration, law, economics, finance or transport.

(3) The provisions of the First Schedule to this Act shall have effect as to the tenure of office of the members and other proceedings of the Board and in respect of other matters in relation to the Board.

(4) The Minister may, by order published in the *Gazette*, vary or replace all or any of the provisions of the First Schedule.

(5) Members of the Board shall be paid fees and allowances as may be approved by the Minister in consultation with the Minister responsible for finance.

Functions of Board

13. Subject to the provisions of this Act, and any other written laws, the functions of the Board shall be to-

- (a) approve plans, annual reports and accounts, and budget of the Corporation;
- (b) set priorities and annual performance targets of the Corporation;

- (c) approve the code of conduct for employees of the corporation;
- (d) enter into performance agreement with the Director General for the purposes of achieving Government and Corporation pre-set targets;
- (e) conduct monitoring and evaluation of the Corporation's performance;
- (f) exercise disciplinary powers to senior management employees;
- (g) endorse the tariffs, rates, fares and other charges for Regulators' approval;
- (h) endorse the organisation structure;
- (i) give directions to the Director General; and
- (j) perform any other functions as the Minister may direct.

Powers of Board

14. Subject to any other directions which may be given by the Minister, the Board may-

- (a) consider legislative proposals relating to the Corporation and recommend their enactment to the Minister;
- (b) approve the proposal to borrow money for the purposes of the Corporation;
- (c) approve the provision of development of rail infrastructure or facilities or as requested by the Government of any neighbouring country;
- (d) approve internal operational policies;
- (e) approve any minor alteration in the tariff, rates, fare and other charges;
- (f) approve the appointment of other employees of the Corporation on such number and titles as it may deem necessary for the proper and efficient conduct of the business and the activities of the Corporation, and on the terms and conditions as it may determine; and

- (g) approve any work not included within a program of works of which the estimated cost does not exceed such amount as the Minister may determine from time to time for the purpose of the Corporation.

Power of Board to appoint a committee

15. The Board may form and appoint from among its members, such number of committee as it deems necessary for the efficient performance of its functions which in the opinion of the Board, would be better regulated through a committee.

Power of Board to delegate

16.-(1) The Board may in express or in writing, subject to such conditions or restriction as it deems necessary, delegate to a committee or employee any functions or powers vested in it by this Act or any other written law.

(2) The Board may at any time revoke a delegation made under this section and the delegation made under this section shall not prevent the Board from exercising its functions or power delegated.

(3) The Board shall not delegate the power to-

- (a) delegate;
- (b) approve the annual budget or any supplementary budget;
- (c) approve the annual balance sheet or any statement of account; and
- (d) prescribe levy dues or borrow money.

Observance of impartiality

17. In order to maintain impartiality of the Board and for purpose of avoiding conflict of interest, a person shall not be qualified for appointment as a member of the Board if owing to the nature of the office he holds is likely to exert undue influence on any matter to which the Corporation is responsible.

Conflict of interest

18.-(1) A member of the Board, committee or an employee shall be considered to have a conflict of interest for the purposes of this Act, if he has or acquires any pecuniary or other interest that would conflict with the proper performance of his functions or exercise of powers as a member of the Board, committee or employee.

(2) Where at any time a member of the Board, committee or employee has a conflict of interest in relation to any matter-

- (a) before the Board, committee or employee for consideration or determination; or
- (b) would reasonably expect to be likely to come before the Board, committee or employee for consideration or determination,

that member or employee shall immediately disclose the interest held by him to the other members of the Board or the Director General and refrain from taking part in the consideration or determination of the matter.

(3) Upon the Board, committee or employee becoming aware of any conflict of interest, the Board, committee or employee shall make a determination as to whether that conflict is likely to interfere with the proper and effective performance of their functions.

(4) A member of the Board, committee or employee who holds conflict of interest shall not vote on the matter under consideration or determination.

(5) Notwithstanding subsection (1), a member of the Board, committee or employee shall be considered to have conflict of interest if he-

- (a) fails without reasonable cause to declare his interests as required; or
- (b) makes a false or misleading declaration for the purposes of influencing the decision.

Superannuation
benefits

19. The Board may, after consultation with the relevant authority and with the approval of the Minister-

- (a) grant gratuities or other retirement allowances or benefits to the employees;
- (b) establish and contribute to a superannuation fund or a medical benefits fund for the employees; and
- (c) require any employee to contribute to the superannuation fund or medical benefits fund and fix the amount and method of payment of the contribution.

PART IV
ADMINISTRATION AND MANAGEMENT OF THE
CORPORATION

Appointment of
Director General

20.-(1) There shall be the Director General who shall also be the chief executive officer responsible to the Board for the proper administration and management of the functions and affairs of the Corporation.

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(2) The Director General shall be appointed by the President through competitive procedures, taking into account the Public Service Act on such terms and conditions provided for in the scheme of service.

(3) A person shall not be qualified for appointment as Director General unless he-

- (a) is a holder of at least a post graduate degree from a recognised university or its equivalent; and
- (b) possesses at least eight years' experience in senior managerial position in any of the fields of engineering, human resources, business administration, transport, law, economics or finance.

(4) The Director General shall be appointed to serve for a term of five years renewable once on such

terms and conditions as shall be set out in the letter of his appointment or as may be determined by the Board with approval of the Minister.

(5) The Director General shall, in the performance of his functions, have powers to delegate in writing, any of his functions to an authorised officer as he may deem necessary.

Functions and powers of Director General

21.-(1) The functions and powers of the Director General shall be to-

- (a) establish and maintain a suitable strategic plan framework for the Corporation which includes a clearly defined vision and mission statement and business plan;
- (b) develop and implement a code of conduct for employees of the Corporation;
- (c) ensure that the roles and functions of all functional departments are clearly defined, understood and programs are established for the successful implementation of strategies;
- (d) direct the development and maintenance of a comprehensive policy and procedural framework covering all aspects of operations of the Corporation;
- (e) manage and direct the resource allocation of the Corporation to meet operational plans and program priorities;
- (f) ensure the availability of a competent and motivated workforce throughout the Corporation;
- (g) monitor, evaluate and take corrective action, where necessary to ensure achievement of agreed work programs and outcomes in all projects of the Corporation;
- (h) approve recurrent expenditure within limits determined by the Board;
- (i) approve any individual capital work of

- which the estimated cost does not exceed such sums as the Board may determine;
- (j) assign functions to the employees of the Corporation as per their job description;
 - (k) establish and operate rail and wagon ferries transport services and facilities relating thereto;
 - (l) enter into performance agreement with departmental directors in order to achieve the directorate pre-set key performance indicators and or targets.
 - (m) approve any alteration in the establishment of the Corporation other than an alteration involving a major reorganisation or a substantial reduction in the number of employees; and
 - (n) perform such other functions as the Board may direct.

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(2) Subject to the Public Procurement Act, the Director General shall, in consultation with the Board, have overall responsibilities for the execution of the procurement process in the Corporation and shall in particular be responsible for signing contracts for the procurement activities on behalf of the Corporation.

(3) The Director General shall be a secretary to the Board.

Departmental
Directors and
employees

22.-(1) There shall be employed by the Corporation departmental directors each with responsibility for a particular function.

(2) The Corporation shall appoint a departmental director only if he has-

- (a) provable knowledge and possesses at least a post graduate degree; and
- (b) appropriate experience of at least six years in relation to the relevant function.

(3) A departmental director appointed under subsection (2) shall serve a Corporation for a term of five years and may be reappointed for such term or terms as the Board may deem fit.

(4) There shall be employed by the Corporation such other officers, staff and employees of the Corporation of such number and titles as may be necessary for the efficient discharge of the functions of the Corporation and on such terms and conditions as may be determined by the Board.

(5) The Corporation shall appoint consultants and experts of the Corporation in various disciplines on such terms and conditions as the Corporation may determine.

(6) The Corporation shall establish a competitive selection procedure for the appointment of all employees, consultants and experts.

PART V RAILWAY WORKS

Development and
maintenance of rail
infrastructure

23. For the purpose of development and maintenance of rail infrastructure and other related railway works, the Corporation shall acquire land for use as provided for under the Second Schedule.

Railway strip

24.-(1) Except with the written permission of the Corporation, a person shall not graze, farm, erect any building, structure or execute any works on a railway strip.

(2) Where any person has erected or erects any building, structure, or has executed or executes any works on a railway strip without the written permission of the Corporation, the Corporation shall notify the public by-

- (a) notice published in the *Gazette*;
- (b) publishing a notice in a widely circulating newspaper within an area; or

(c) giving a written 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 Corporation shall demolish, modify, cause to be demolished or modified, the building, structure or works and such person shall pay for the costs of such demolition or modification.

Surveys and inspections

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

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

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

(3) Where an authorised officer is refused entry to any land or dwelling house, he may apply to any

court of competent jurisdiction for an order authorising entry and upon the hearing of the application the court may by warrant authorise such entry.

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

(5) Where the authorised officer fails to pay compensation as provided under this section or if an agreement to pay is not reached the matter can be taken to any court of competent jurisdiction.

Authorisation to
conduct railway
works

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

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

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

(3) Subject to subsection (2), the draft plan and book of reference shall be in such form and manner as the Corporation may specify.

(4) Upon an application to the Corporation for a railway order there shall be paid to the Corporation such

reasonable fee as the Corporation may specify.

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

(6) For the avoidance of doubt, it shall not be necessary for any person to apply for a railway order for the construction or subsequent operation of railway works where such construction or operation does not require an order as specified under this section.

Exempted
development
Caps. 113, 114 and
355

27. For the purposes of railway works, the following development for the purposes of the Land Act, Village Land Act, Urban Planning Act and any other written laws with respect to land development shall be exempted if such development consists of carrying out by or on the authority of the Corporation of railway works-

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

Environmental
Impact Assessment
Report
Cap. 191

28.-(1) An Environmental Impact Assessment Report prepared in accordance with the Environmental Management Act and shall contain the following specified information-

- (a) a description of the proposed railway works comprising information about the site, design, size, physical characteristics and land use requirements of the railway works;

-
- (b) the data necessary to identify and assess the main effects which the proposed railway works are likely to have on the environment;
 - (c) a description of the likely significant effects direct and indirect on the environment of the proposed railway works, explained by reference to their possible impact on-
 - (i) human beings, fauna and flora;
 - (ii) soil, water, air, climate and landscape;
 - (iii) the inter-action between any of the matters referred to in subparagraphs (i) and (ii);
 - (iv) material assets; and
 - (v) the cultural heritage;
 - (d) where significant adverse effects are identified with respect to any of the matters referred to in paragraph (c), a description of the measures envisaged in order to avoid, reduce and, if possible, remedy those effects;
 - (e) where appropriate, an outline of the main alternative if any, studied and an indication of the main reasons for choosing the proposed alternative, taking into account the environmental effects;
 - (f) a summary in non-technical language; and
 - (g) a certificate of compliance with any environmental requirement which may be issued by a relevant institution responsible for environmental impact assessment matters.

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

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

Publication of a
railway order

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

- (a) deposit and keep deposited at such place or places, being a place or places which are easily accessible to the public, as may be appointed by the Corporation, a copy of the draft order, plan, book of reference to the plan and the Environmental Impact Assessment Report which accompanied the application;

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

book of reference, Environmental Impact Assessment Report and the notice referred to in paragraph (b).

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

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

Consideration of a railway order

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

- (a) the draft order, plan of the proposed railway works, book of reference to the plan and the Environmental Impact Assessment Report which will accompany the application;
- (b) any submission duly made to the Corporation by an applicant;
- (c) any submission duly made to the Corporation by a planning authority;
- (d) any additional information furnished to the Corporation under section 29;

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

- (a) the applicant to construct, maintain and improve the railway works specified in the

- order or any part thereof;
- (b) the use of the railway works or any part thereof for the purposes of the operation of a railway; and
- (c) the operation, maintenance and improvement of a railway or any part of the railway, in the manner and subject to the conditions, restrictions and requirements, and on the terms, as the Corporation thinks proper and specifies in the order and the Corporation shall furnish the applicant with a copy of the order.

Further information
to the Corporation

31.-(1) Where the Corporation is of the opinion that an Environment Impact Assessment Report furnished pursuant to section 28 does not comply with the provisions of section 29, or where it otherwise considers it necessary so to do, it shall require the applicant to furnish a document containing such further information in relation to the likely effects on the environment of the proposed railway works as the Corporation may specify and the applicant shall comply with any such requirement.

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

- (a) to deposit and keep deposited at the place or each of the places appointed by the Corporation, a copy of the aforesaid document;
- (b) to publish in one or more newspapers widely circulating in the area to which the proposed railway order relates a notice stating that-

- (i) further information in relation to the likely effects on the environment of the proposed railway works has been furnished to the Corporation;
 - (ii) copies of the document containing the information is available for inspection free of charge;
 - (iii) purchase by members of the public, at the place or each of the places appointed by the Corporation at specified times during the period of four weeks beginning on the day of publication of the notice; and
- (c) to submit further information to the Corporation before the expiry of that period;
- (d) to serve notice of furnishing further information to the Corporation, together with relevant extract on any person on whom notice was served pursuant to the provisions of section 29 (1) (c); and
- (e) to indicate to the person concerned that submissions in relation to the further information may be made to the Corporation during the period of four weeks beginning on the day on which the notice is sent by the applicant to the person concerned.
- (3) The copies of further information in respect of which notice is published shall be made available for purchase by member of the public during the period specified in the notice for such fee as the Corporation may determine.
- (4) Members of the public may inspect further information deposited under this section free of charge at the times and during the period specified in the notice referred to under subsection (2).
- (5) Any person may, during the period specified

in subsection (2), make submissions in writing to the Corporation in relation to the further information on the proposed railway order or the likely effects on the environment of the proposed railway works.

Amendment of
railway order

32.-(1) Subject to subsection (2), the Corporation may, where it considers appropriate amend a railway order, plan or book of reference relating to it and amendments of such order may include a provision varying the route of the railway.

(2) Where, in the opinion of the Corporation an amendment of a railway order would, if made, constitute a substantial material variation in the railway works, the Corporation shall inform the applicant who shall make necessary modification.

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

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

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

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

Acquisition of land
and property right

33.-(1) A railway order shall contain such provisions as the Corporation considers necessary or

during railway works

expedient for the purpose of the order.

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

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

(3) The Corporation shall where necessary seek the assistance of the relevant authority responsible for lands matters to seek consent for the acquisition of land or other property rights required for public interest.

(4) The Corporation shall pay compensation equivalent to the value of the land or other property rights acquired.

Deposit and notification of the railway order

34.-(1) The applicant after obtaining a railway order, shall as soon as practicable deposit at the head office of the Corporation an order and safety plan and at such other places as may be specified by the Corporation.

(2) The Corporation shall after obtaining an order and safety plan under subsection (1), avail the order and safety plan to the members of public for inspection free of charge.

(3) Any person who wants to obtain copies of extracts of the order and safety plan deposited under subsection (1), may obtain the same after payment of the fees prescribed by the Corporation.

Validity of a railway order

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

PART VI
LIABILITY OF THE CORPORATION
(a) *Passengers*

Liability for loss of life of passengers

36.-(1) The Corporation shall not be liable for the loss of life of, or personal injury to any passenger except where the loss of life or of personal injury is caused by negligence on the part of the Corporation:

Provided that nothing herein shall impose upon the Corporation any liability from which it is exempted under the provisions of this Act.

(2) The Corporation shall not in any circumstances be liable for the loss of life of, or personal injury to, any passenger-

- (a) who is travelling, whether with or without permission, in any part in a train or vehicle other than a part normally provided for the use of passengers during travelling;
- (b) who is travelling on a railway in the course of construction whether with or without permission; and

(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 Corporation.

(3) Subject to provisions of subsection (2), in order to avoid liability of the Corporation it shall not be necessary for notice to be given to the passenger of the conditions on which he travels and it shall be immaterial whether or not that passenger is an infant.

(4) The Corporation shall not be liable for the loss of life of, or personal injury to, any passenger who is carried by the Corporation safely by train, when the loss of life or injury occurs during the carriage by train from-

- (a) act of God;
- (b) act of war; or
- (c) fire or accident from machinery.

(5) For the purposes of this section the expression "passenger" includes any person, other than an employee on duty, lawfully travelling on any train or vehicle of the Corporation.

Liability for delay
of passenger train

37.-(1) The Corporation shall not be liable for any loss arising from the delay caused by the failure of any train to start on or complete any journey within set time.

(2) Where the Corporation-

- (a) fails to start any train for whatever reason within twenty four hours from the time of departure, the Corporation shall refund the fare paid by the passenger;
- (b) delays to commence the journey, the Corporation shall immediately inform the passengers through public address; and
- (c) fails to complete the journey for whatever reason within forty eight hours, the Corporation shall refund the fare paid by the

passenger or provide an alternative means of transport available and affordable to the Corporation.

(b) Goods

Liability for loss of goods

38.-(1) Subject to the provisions of this Act, the Corporation shall be liable for any loss or misdelivery of, or damage to goods occurring while the goods are in transit from any cause whatsoever unless the Corporation proves that such loss, misdelivery or damage, arose from-

- (a) act of God;
- (b) act of war;
- (c) seizure under legal process;
- (d) act or order of the Government;
- (e) act or omission of the consignor, his servant or agent;
- (f) inherent liability to wastage in bulk or weight, latent or inherent defect, vice or natural deterioration of the goods;
- (g) fire, explosions or accident from machinery;
- or
- (h) any peril, accident of the inland waterways, navigation of whatsoever nature or kind and from whatsoever cause arising but subject to any conditions expressed in the contract of carriage.

(2) Where loss, misdelivery or damage occurs in any of the cases specified in this section due to the failure of the Corporation to use reasonable foresight and care in the carriage of goods, the Corporation shall be liable for such loss, misdelivery or damage.

(3) The Corporation shall not be liable for loss, misdelivery or damage in respect of goods to which false account has been given, incorrect or insufficient address for delivery and that loss, misdelivery or damage is in any way caused by such false account,

incorrect or insufficient address.

(4) The Corporation shall not in any circumstances be liable for loss, misdelivery or damage in respect of goods-

- (a) where there has been fraud on the part of the consignor;
- (b) unless a document acknowledging receipt of such goods for carriage by the Corporation has been given;
- (c) which at the time such loss, misdelivery or damage occurred are being carried by any transport service other than the one provided by the Corporation;
- (d) where there is loss of a particular market whether held daily or at intervals; or
- (e) where such loss, misdelivery or damage arises from insufficient, improper packing or from riots, civil commotion, strikes, lockouts, stoppage or restraint of labour from whatsoever cause whether partial or general.

Liability for delay
of goods

39.-(1) The Corporation 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 want of reasonable foresight and care on the part of the Corporation.

(2) The Corporation shall not in any circumstances be held liable for any loss arising from the delay to, detention of or deviation in the carriage of goods-

- (a) where there has been fraud on the part of the consignor;
- (b) unless a document acknowledging the receipt of such goods for carriage by the Corporation has been given;
- (c) which at the time such delay, detention or deviation occurred are being carried by any transport service other than the one provided

- by the Corporation;
- (d) where there is a loss of a particular market whether held daily or at intervals; or
 - (e) where such delay, detention or deviation arises, from insufficient packing, riot, civil commotions, strikes, lockouts, stoppage or restraint of labour from whatsoever cause whether partial or general.

Limitation of liability for animals

40.-(1) The liability of the Corporation in respect of any animal shall not in any case exceed the appropriate amount set out in the Tariff Book unless at the time of acceptance of such animal by the Corporation for carriage, the consignor or his agent declared that the value of the animal exceeded such appropriate amount paid or agreed to pay such additional charges as may be determined in the Tariff Book in respect of such excess value, the liability of the Corporation shall not in any case exceed the declared value.

(2) In every proceeding against the Corporation for the recovery of any sum in respect of any animal, the burden of proving the value of the animal, and where the animal has been injured, the extent of the injury shall be upon the claimant.

Limitation of liability for loss of specified articles

41.-(1) The liability of the Corporation in respect of any article or articles specified in the Third Schedule to this Act, and contained in any parcel or package shall not, in any circumstances, exceed two million shillings unless at the time of acceptance of such parcel, or package by the Corporation for carriage the consignor or his agent declared that the value of such article or articles is not less than two million shilling and not exceeding five million shillings.

(2) It shall be a condition of the carriage of any parcel or package containing any article or articles the

value of which has been declared to be in excess of two million shillings that the contents of such parcel or package may be inspected by an authorised employee at the time of such declaration.

(3) In any proceeding against the Corporation for the recovery of any sum in respect of any article or articles the value of which has been declared to be in excess of two million shillings, the burden of proving the value of the article or articles and of any loss or damage thereto shall be upon the claimant.

(4) The Minister may, by order published in the *Gazette*, make regulations under this Act to amend the provisions of the Third Schedule, to vary the amount of the maximum liability to the Corporation or replace all or any of the provisions as specified in this section.

Limitation of liability for loss where false account given

42. The liability of the Corporation in respect of any goods carried by the Corporation under section 53(1) of this Act, in relation to which false account has been given for loss, shall not in any case exceed the value of the goods as calculated in accordance with the description contained in such false account.

Limitation of liability by contract

43.-(1) The liability for carriage of goods by the Corporation shall not be limited in any manner otherwise than by contract made in accordance with the provisions of this Act.

(2) A contract purporting to limit the liability of carriage of goods by the Corporation shall, be void unless it is in writing, signed by or on behalf of the person delivering the goods to the Corporation.

Responsibility as Warehouseman

44.-(1) Subject to the provisions of this Act, or of any contract, the Corporation shall not be liable for the loss, misdelivery, detention of or damage to goods-

(a) delivered to or in the custody of the Corporation otherwise than for the purposes

- of the carriage;
- (b) accepted by the Corporation for carriage where such loss, misdelivery, detention or damage occurs otherwise than while the goods are in transit, except where such loss, misdelivery, detention or damage is caused by negligence on the part of the Corporation.
- (2) The Corporation shall not be liable for loss, misdelivery, detention or damage arising from-
- (a) act of God;
 - (b) act of war;
 - (c) seizure under legal process;
 - (d) act or order of the Government;
 - (e) act or omission of the consignor, consignee or depositor, or of the servant or agent of any such person;
 - (f) fire, flood, tempest, riots, civil commotions, strikes, lock-outs, stoppage or restraint of labour from whatsoever cause whether partial or general;
 - (g) inherent liability to wastage in bulk or weight, latent or inherent defect, vice or natural deterioration;
 - (h) deficiency in the contents of unbroken packages; or
 - (i) insufficient packing or leakage from defective drums, container or packages.
- (3) Where loss, misdelivery, detention or damage occurs-
- (a) in relation to goods accepted by the Corporation for carriage otherwise than while the goods are in transit, the limitation of the liability of the Corporation contained in sections 40, 41 and 42 or limited by any contract under section 43 of this Act shall continue to apply;
 - (b) in relation to goods accepted by the

Corporation for warehousing for inward and outward, the limitation of the liability of the Corporation contained in section 43 of this Act shall apply.

Limitation of liability for loss of goods deposited in cloakroom

45.-(1) The liability of the Corporation for any loss, misdelivery, damage or delay in the delivery of any goods deposited in a cloakroom shall not exceed one million shillings unless at the time of such deposit the person depositing the goods declared that the value thereof exceeded that amount and paid, or agreed to pay, such additional charge as may be determined in the Tariff Book in respect of such excess value and the liability of the Corporation shall not exceed such declared value.

(2) For the purpose of this section the expression “cloak-room” means any place provided by the Corporation in connection with the transport services provided by the Corporation as a facility for the temporary deposit of goods by passengers.

PART VII CARRIAGE OF PASSENGERS AND GOODS

Person travelling without ticket

46.-(1) A person shall not travel in a passenger train unless he is in possession of a valid ticket.

(2) Any person found on passenger train without a valid ticket shall be required to pay to the Corporation on top of actual fare to the penalty of hundred percent of a fare.

(3) Subsections (1) and (2), shall not apply to a person who board a passenger train at a halt or closed station.

General conditions on which tickets are issued

47.-(1) In addition to any other conditions issued by the Corporation, a ticket shall be issued on condition that he can be accommodated in a train of the class for

which the ticket is issued.

(2) An authorised employee may require the passenger to move from one compartment or cabin to another of the same class for the better use of the accommodation of such train.

(3) The passenger shall, on being required to do so, present his ticket for examination by an authorised employee and shall deliver such ticket to such employee.

(4) Where there are circumstances that renders the holder of the ticket not to be accommodated on the date of travel, the holder of a ticket may-

(a) obtain a refund of the fare which he has paid on his returning the ticket to an authorised employee as soon as practicable; or

(b) opt, subject to availability of accommodation, to travel in a lower class and shall, upon drawing as soon as practicable the attention of an authorised employee to such fact, be entitled to obtain from such employee a certificate that he is entitled to a refund of the difference between the fare which he paid and the fare payable in respect of the class in which he travelled.

(5) The provisions of subsection (4), relating to a refund shall not apply to the holder of a season ticket.

General right of persons to be carried as passengers

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

(2) Where an authorised employee is satisfied that, a person who applies for a ticket, or a person in

possession of a ticket, appears to be-

- (a) suffering from any mental disorder;
- (b) suffering from any contagious or infectious disease; or
- (c) under the influence of alcohol,

such person shall not be entitled to obtain a ticket or to be carried as a passenger save under, and in accordance with, any special provisions dealing with the carriage of any such person.

Person travelling
without a valid
ticket

49.-(1) Any person who travels in-

- (a) a class of a passenger train higher than that for which he is in possession of a valid ticket;
- (b) a passenger train beyond the place authorised by his ticket; or
- (c) a person who travel in a passenger train which is not for that particular service,

shall be required to pay to the Corporation on top of actual fare to the penalty of hundred percent of a fare.

(2) 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, an authorised employee or police officer may, if there is reasonable ground to believe that there would be difficulty or delay in bringing that person before the court by any other means, arrest and detain that person without a warrant and bring him, as soon as practicable, before a court having jurisdiction to deal with him in accordance with the provisions of this Act.

Carriage of
passengers and
luggage

50.-(1) The Corporation may, subject to the provisions of this Act-

- (a) determine the manner and conditions upon which passengers and luggage shall be determined in different cases; and such conditions shall be published in the Tariff

Book and shall have effect from the date of such publication or from such later date as may be specified therein;

- (b) determine the different classes of accommodation available to passengers in trains, vessels or vehicles of the Corporation;
- (c) determine the rates, fares and charges for the carriage of passengers and luggage and such rates, fares and charges shall be published in the Tariff Book and shall have effect from the date of such publication or from such later date as may be specified therein.

(2) Notwithstanding the provisions of subsection (1), the carriage of luggage by a passenger shall be free of charge, except for excess weight as may be determined by the Corporation on the bases of classes travelling.

Condition of carriage for excess weight of luggage

51.-(1) Every passenger shall on payment of the appropriate charges for excess weight of luggage be entitled to deliver his luggage to an authorised employee for carriage by the Corporation in the appropriate part of the passenger train and to receive a receipt for each piece of luggage so delivered.

(2) The luggage shall be carried by the Corporation subject to the provisions of this Act and, in addition to the conditions that-

- (a) unless the luggage is delivered to an authorised employee for carriage in accordance with the provisions of subsection (1), it shall be carried at the risk of the passenger; and
- (b) the carriage of goods shall apply to the carriage of luggage save in so far as it is otherwise specifically provided.

Conditions for carriage of goods

52.-(1) The Corporation may, subject to the

provisions of this Act, determine the-

- (a) conditions upon which goods shall be carried or warehoused by the Corporation and different conditions may be determined in different cases; and such conditions shall be published in the Tariff Book and shall, have effect from the date of publication or from the later date as may be specified in the Tariff Book;
- (b) rates and charges for the carriage or warehousing of goods and for any other service shall be published in the Tariff Book and shall, have, effect from the date of publication or from the later date as may be specified in the Tariff Book.

(2) Notwithstanding the provisions of subsection (1), the Corporation may, in relation to the special circumstances of any particular case, determine conditions, rates and charges applicable to such case for the carriage or warehousing of goods by the Corporation.

(3) Subject to subsection (2), the conditions, rates and charges may, if they are of a continuing nature, be available to the public on request.

(4) Acceptance of goods for carriage or warehousing by an authorised employee or agent of the Corporation or operator shall not be deemed to have been effected until a document of receipt in respect of the goods accepted, signed by an authorised employee or agent of the Corporation, has been issued.

Right to carry
goods

53.-(1) Any person who has tendered to an authorised employee the appropriate rates and charges, and has complied with the conditions upon which goods may be accepted for carriage by the Corporation, shall be entitled to receive a receipt for such goods and to

have such goods carried by the Corporation.

(2) An authorised employee if, he is in the opinion that any-

- (a) animal tendered for carriage appears to be suffering from any infectious or contagious disease;
- (b) goods tendered for carriage are goods to which section 58 of this Act applies;
- (c) goods tendered for carriage exceed the maximum weight or dimension specified in the Tariff Book;
- (d) goods tendered for carriage are not properly packed;
- (e) animal tendered for carriage is wild or dangerous;
- (f) carriage of any goods would at any stage of the transit thereof be contrary to any law; or
- (g) facilities for dealing with the goods tendered for carriage are not available at the place where such goods are tendered or at the place of destination or at any place enroute,

the person tendering such goods for carriage shall not be entitled to have such goods carried, except where that person has obtained a permit from the Corporation.

(3) The Corporation shall prescribe the form and manner upon which the goods under subsection (2) may be carried.

Description of
goods to be
delivered

54.-(1) The consignor or a person tendering any goods to the Corporation for carriage or warehousing and on request by an authorised employee, the consignor or person receiving any goods which have been carried or warehoused by the Corporation, shall deliver to an authorised employee a document of receipt signed by such consignor, person or consignee, as the case may be.

(2) The goods delivered to an authorised

employee under subsection (1), may contain description and sufficient information to enable such employee to determine the rates and charges payable in respect of the carriage or warehousing by the Corporation.

(3) Any authorised employee may, for the purpose of examining goods delivered under subsection (2), require such consignor, person or consignee to permit him to examine such goods.

(4) Where a consignor, person or consignee fails to deliver goods referred to in subsection (3) or to permit such goods to be examined as required under this section, an authorised employee may, in respect of goods which-

- (a) are tendered to the Corporation for carriage or warehousing, refuse to accept the goods for such carriage or warehousing unless the rate or charge does not exceed the highest rate or charge payable for any class of goods paid; or
- (b) have been carried by the Corporation, refuse to deliver such goods unless the rate or charge does not exceed the highest rate or charge paid.

(5) Where goods which have been carried or warehoused by the Corporation are found to be false, an authorised employee may refuse to deliver such goods unless the rate or charge does not exceed double the highest rate or charge payable for any class of goods.

Goods may be sold to pay fare, rates or charges

55.-(1) Where any person fails to pay on demand made by an authorised employee any fare, rate or charge due from him as a passenger or in respect of any goods, the Corporation may detain the whole or any part of such goods including the luggage of the passenger.

(2) Where the value of the goods under subsection (1) are in the opinion of the authorised employee insufficient to pay for the same rate or charge

due or if they have been removed from the possession of the Corporation, any other goods of such person which may be in, or may thereafter come into, the possession of the Corporation be detained.

(3) Where any goods have been detained under this section, the Corporation may, if the fare, rate or charge due is not sooner paid, sell by public auction sufficient of such goods to produce the fare, rate or charge so owing and all the expenses of such detention and sale; and in the case of-

- (a) perishable goods, such auction may take place at once; and
- (b) any other goods, such auction may take place on the expiration of at least fifteen days' notice, published in one or more local newspapers widely circulating in an area, of the intended auction:

Provided that no imported goods shall be sold under this section until they have been entered for home consumption in accordance with the relevant written laws.

(4) The Corporation may, out of the proceeds of any sale effected under subsection (2), retain a sum equal to the fare, rate or charge due and 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 Corporation.

(5) A person who fails to remove the detained goods within a reasonable time, the Corporation may sell such goods and dispose of the proceeds of such sale in accordance with the provisions of this section.

(6) Nothing in this section shall prejudice the right of the Corporation to recover any such fare, rate or charge, or any part thereof, by any other lawful means.

Unclaimed goods

56.-(1) Where any goods in the possession of

the Corporation are not claimed by the owner or any other person appearing to the Corporation to be entitled, the Corporation shall, if that owner or person is known, take all reasonable steps to cause a notice to be served upon requiring him to remove the goods.

(2) Where-

- (a) the owner of any goods under subsection (1) is not known and no person appears to be entitled;
- (b) the notice referred to in subsection (1) cannot for any reason be served; and
- (c) there has been a non-compliance with the provisions of any notice served under subsection (1),

the Corporation may, within a reasonable time not being less than three months, except in the case of perishable goods, sell the goods and retain the proceeds of the sale.

(3) Notwithstanding subsection (1), imported goods shall be sold under this section only if they have been imported for home consumption in accordance with relevant written laws.

Indemnity where
goods claimed by
two persons

57. Where-

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

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

Dangerous or
offensive goods

58.-(1) A person shall not take with him in any train, vessel or tender to the Corporation for carriage or warehousing any dangerous, offensive or any goods which are likely to cause damage to a person or property without giving notice of the nature of such goods, to an authorised employee.

(2) Where a person fails to give notice on the nature of goods under this section, an authorised employee may-

- (a) refuse to permit any goods to which this section applies to be taken by any person in any train or vessel of the Corporation;
- (b) refuse to accept such goods for carriage or warehousing or accept them only under, and 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 manners he may reasonably direct.

(3) Where an authorised employee has reason to believe that-

- (a) any goods to which this section applies are being carried or warehoused; or
- (b) such goods have been accepted for carriage or warehousing,

in contravention of the provisions of this section he may examine such goods and if, they are found to be goods in which this section applies he may order their removal from any train or vessel or from premises occupied by the Corporation.

(4) Nothing in this section shall-

- (a) prevent from the provisions of any written laws in force relating to the possession or transport of explosives, petroleum, firearms or ammunition; and

- (b) apply to any goods carried by any member of a military force established for the defence of the United Republic or by a police officer, in the course of his duty.

PART VIII ROLES OF THE REGULATOR

Establishment and
power of Regulator
Cap 413

59.-(1) There shall be a regulator who shall monitor the proper performance of the rail transport sector as provided for under section 6 of Surface and Marine Transport Regulatory Authority Act.

(2) The powers of safety and economic regulation of the rail infrastructure and rail transport services are vested to the Regulator.

(3) The Regulator shall, for the purpose of performing the functions under this Act have powers to-

- (a) enter, inspect and examine any rolling stock and rail infrastructure;
- (b) interview and take written statement from any employee;
- (c) examine and conduct inquiries regarding the state and condition of any works, rolling stock or other things used for, or intended to be used for, or in connection with, the carriage of passengers or goods by rail; and
- (d) issue notice in writing under his hand addressed to the Corporation require answers or report to such inquiries conducted by him as he may consider necessary to make.

(4) Action or other legal proceeding shall not be instituted against the Regulator in respect of any action or omission by him done in good faith when exercising

his functions under this Act.

Functions of
Regulator

- 60.** The Regulator shall-
- (a) ensure adherence to safety standards in the railways operations;
 - (b) regulate tariff, levy, rates, fares and other charges as may be imposed;
 - (c) approve levy, rates, fares and other charges for any service rendered;
 - (d) adjust tariff, rates and other charges where necessary due to the fluctuation of the exchange rates;
 - (e) monitor the performance of the rail sector, including levels of investment, availability, quality and standards of services, cost of services, efficiency of production and distribution of services and other relevant matters;
 - (f) regulate and enforce railway safety;
 - (g) fix rates, fares, and other charges for goods and passengers where such rates, fares and other charges not specified in the Tariff Book;
 - (h) in consultation with the Corporation, monitor railways transport service standards and standards of performance for the provisions of railways transport services;
 - (i) initiate and conduct investigations in relation to the quality of service;
 - (j) collect and compile data of the Corporation as the Regulator considers necessary for the better performance of its functions under this Act;
 - (k) investigate accidents and incidents prejudicial to railway safety;
 - (l) lay down standards and codes of conduct

- with respect to Corporation and customers;
- (m) approve new rail infrastructure, safety systems and unusual safety related features of rolling stock;
 - (n) examine and conduct inquiries regarding the state and condition of any works, rolling stock or other things used for or intended to be used for in connection with the carriage of passengers;
 - (o) advise the Government on all matters relating to safety competence;
 - (p) perform other functions which are incidental or ancillary to functions stipulated under this Act; and
 - (q) discharge any other functions as may be directed by the Minister.

General duty of
Regulator

61. It shall be the general duty of the Regulator to ensure that safety and security of persons affected by the services of a Corporation is adhered to.

Determination of
maximum load

62.-(1) The Regulator shall determine the maximum-

- (a) load and no wagon shall, except with the permission of the Regulator, be loaded in excess of maximum load; and
- (b) number of passengers that may be carried in any coach or cabin.

(2) The Regulator shall cause the maximum load determined under subsection (1) in respect of every wagon to be shown in a conspicuous manner on each wagon.

Inspection of
rolling stock

63. The Regulator shall, in relation to rolling stock, have powers to-

- (a) inspect the rolling stock used with a view of determining whether they are fit for carriage of passengers or goods and to advise the

Minister; and

- (b) inspect the rolling stock used for the purpose of ascertaining whether the provisions of any written law or of any regulations made under this Act relating to the safety plan and protection of passengers or goods carried by railways are being complied with.

Assistance and information

64. It shall be the duty of the Corporation to give the Regulator assistance and information as he may require for the purpose of, or in connection with, the exercise of his functions.

Powers to discontinue use of rolling stock

65.-(1) The Regulator after inspecting the rolling stock used for the carriage of passengers or goods, and is of the opinion that the continuing use of the specified rolling stock may endanger the safety of the passengers or goods carried by rolling stock, he shall state that opinion, together with reasons to the Minister.

(2) The Minister may, upon receiving the opinion and reasons of the Regulator in accordance with subsection (1), direct that the use of rolling stock be discontinued.

(3) Any directives given by the Minister, under subsection (2), shall state the grounds on which such a directive is based.

Use of discontinued rolling stock

66.-(1) When the Minister has directed under subsection (2) of section 65 that the use of rolling stock specified in the directives be discontinued, the Corporation shall not put into services the specified rolling stock until-

- (a) the defect has been rectified and the Regulator has made the report to the Minister; and
- (b) the Minister has approved, in writing, that

the rolling stock may be put into services.

(2) A person who continues to use the discontinued rolling stock under this section as directed by the Minister commits an offence under this Act.

PART IX FINANCIAL PROVISIONS

Authorised capital

67. The authorised capital of the Corporation shall be such sums as the Minister may from time to time declare after consultation with Minister responsible for finance.

Railway
Infrastructure
Fund

68.-(1) There shall continue to exist the Railway Infrastructure Fund.

(2) The objectives of the Railway Infrastructure Fund shall be to renew and develop new and existing rail infrastructure.

(3) The sources of the Railway Infrastructure Fund shall be:

- (a) such sums of money as may be appropriated by the Parliament;
- (b) donor funds received by the Corporation;
- (c) railway development levy; and
- (d) moneys as may be received or determined by the Corporation from any other sources.

(4) There shall be charged a levy known as Railway Development Levy.

(5) The Levy referred to under subsection (4) shall be charged-

- (a) at the rate of 1.5 percent at customs value on customs value on importation of goods; and
 - (b) on goods entered for home consumption in Mainland Tanzania in accordance with procedures applicable under the East African Community Customs Management Act.
- (6) The Railway Development Levy charged

under this section shall not apply to exemptions provided for under the Fifth Schedule of East African Community Customs Management Act, 2004, pharmaceutical goods and equipment of Chapter 30 and 90 of the East African Community Common External Tariff and Fertilizers as defined under the East Africa Community Common External Tariff and Kerosene type Jet Fuel (Jet A1) Classified under HS code 2710.19.21.

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(7) The levy shall be collected by the Commissioner General appointed under the Tanzania Revenue Authority Act and be deposited to the Railway Infrastructure Fund to be used solely for railway infrastructure development.

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

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

(10) The Corporation shall prepare separate accounts disclosing details of the sources and application of the funds of the Railway Infrastructure Fund, and shall be audited by the Controller and Auditor General.

Funds of the Corporation

69.-(1) The funds and resources of the Corporation shall consist of-

- (a) moneys appropriated by Parliament;
- (b) operating incomes;
- (c) money disbursed from the Railway Infrastructure Fund;
- (d) such sums of money or property which may become payable to or vested in the Corporation under this Act or any other

written laws;

- (e) any grants, donations, bequests, money derived from loans or other contributions made to the Corporation; and
- (f) all other payments or property due to the Corporation in respect of any matter incidental to its functions.

(2) The Corporation shall disclose details of the sources of its funds in the Annual Reports.

(3) All income and moneys of the Corporation shall be deposited into the bank account of the Corporation and shall be withdrawn in accordance with the manner prescribed.

Application of the revenue

70.-(1) The revenue of the Corporation for any financial year shall be applied in defraying the following charges-

- (a) working and establishment expenses and expenditure on, or provision for the discharge of the functions of the Corporation;
- (b) the salaries, fees, remuneration, pensions, superannuation, allowances and gratuities of the officers, agents, employees, experts and consultants of the Corporation;
- (c) the remuneration, fees and allowances of the members of the Board and committees;
- (d) interest on any loan raised by the Corporation;
- (e) sums required to the Government or to any other public authority towards repayment of any loan made by the Government or by any other public body to the Corporation;
- (f) sums required to be transferred to a sinking fund or otherwise set aside for the purpose of making provision for the repayment of borrowed money;
- (g) such sums as may be deemed appropriate to be set aside in respect of depreciation or

renewal of the property of the Corporation, having regard to the amounts set aside out of revenue under paragraphs (a) and (f);

- (h) sums required to be transferred to a maintenance fund for the purpose of making provision for the proper and regular maintenance of basic and operational infrastructure and buildings;
- (i) the cost, or any portion thereof, of any works, facilities and machinery;
- (j) equipment or appliances not being a renewal of the property of the Corporation;
- (k) such sums by way of contribution, for the purposes associated with the objects of this Act as the Corporation may determine; and
- (l) any other expenditure authorised by the Corporation and properly chargeable to revenue account.

(2) The balance of the revenue of the Corporation shall be applied to the creation of general reserve and such other reserves as the Corporation may deem fit.

(3) All profits and losses of business entities shall be separately shown in the audited accounts of the Corporation.

Financial year

71. The financial year of the Corporation shall be the period of one year ending on the 30th June.

Budget

72.-(1) The Corporation shall, before the end of each financial year prepare a budget for the following financial year showing estimates of its receipts and expenditure.

(2) The Corporation shall, subject to subsection (1), submit to the Minister the annual budget and every supplementary budget for approval.

(3) The Minister may require the Corporation to

revise the budget if in his opinion the budget does not represent a fair and reasonable projection of income and expenditure.

Accounts and
audit

73.-(1) The Corporation shall keep proper books of account and maintain proper records of its operation in accordance with commercial accounting standards.

(2) The accounts of the Corporation may at any time and shall, at the end of each financial year, be audited by the Controller and Auditor General or any other person authorised on his behalf.

(3) The Corporation shall cause to be kept all proper books and audit records of accounts of, income, expenditure and assets of the Corporation.

(4) Within a period of three months after the end of each financial year, the Corporation shall submit to the Controller and Auditor-General the accounts of the Corporation together with-

- (a) a statement of financial performance during the year;
- (b) a statement of the financial position of the Corporation on the last day of that year;
- (c) a statement of change in equity during the year; and
- (d) a statement of cash flow for the year.

Annual report

74.-(1) The Corporation shall on or before the 30th September of each year, prepare an annual report in respect of financial year up to immediately preceding 30th June, and submit the report to the Minister who shall lay the same before the National Assembly.

(2) The annual report shall consist of-

- (a) detailed information regarding the activities of the Corporation during the year to which it relates;
- (b) a copy of the audited accounts of the Corporation together with the auditor's report;

and

(c) any other information as the Corporation may require to be provided under this Act.

Power to borrow

75. The Corporation may, with the consent of the Minister and with the approval of the Minister responsible for finance, obtain loans and other credit facilities from any person for the purposes of the Corporation upon such terms and conditions relating to repayment of the principal and the payment of interest as it may deem fit.

Power to invest

76.-(1) The Corporation shall conduct its business according to sound commercial principles and shall have power to invest.

(2) “sound commercial principles” means the attainment of a real rate of return on capital employed, of at least 5% or such other figure as the Government may from time to time approve and includes the achievement of any standards of service which may be agreed upon between the Government and Corporation.

PART X OFFENCES AND PENALTIES

General Offences

77. Where a person contravenes any of the provisions of this Act, for which no specific penalty is provided, commits an offence and is liable on conviction to a fine not less than five million shillings and not exceeding ten million shillings or to imprisonment for a term not less than two years and not exceeding five years or to both such fine and imprisonment.

Use of emergency
or relief land

78. Any person who uses or occupies existing and future emergency or relief land earmarked for stacking, storage and railway operations without the consent of the Corporation, commits an offence and on

conviction shall be liable to a fine of not less than ten million shillings but not exceeding twenty million shillings or to imprisonment for a term of not less than twelve months but not exceeding twenty months or to both such fine and imprisonment.

Endangering
safety

79.-(1) Any person who by any unlawful, wilful, negligent or careless act or omission-

- (a) obstructs or causes to be obstructed any train using the railway;
- (b) endangers or causes to be endangered the safety of any person in or upon any train using the railway;
- (c) puts, places, casts or throws upon or across any railway line any wood, stone or other matter or thing;
- (d) causes loss to the Corporation by taking up, possessing, stealing, removing or displacing any rail, sleeper or other component;
- (e) throws or causes to fall or strike at, against, into or upon any train used upon a railway any wood, stone or other matter or thing with intent to injure or endanger the safety of any person being in or upon such train;
- (f) sets fire to destroy 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 belonging or appertaining to the railway or any matter or thing contained therein; or
- (g) does or causes to be done any other thing with intent to obstruct, upset, overthrow, damage or destroy any train using a railway or to endanger the safety of any person travelling by or being upon a railway,

commits an offence and is liable on conviction to a fine not less than fifty million shillings but not exceeding seventy million shillings or to imprisonment for a term not less than three years but not exceeding five years and or to both such fine and imprisonment.

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

Theft of railway property

80. Any person who steals or is found unlawful in possession of any railway property commits an offence upon conviction shall be liable to a fine not less than five million but not exceeding ten million shillings or to imprisonment for a term not less than three years but not exceeding five years or to both such fine and imprisonment.

Goods loaded or unloaded

81.-(1) A wagon ferry shall not without lawful excuse load or unload any goods at any place other than an inland waterways, provided that the Director General may authorise the master of any wagon ferry to load or unload goods at any place than an inland waterways.

(2) Nothing in this section shall apply to small boats carrying goods from any place within the United Republic to any other place within the United Republic or within such a neighbouring country as the Minister may, by notice in the *Gazette*, specify for the purposes of this section.

(3) Any person who contravenes the provisions of this section commits an offence and is liable on conviction to a fine not less than fifty million shillings

but not exceeding seventy million shillings or to imprisonment for a term not less than five years but not exceeding ten years or to both such fine and imprisonment.

(4) Any person who aids, abets, assists, counsels or procures any act under this section commits an offence and is liable on conviction to a fine of not less than ten million shillings but not exceeding twenty million shillings or to imprisonment for a term of two years but not exceeding four years or to both to such fine and imprisonment.

Master to supply information

82. The master of any wagon ferry arriving in an inland waterways shall, where required, produce to any authorised employee-

- (a) a register of the wagon ferry and its papers;
- (b) a list of the crew;
- (c) a list of the passenger, if any, showing particulars of their sex and occupation;
- (d) a list showing the deaths, if any which have occurred during the voyage;
- (e) a list showing the stowaways, if any, on the vessel, and shall also supply such other information in relation to the wagon ferry, passengers and cargo thereof, as such authorised employee may require.

Power of authorised employees in relation to inland waterways

83. Any authorised employee may-

- (a) give directions to the master of any wagon ferry within any inland waterways with regard to the berthing of such wagon ferry, or the removal of such wagon ferry from one berth to another, and such master shall comply with such directions;
- (b) remove any wreck in or other obstruction to an inland waterways or its approaches or any timber, raft or other thing floating in such port

or approaches which endangers or obstructs, or is likely to endanger or obstruct, the free navigation of the wagon ferry;

- (c) in case of urgent necessity, take any action in an inland waterways which, in his opinion, may be necessary to prevent any danger to life; and
- (d) enter upon any wagon ferry or into any building in an inland waterways where necessary, for the performance of any duty or if he has reasonable grounds for believing that an offence against this Act has been or is about to be committed.

Drunkenness
while on duty

84.-(1) Any employee of the Corporation may be required to submit himself to a breath test or to provide a blood or urine sample to an authorized person or medical practitioners approved by the Corporation.

(2) Any employee who while on duty is found to be under the influence of drugs or alcohol as ascertained from a breath test or blood or urine sample taken, commits an offence and is liable on conviction to a fine of not less than two million shillings but not exceeding five million shillings or to imprisonment for a term of not less twelve months but not exceeding eighteen months or to both such fine and imprisonment

(3) An employee who refuses to submit breath test or provide a blood or urine sample when requested to do so, commits an offence and is liable on conviction to a fine of not less than two million but not exceeding five million shillings or to imprisonment for a term of not less twelve months but not exceeding eighteen months or to both such fine and imprisonment.

Trespass and
related offences

85. Any person who-

- (a) not being specifically authorised in that behalf and not being an employee of the

- Corporation-
- (i) is found in any premises occupied by the Corporation;
 - (ii) is found in any areas designated by the Corporation as dangerous or restricted by the erection of notice boards to that effect; or
 - (iii) refuses to leave premises occupied by the Corporation after being lawfully requested to do so by any employee of the Corporation or police officer;
- (b) being on any premises occupied by the Corporation-
- (i) when called upon by employee of the Corporation or police officer refuses to give his name or address, or gives a false name or address;
 - (ii) is in a state of intoxication and behaves in a violent or offensive manner to the annoyance of any other person;
 - (iii) discharges any firearm or does anything which may cause injury to any person on such premises;
 - (iv) commits any nuisance or act of indecency or uses profane, obscene, indecent or abusive language;
 - (v) without lawful excuse contravenes any direction lawfully given by an employee of the Corporation;
 - (vi) except with the permission of an authorised employee of the Corporation 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 bearing a notice that smoking is prohibited in that part;
- (c) writes, draws or affixes any profane, obscene, indecent or abusive word, matter, graffiti, presentation or character upon any premises occupied by the Corporation;
- (d) defaces the writing on any board or any notice maintained upon any premises occupied by the Corporation;
- (e) damages or without lawful excuse interferes with any property of the Corporation;
- (f) in the absence of a gatekeeper, omits to shut and fasten, if any form of fastener is provided, any gate on a railway as soon as such person or any animal, vehicle or other thing under his charge has passed through the gate;
- (g) 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;
- (h) permits or allows any animal to stray on any fenced premises occupied by the Corporation;
- (i) wilfully obstructs or impedes an employee or agent of the Corporation in the performance of his duties;
- (j) throw from a train any article or substance likely to be a source of danger to, or cause injury to any other person;
- (k) fails at the earliest possible opportunity to present to any authorized employee of the

Corporation any property which there is reason to believe has been lost or forgotten and is found by that person on any premises, train of the Corporation;

- (l) being an employee of the Corporation, receives from any passenger, or from any other person delivering goods to such Corporation for carriage or warehousing, or from any other person making use of the facilities provided by such Corporation 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;
- (m) without lawful excuse, enters or leaves any train of the Corporation while it is in motion or at a place other than that appointed by the railway Corporation for passengers to enter or leave or opens any outer door of any train while it is in motion;
- (n) without prior approval of any authority concerned, takes or sends or attempts to take or send upon a railway any dangerous substances or goods, or any dangerous animal not under proper control or any animal suffering from any contagious or infectious disease; or
- (o) without the permission of an authorised employee, travels in or upon any part of a train of the Corporation,

commits an offence, and is liable on conviction to a fine not less than five million shillings but not exceeding ten million shillings or to imprisonment for a term of not less than two years but not exceeding five years or to both such fine and imprisonment.

Offences relating
to tickets

- 86.** Any person who-
- (a) not being an authorised employee or agent of

the Corporation, sells or parts with any ticket or any portion thereof, in order to enable any other person to travel on a train;

- (b) purchases or obtains any ticket or any portion thereof, from any person other than an authorized employee; or
- (c) unlawfully alters, obliterates or defaces any ticket with intent to render any material portion thereof illegible,

commits an offence and shall be liable on conviction to a fine of not less than five million shillings but not exceeding ten million shillings or to imprisonment for a term not less than two years but not more than five years or to both such fine and imprisonment.

Forgeries of tickets

87. Any person who-

- (a) obtain by false pretences or other fraudulent means any ticket issued by the Corporation;
- (b) with intent to defraud, counterfeits, forges or alters any ticket; or
- (c) with intent to defraud, utters or in any way publishes any forged, counterfeited or altered ticket,

commits an offence and shall be liable on conviction to a fine not less than five million shillings but not exceeding ten million shillings or to imprisonment for a term not less than two years, but not exceeding five years or to both such fine and imprisonment.

Travelling without ticket

88. Any person who-

- (a) travels on a train without a valid ticket to avoid payment of any fare for which he is liable;
- (b) having a valid ticket for a certain distance, knowingly or unknowingly travels on a train beyond that distance to avoid payment of the

fare for the additional distance;

(c) travels on a train by a higher class than the valid ticket which he holds entitles him to travel to avoid payment of any additional fare;

(d) refuses to pay the fare and excess charge which, on demand, he is liable to pay under this Act; or

(e) travels on a train with a ticket, or any portion, purchased or obtained by him from any person other than an authorized employee, commits an offence, and shall be liable on conviction to a fine of not less than one hundred thousand shillings but not exceeding five hundred thousand shillings or to imprisonment for a term of not less than three months but not exceeding six months, or to both such fine and imprisonment.

Unlawfully
transporting
dangerous goods

89.-(1) A person, who in contravention a provision of section 58-

- (a) takes with him any goods to which that section applies upon any train or vehicle; or
- (b) delivers any such goods for carriage or warehousing.

commits an offence, and shall be liable on conviction to a fine of not less than ten million shillings but not exceeding twenty million shillings or to imprisonment for a term of not less than two years but not exceeding five years or to both such fine and imprisonment.

(2) Any person who is convicted of an offence under this section shall, in addition to the penalty given under subsection (1), be responsible for any loss, injury or damage which may be caused by reason of such goods taken by train or vehicle or delivered for carriage or warehousing, and such offender shall pay the amount of any loss, injury or damage to the injured person.

Employee
endangering
safety of
operation

90. Any employee of the Corporation who, while on duty, endanger the safety of operation or a person by-

- (a) contravening any of the provisions of this Act;
- (b) contravening any lawful order, direction or rule given to such employee or made in respect of his service;
- (c) being under the influence of alcohol or drugs; or
- (d) any rash or negligent act;

commits an offence and shall be liable on conviction to a fine of not less than five million shillings but not exceeding ten million shillings or to imprisonment for a term of not less than two years but not exceeding three years or to both such fine and imprisonment.

Employee
demanding
improper amount

91. Any employee of the Corporation who, with intent to defraud, demands, solicits or receives from any passenger, or from any person delivering goods to the Corporation for carriage or warehousing from any person making use of the facilities provided by the Corporation any greater or lesser amount than he should demand or receive, or any other thing of value, commits an offence and shall be liable on conviction to a fine not less than five million shillings but not exceeding ten million shillings or to imprisonment for a term not less than three years but not exceeding five years or to both such fine and imprisonment.

Arrest of
employee

92.-(1) Where the safe operation of any railway transport service of the Corporation is likely to be endangered by the immediate arrest, whether with or without a warrant, of any employee, the police officer on duty shall-

- (a) request the head of the department of the employee to be relieve from 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 he does not escape.

(2) Where any request is made to a head of a department 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.

Power of arrest,
removal and place
of trial

93.-(1) Any person who commits any offence mentioned under this Part, may be arrested without warrant by any authorised employee of the Corporation or police officer and shall with the least possible delay be taken before a court with competent jurisdiction.

(2) Any person who commits an offence under this section may be arrested without warrant by any authorised employee of the Corporation or police officer if-

- (a) there is reason to believe that the person will abscond; or
- (b) he refuses on demand to give his name, identity card and address; or
- (c) there is reason to believe that the name, identity card and the address given by him is incorrect or invalid;

commits an offence and shall be liable on conviction to a fine of not less than two hundred thousand shillings but not exceeding five hundred thousand shillings or to imprisonment for a term of not less than three months but not exceeding six months or to both such fine and imprisonment.

(3) Any person who is arrested or required to leave any premises or facilities belonging to the Corporation shall not be entitled to the refund of any fare which he may have paid.

Compounding of
offences

94.-(1) Notwithstanding the provisions of this Act relating to penalties, where a person admits in writing that he has committed an offence under this Act, the Director General or any other person authorised by him in writing may, at any time prior to the commencement of the proceedings by a court of competent jurisdiction compound such offence and order such person to pay sums of money, not exceeding one half of the amount of the fine to which such person would otherwise have been liable to pay if he had been convicted of such offence.

(2) Where an offence is compounded in accordance with subsection (1) and proceedings are brought against the offender for the same offence, it shall be a good defence for the offender to prove to the satisfaction of the court that the offence with which the offender is charged has been compounded under subsection (1).

(3) Where the person fails to comply with the compounding order issued under this section within the prescribed period, the authority may-

- (a) in addition to the sum ordered, require the person to pay an interest at the rate prescribed in the regulations; and
- (b) enforce the compounding order in the same manner as a decree of a court for the payment of the amount stated in the order.

PART XI MISCELLANEOUS PROVISIONS

Regulations

95.-(1) The Minister may make regulations in relation to any matter necessary to give effect to functions of the Corporation relating to safety and other matters.

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

- (a) procedures for the approval of new works;
- (b) procedures to be adopted in connection with safety management, the preparation, verification, submission and amendments of safety plans;
- (c) procedures to be adopted for compliance with safety plans and their revision;
- (d) procedures and conditions of appointing safety assessors and auditors;
- (e) minimum requirements for the auditing of safety plans;
- (f) procedures and conditions for application and issuance of licence;
- (g) requirements relating to the reporting and investigation of railway accidents and incidents including the form of reporting and the classification of accidents and incidents to be reported;
- (h) procedures relating to prohibition notices;
- (i) safety standards for rail infrastructure and rolling stock;
- (j) levels of training, medical fitness and competencies of categories of railway staff;
- (k) requirements for continuous automatic brakes, block working, interlocking of points and signals and passenger communication;
- (l) procedures for carriage of dangerous goods and substances;
- (m) safety barriers and operating procedures at level crossings;
- (n) procedures for open access; and
- (o) any other matters which the Minister considers necessary for proper implementation of this Act.

Issuance of
certificate

96.-(1) The Minister may, for the avoidance of doubt, issue a certificate in respect of any specified

property or class of property, including any chose-in-action certifying that the property referred to in any order made or purported to be made under this Act, has or was not, at the time the order was made, the property of the Corporation or its subsidiary and the certificate shall be conclusive evidence of the certified facts.

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

Powers to transfer
right and
liabilities

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

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

(3) Rights and liabilities transferred to the Corporation may be sued on, recovered or enforced by or against the Corporation and shall not be necessary for the Corporation to give notice to the person with respect of whose rights or liabilities is so transferred.

(4) Where legal proceedings in relation to rights or liabilities transferred under the provisions of this section to which the Corporation or a subsidiary of the Corporation is a party are pending on the date of its transfer, the proceedings shall be continued against the Corporation or a subsidiary of the Corporation as the case may be.

(5) An order made pursuant to the provisions of this section shall become effective on the date it was made, but if such order is made under the repealed law, it

shall become effective on the terms as the Minister may, by order specify and shall be treated as if it was made on such earlier date on which it was actually made.

Issuance of certificate in respect of contract or commitment

98. For the avoidance of doubt, the Minister may issue a certificate in respect of any specified contract or commitment or class of contract or commitment certifying that the rights and liabilities accruing from any contract or commitment referred to in an order made or purported to be made under section 108 were or were not at the time the order was made rights or liabilities of the Corporation or a subsidiary of the Corporation and such rights or liabilities accordingly, as the case may be were or were not transferred to the Corporation under that section and the certificate shall be the conclusive evidence of the facts so certified.

General duty of other persons

99.-(1) It shall be the general duty of a person being on or near a rail infrastructure or rolling stock to conduct himself in a manner not to endanger himself or any other person.

(2) A person shall not conduct himself in a manner which endangers rail infrastructure or rolling stock.

(3) A person who contravenes the provisions of this section commits an offence.

Accidents to be reported

100. Where any accident occurs in a rail infrastructure or rail transport service, then, if that accident-

- (a) involves loss of human life or with serious injury to any person or loss of property;
- (b) involves any collision between trains;
- (c) involves derailment or capsizement of any train, or any part thereof, carrying passenger or goods; or

(d) is of such other kind as the Minister may specify in directions given to the Director General,

the Director General shall, as soon as practicable, give notice of the occurrence of loss of human life, collision, derailment, capsizement or such accident to the Minister, Board, Regulator, police station and administrative authority nearest to the scene of such accident.

Accident inquiry

101.-(1) The Minister may order inquiry into any accident which occurs in any rail infrastructure or rail transport service.

(2) The Corporation shall submit to the Ministry a report on any accident setting out *inter alia* the probable cause of such accident and the steps, if any, which have been taken, or it has directed to be taken, with a view of avoiding a repetition of an accident.

Accident reports

102. The Director General shall make, to the Ministry and the Board, a report in such form and manner at the intervals as the Board may direct of all accidents occurring to the rail infrastructure or railways transport services.

Power of entry to prevent accidents

103.-(1) Subject to any other written laws, the Corporation may for the purpose of safe operation of any rail service provided or when repairing any damage caused by any accident, enter upon any land-

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

(2) Where any tree or other obstruction is cut down or removed under subsection (1) (a), the owner or occupier shall be entitled to fair compensation.

(3) Compensation shall not be payable if the tree or other obstruction cut down or removed, as the case may be, which came into existence subsequent to the construction of the railway.

Entry on land to
alter position of
pipes

104.-(1) Subject to any other written laws, the Corporation may enter into any land and alter the position of any pipe for the supply of gas, oil, water or compressed air, or the position of any electric, telephone or telegraphic wire or telecommunications cable or the position of any drainage system.

(2) Where the Corporation exercises any power under subsection (1), it shall give reasonable notice of its intention to the relevant authority or any person having control of the pipe, wire, cable or drainage system and-

- (a) such authority or person may authorise a representative to superintend such work;
- (b) the Corporation shall make arrangements for the maintenance of the supply of gas, oil, water, compressed air, electricity, or for the continuance of the telephone, telegraphic, telecommunications services or for the maintenance of the drainage system, as the case may be, during the execution of the work.

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

(4) Where the circumstance requires the Corporation to enter into any land and alter the position of any pipe for the supply of gas, oil, water, compressed

air, the position of any electric, telephone, telegraphic wire, telecommunications cable or the position of any drainage system he shall consult the Corporation.

Power to control
and divert water

105. Subject to any other written laws, the Corporation may take, control or divert any water from any natural water course for the purpose of construction and protection of rail infrastructure.

Accommodation
works

106.-(1) In this section, “accommodation works” means such crossings, bridges, culverts, drains or other works for the purposes of making good any interruption caused by the construction of a railway to the use of the lands through which the railway was constructed.

(2) Subject to subsection (1), the Corporation shall, during the construction of a railway line or as soon as practicable thereafter, construct and maintain the accommodation works for the benefit of the owners and occupiers of land adjoining the land on which the railway line is constructed such crossing, bridges, culverts, drains or other works as, in the opinion of the Corporation, are necessary.

(3) Notwithstanding the provisions of subsection (1), the construction or maintenance of any accommodation works shall not-

- (a) prevent or obstruct the proper operation of the railway; or
- (b) prevent the owners, occupiers, or their predecessors in title, in addition to compensation to receive the money for the works not being constructed or maintained.

(4) A person shall not institute a case against the Corporation after a period of five years from the date on which the railway line was constructed or maintained for the purpose of accommodation works.

Additional
Accommodation
works

107. Where at any time-

- (a) the owner or occupier of any land on which a railway line is constructed desires any accommodation works in addition to those, if any, constructed by the Corporation;
- (b) any person who proposes to construct a road or any other works across a railway line; such person shall consult the Corporation before construction of such accommodation works; and
- (c) any person who proposes to construct a road or any other works across a railway line that person shall bear the cost of construction of such accommodation works.

Construction of
level crossing

108.-(1) Where, in the exercise of its powers under this Act, the Corporation proposes to construct a railway track across a road, the relevant authorities may, subject to subsection (2), require the Corporation to execute such works as may be necessary for the safety of the public and the Corporation shall comply with such requirements.

(2) The Corporation shall, before making any requirement under this section, communicate with relevant authorities and shall take into consideration any representation made by such authority or any person directly affected by the proposed construction.

(3) Where any railway track has been constructed so as to cross a road, the relevant authorities may, subject to subsection (2), require the Corporation to-

- (a) erect gate or provide other safety measures if the crossing is on the same level; or
- (b) raise or lower the level of the road so that it crosses the railway track above or below and not on the same level.

(4) Where as a result of a requirement made by the Corporation under this section, any works to be

constructed by the Corporation, the manner of the construction of such works and their apportionment of cost of construction and maintenance shall be determined by the agreement between the Corporation and the relevant authorities.

Use of railway
under
construction

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

Management of
common facilities

110.-(1) The Corporation shall manage common facilities relating to rail transport including but not limited to lands, workshops, clubs, schools and training colleges or institutions.

(2) The supervision and management of the facilities referred to under subsection (1) shall be prescribed.

Preparation of
Land Master Plan

111.-(1) Any planning authority, shall ensure that when preparing or reviewing a Land Master Plan incorporate or allocate land for provision of rail infrastructure.

(2) Any planning authority when preparing or reviewing the Land Master Plan shall consult the Corporation in order to accommodate current and future development plans for rail infrastructure.

Railway archives

112. The Corporation in consultation with the National Archives Agency shall collect, maintain, keep in safe custody all railway historical maps, drawings, reports, data, pictures, registers, rail networks, rolling stock, infrastructure, orders and safety plans.

Repeal and
savings

113.-(1) The Railways Act is hereby repealed.

Act No. 4 of 2002

(2) Notwithstanding the repeal of the Railways Act, any regulation, order, rules, notice, directives or exemptions made under any other written laws which

were in force immediately before the commencement of this Act shall in so far as it is not inconsistent with the provisions of this Act, until revoked, replaced, cancelled or rescinded remain in force as if they were made under this Act.

Transfer of staff
and their rights

114.-(1) As from the effective date, every employee and staff of the Reli Assets Holding Company Limited in its acronym RAHCO and the Tanzania Railways Limited in its acronym TRL who are necessary for the purpose of the Corporation shall be, as the case may be, deemed to have been employed or transferred to the Corporation on the terms and conditions not less favourable than those applicable to them immediately before the effective date.

(2) Where any employee or staff of the former RAHCO and TRL is not absorbed by the Corporation, he may be transferred to any other ministry or public institution, and his service shall be deemed to be continuous.

(3) Nothing in this section shall operate so as to prevent any employee of the RAHCO and TRL from resigning or being terminated from employment.

(4) Every employee and staff of RAHCO and TRL whose service is not deemed to have been employed or transferred to the Corporation or is not transferred to any other ministry or public institution shall be paid terminal benefits in accordance with the laws and regulations governing the terms and conditions of its service immediately before the termination.

(5) Where a person is transferred to the Corporation or any ministry or public institution under this section is a member of any statutory, voluntary pension fund or any other superannuation scheme he shall, for the purposes of this Act, continue to be governed by the same laws under those funds or schemes

	as if he had not been transferred to the service of the Corporation or any ministry or public institution.
Cap. 212	(6) Under this section “TRL” means Tanzania Railways Limited incorporated under the Companies Act to provide rail transport services.
Rights of a person in an undertaking	115. This Act shall not operate so as to affect in a prejudicial way the rights of any person under any undertaking or licence granted prior to the commencement of this Act or any undertaking entered into prior to the commencement of this Act.
Transfer of assets and liabilities	116. -(1) As from the effective date, all assets, interests, rights, privileges, liabilities or obligations vested in RAHCO and TRL shall be transferred to and be vested in the Corporation without further assurance. (2) Where any question arises as to whether any particular property, or any particular asset, interest, right, privilege, liability or obligation has been transferred to or vested in accordance with the provisions of subsection (1), a certificate under the hand of the Minister shall be conclusive evidence that the property, asset, interest, right, privilege, liability or obligation was or was not so transferred or vested.
Continuation and completion of disciplinary proceedings	117. -(1) Where on the effective date any disciplinary proceedings were pending against any employee of RAHCO or TRL who has joined the Corporation or transferred to any other ministry or public institution such proceedings shall be carried on and completed by the Corporation, ministry or public institution and where on the effective date any matter was in the course of being heard or investigated or had been heard or investigated by RAHCO or TRL but no order or decision had been rendered, the Corporation, ministry or public institution shall complete the hearing

or investigation and issue such order, ruling, finding or direction.

(2) Any order, ruling, finding or directive made or given in relation to any proceedings or investigation pursuant to subsection (1), shall be treated as an order, ruling, finding or directive of the Corporation, ministry or public institution and have the same force or effect as if it had been made or given by RAHCO or TRL before the effective date.

FIRST SCHEDULE

BOARD OF DIRECTORS

(Made under Section 12)

Appointment,
composition
and tenure of
the office of
the Board

1.-(1) The Board shall consist of-

- (a) the Chairman who shall serve for a term of three years renewable once;
- (b) a senior officer from Custom and Excise Department of Tanzania Revenue Authority;
- (c) a senior officer from Tanzania Ports Authority;
- (d) law officer from the Attorney General's Chambers;
- (e) a senior member from the Ministry responsible for Railways;
- (f) a female member from private sector shall serve for the term of two years renewable once with experience in rail industry; and
- (g) two members from the general public, with the knowledge of the rail industry, who shall serve for two years renewable once.

(2) A member appointed under subparagraph (1)(b), (c), (d) and

(e)-

- (a) shall, unless his appointment is sooner terminated by the appointing authority or he ceases in any other way to be a member, hold office for a period of three years but shall be

eligible for re-appointment once; and

- (b) may at any time resign from his office by giving notice in writing addressed to the Minister, and from the date specified in the notice or, if no date is so specified from the date of the receipt of the notice by the Minister, he shall cease to be a member.
- (3) The Director General shall be the secretary to the Board.

Vice Chairman

2. Members of the Board shall elect from among themselves a Vice Chairman of the Board who shall, subject to his continuing to be a member, hold office for a term of one year from the date of his election, but shall be eligible for re-election.

Appointment of temporary member

3. When any member of the Board, other than the Director General, is by reason of absence from the country, illness, conflict of interest or other sufficient cause unable to perform his duties as a member of the Board, the appointing authority may appoint a temporary member in his place, and the temporary member shall hold office until the resumption of duty of the substantive member or until the terms of office of the substantive member expires, whichever occurs first.

Board meetings

4.-(1) The Board shall ordinarily meet quarterly at times and places as it deems necessary for the transactions of its business as required under this Act.

(2) The Chairman, or in his absence, the Vice Chairman, may at any time call an extraordinary meeting of the Board, and may call an extraordinary meeting upon a written request by majority of the members in office.

(3) The Chairman or in his absence the Vice Chairman shall preside at every meeting of the Board.

(4) In absence of both the Chairman and Vice Chairman, members present shall elect a member from amongst themselves to preside over the meeting.

Power of Board to co-opt

5. The Board may co-opt any person whose presence is in its opinion desirable to attend and to participate in the deliberation of a meeting of the Board or Committee and such person shall have no right to vote.

Quorum

6. The quorum at any meeting of the Board shall be at least four members.

Decision of the Board

7.-(1) Subject to subparagraph (2), matters proposed at a meeting of the Board shall be decided by a majority of votes of members

present and voting, and in the event of an equality of votes, the person presiding shall have a casting vote in addition to his deliberative vote.

(2) A decision may be made by the Board without a meeting, by circulation of the relevant papers among the members and the subject matter be considered at a meeting of the Board.

Minutes of the meetings

8.-(1) The Board shall cause to be recorded and kept by the Director General the details of all business conducted or transacted at its meetings, and the minutes of each meeting of the Board shall be read and confirmed, or amended and confirmed, at the next meeting of the Board signed by the person presiding at that meeting.

(2) Any minutes purporting to be signed by the person presiding at a meeting of the Board shall, in the absence of proof of error, be deemed to be a correct record of the meeting.

Vacancies not to invalidate proceedings

9. The validity of any act or proceeding of the Board shall not be affected by any vacancy among its members or by any defect in the appointment of any of them.

Proof of document

10. Any document purporting to be a document duly executed or issued under the seal of the Corporation or on behalf of the Corporation shall be received in evidence and be deemed to be a document so executed or issued without further proof unless the contrary is shown.

Board to regulate its own proceedings

11. Subject to the provisions of this Schedule, the Board may regulate its own proceedings.

SECOND SCHEDULE

DEVELOPMENT OF RAILWAY LAND

(Made under section 23)

1. Development of railway land falls into two categories namely-

- (a) Railway Operational Lands which consist of main line right of way reserve land, level crossings diamond visibility, station yard reserves, marshalling yards, workshops, railway sidings reserves, signal and telecommunication infrastructure, maintenance gang camps, rest houses for line inspectors, running rooms, on call operational staff accommodation, track maintenance depots, land premises accommodating rail-intermodal exchange terminals, security buildings, health and first aid centres for railway users, holdings grounds for rescue and relief facilities, railway quarry lands, borrow pits for rail infrastructure, water for railway use (land accommodating water infrastructure), stream and river crossing reserves (60m from bank edge either side and 200m from structure centre both downstream and upstream); and
- (b) Non-operational Land include commercial and recreational lands.

2. In this Schedule unless the context otherwise requires-

- “level crossings diamond visibility” means a distance of 100m in each of the four directions along diagonals on intersection of road and railway at the same level for safety reasons;
- “mainline right of way reserve land” means a corridor or strip which extends 30m either side from track centre on mainline, with exception in developed township sidings as shall be determined by the Corporation and communicated to respective local land authority;
- “marshalling yards” means an area of land accommodating railway loops and accompanied operational facilities for formation of trains, operational and maintenance facilities and parking grounds;
- “other operational facilities” means a land premises accommodating rail-intermodal exchange terminals, running rooms, safety and security buildings, health and first aid centres for railway users, holdings grounds for rescue and relief equipments and materials, railway quarry land, borrow pits for railway, water for railway use (land accommodating water infrastructure) streams and river crossings reserves (60m from bank edge either side and 200m from structure centre both downstream and upstream), land to accommodate on call railway staff, gang camps, rest houses, on call accommodation of operational staff. storage sites rail infrastructure materials, warehouses, open land, hardstands,

- station buildings (housing);
- “railway sidings reserve” means a strip of 30m width from track centre land where railway line infrastructure both, private and public taking off from existing yards or mainline to save isolated premises, with exception to be determined technically by the Corporation;
- “signalling infrastructure” means a mechanical or electrical device erected beside the railway line to pass information relating to the state of the line ahead;
- “station yard reserves (SYR)” means the land within current boundary as per respective site plan drawings;
- “structure crossings streams” means an area of land along crossing streams with length of 200m downstream and upstream or existing width 60m either side from natural or existing river bank whichever is bigger;
- “telecommunication infrastructure” means a system used to exchange information by way of electronic and electrical over a significant distance; and
- “workshop land” means a land accommodating buildings and facilities for repair, maintenance and rehabilitation of locomotives, wagons, coaches and all other railway operational equipment and machineries.

THIRD SCHEDULE

LIMITATION OF LIABILITY FOR LOSS OF SPECIFIED ARTICLES

(Made under section 41)

- The Corporation shall not be liable on the loss of the following goods or articles-
- (a) gold, silver and other precious metals, coined or uncoined, manufactured or unmanufactured, and any coins whether made of gold, silver or any other metal;
 - (b) precious or semi-precious stones, jewellery and trinkets;
 - (c) watches, clocks and time pieces of any description;
 - (d) Government securities;
 - (e) stamps;
 - (f) bills of exchange, promissory notes, bank notes, currency notes and orders or other securities for payment of money;
 - (g) maps, plant, writings and title-deeds;
 - (h) painting, engravings, lithographs, pictures, photographs, carvings, statuary, sculptures, antique furniture and other works of art;
 - (i) art pottery, glass and marble;
 - (j) cameras and cinematograph apparatus (including films);
 - (k) lace, furs and feathers;

- (l) opium and narcotic preparations;
- (m) musk, sandalwood oil and other essential oils used in the preparation of perfumes;
- (n) pyrethrum extract;
- (o) musical and scientific instruments, wireless and television sets, radiograms, record players, tape recorders and all electronic instruments and equipment;
- (p) ivory in any form; and
- (q) any article the value of which exceeds twenty million shillings.

Passed by the National Assembly on the 13th September, 2017

THOMAS D. KASHILILAH
Clerk of the National Assembly