

THE JAMAICA RAILWAY CORPORATION ACT

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SCHEDULE

THE JAMAICA RAILWAY CORPORATION ACT

[1st April, 1960.]

Laws
1 of 1960,
42 of 1960,
Acts
42 of 1969
3rd Sch.
52 of 1975,
27 of 1988.

PART I *Preliminary*

1. This Act may be cited as the Jamaica Railway Corporation Act. Short title.

2. In this Act unless the context otherwise requires the expression— Interpretation.

“agreement” means an agreement enforceable in law;

“baggage” includes such articles as are usually carried by passengers for their personal use or convenience and such other articles as may be declared by the Corporation to be baggage;

“chairman” means the chairman of the Corporation;

“charges other than rates and fares” means demurrage, dues, fees, storage, terminals and tolls and any charges, not being rates or fares, for any service performed, facility provided, penalty imposed, or licence, permit or certificate granted; and for the purposes of this definition “terminals” includes charges in respect of cranes, depots, sidings, stations, warehouses, wharves and other similar matters and of any services rendered thereat;

“Corporation” means the Corporation established in accordance with this Act;

“debenture” includes debenture stock;

“fare” means any charge for conveying passengers;

“financial year” in relation to the Corporation means a period of twelve months beginning on the 1st

day of January in any year; provided that the period beginning on the vesting day and ending on the thirty-first day of December next following shall be deemed to be a financial year;

“functions” includes powers and duties;

“general manager” means the general manager of the Corporation;

“goods” includes animals whether alive or dead, baggage, merchandise, parcels, perishables, vehicles and any other movable property;

“intoxication” includes the state of being under the influence of drugs, and grammatical variations of that expression, and cognate expressions, shall be construed accordingly;

“perishables” means goods liable to rapid deterioration and includes bread, butter, cheese, eggs, fish, fruit, game, meat, milk, plants, vegetables and any other thing which may be declared by the Corporation to be perishable goods;

“railway” includes—

(a) all immovable property, rolling stock, machinery, road vehicles, vessels, rafts, and other movable property, owned or used by the Corporation for or in connection with the public carriage of passengers and goods by road, rail or inland waterway; and

(b) a railway under construction by or for the Corporation;

“railway land” means land vested in or in the possession of the Corporation for the purposes of the railway;

“railway servant” means any person employed by the Corporation in connection with the service or con-

struction of a railway, but does not include an independent contractor;

“rate” means any charge for receiving, forwarding, conveying or delivering goods;

“route mileage” means the distance between the terminal points of main and branch lines of railway measured along the centre line of the main or branch line, but does not include any siding;

“secretary” means the secretary of the Corporation;

“stock” includes shares but does not include debentures;

“vehicle” includes a “motor vehicle” as defined in section 2 of the Road Traffic Act, and any bicycle, car, carriage, cart, handcart, perambulator, tricycle, van or waggon and any other vehicle used or intended to be used for the conveyance of persons or goods;

“vesting day” means the day appointed by the Minister under section 22.

PART II. *Establishment, Duties and Powers of the Corporation*

3.—(1) For the purposes of this Act there shall be established a body to be known as the Jamaica Railway Corporation. Establishment of Jamaica Railway Corporation.

(2) The provisions of the Schedule shall have effect with respect to the constitution and operations of the Corporation and otherwise in relation thereto. Schedule.

(3) The Corporation shall be a body corporate having perpetual succession and a common seal with power to purchase, take, hold and dispose of land and other property of whatever kind for the purposes of this Act.

(4) The Corporation may sue and be sued in its corporate name and may for all purposes be described by such name.

(5) The seal of the Corporation shall be authenticated in the manner provided by the Schedule and shall be officially and judicially noticed.

(6) A member of the Corporation shall not be personally liable for any act or default of the Corporation done or omitted to be done in good faith in the course of the operations of the Corporation.

Delegation of functions.

4.—(1) The Corporation may delegate to the general manager such of its functions under this Act as are necessary to enable him to transact effectively the day to day business of the Corporation.

(2) The general manager may, unless otherwise directed by the Corporation, delegate to any railway servant or agent any of the functions delegated to the general manager under subsection (1).

Duty to furnish information.

5. The Corporation shall furnish to the Minister such information relating to the discharge of its functions and its property and finances, including financial, statistical and other returns, as the Minister may from time to time require and, in particular, the statements and reports required by Part VI.

Power to give directions to the Corporation.

6.—(1) The Minister may, after consultation with the chairman, give to the chairman directions of a general character as to the discharge by the Corporation of its functions in relation to matters appearing to the Minister to be of substantial public importance, and the Corporation shall give effect to all such directions.

(2) Whenever in the opinion of the Minister it is necessary for the public safety that there should be gates and turnstiles across a public road at the point crossed by the railway on a level it shall be lawful for him to require the Corporation to erect such gates and turnstiles, and thereafter the Corporation shall erect and maintain such gates and turnstiles in working order.

7.—(1) It shall be the duty of the Corporation—

- (a) to manage and operate in accordance with this Act the railway thereby transferred to the Corporation and any expansion or extension thereof and any new railway and to provide all reasonable facilities for carriage by the Corporation of passengers and goods:

General
duties of
Corporation.

Provided that the Corporation shall not be under an obligation to continue or introduce any particular service or facility which is uneconomic, or which appears to the Corporation unlikely to provide within a reasonable time adequate revenue to meet the cost to the Corporation of providing that service or facility, unless the Minister so directs, in which event the Corporation may be reimbursed from the Consolidated Fund the amount by which it is proved to the satisfaction of the Minister that the revenue received from the service or facility in respect of any financial year is less than the amount of the charges properly chargeable to revenue in respect of that year and attributable to that service or facility;

- (b) to control the expenditure of the Corporation whether on revenue or capital account;
- (c) so to conduct the affairs of the Corporation as to ensure that, so far as practicable, the annual revenues of the Corporation are, taking one finan-

cial year with another, sufficient to meet all charges properly chargeable to revenue; and

- (d) to direct and control any expansion or extension of the railway and the construction of any new railway.

(2) In framing programmes of reorganization or development involving substantial outlay on capital account, the Corporation shall act in accordance with a policy settled from time to time with the approval of the Minister.

(3) For the purposes of this section the expression "charges properly chargeable to revenue" includes the charges referred to in section 27.

Obligations
under exist-
ing agree-
ments.

8.—(1) From and after the vesting day the Corporation shall maintain the fences erected and maintained on each side of the railway and existing at that day, with such accommodation bridges, level crossings and other works as may have been fixed by agreement with the owners of lands at the time when the amount of compensation to which they were entitled was settled under the Lands Clauses Act:

Provided that fences of the same type as those heretofore erected and maintained shall be considered sufficient for all purposes.

(2) If at any time the owner of any such land adjoining the railway shall require any additional bridge, level crossing or other accommodation work beyond those fixed by agreement as aforesaid, the Corporation shall, on such owner entering into an agreement to pay the entire cost of such work and of its maintenance, carry out such work, or permit it to be carried out according to designs and specifications to be approved by the Corporation, and to its satisfaction.

9.—(1) Subject to subsection (3), the Corporation shall make and at all times thereafter maintain the following works for the accommodation of the owners and occupiers of lands adjoining the railway, that is to say—

Accommodation works.

- (a) such and so many convenient gates, bridges, arches, culverts and passages over, under, or by the sides of or leading to or from the railway, as shall be necessary for the purpose of making good any interruptions caused by the railway to the use of the lands through which the railway is made; and such works shall be carried out forthwith after the part of the railway passing over such lands has been laid out or formed, or during the formation thereof; and
- (b) sufficient posts, rails, hedges, ditches, mounds, or other fences for separating the land taken for the use of the railway from the adjoining lands not so taken and for protecting such lands from trespass, or the cattle of the owners or occupiers thereof from straying thereout by reason of the railway, together with all necessary gates made to open towards such adjoining lands and not towards the railway, and all necessary stiles; such posts, rails, and other fences to be made forthwith after the taking of any such lands, if the owners thereof so require, and such other works to be carried out as soon as conveniently may be; and
- (c) all necessary arches, tunnels, culverts, drains or other passages either over or under or by the sides of the railway, of such dimensions as will be sufficient at all times to convey the water as clearly from the lands lying near or affected by the railway as before the making of the railway, or as nearly so as may be; such works to be made from time to time as the railway works proceed.

(2) Notwithstanding the provisions of subsection (1) if any of the owners or occupiers of lands affected by the railway at any time requires any accommodation works additional to those made by the railway in accordance with those provisions the Corporation shall, subject to subsection (3), on such owner or occupier entering into an agreement to pay the entire cost of such works and of their maintenance, make such works, or permit them to be made according to designs and specifications to be approved by the Corporation, and to its satisfaction.

(3) The Corporation shall not be required—

(a) to carry out any accommodation works under subsection (1)—

(i) with respect to which compensation has by agreement been paid to the owners and occupiers of the lands affected; or

(ii) with respect to which the owners and occupiers of the lands affected have made no representations during the course of the construction of the section of the railway concerned; or

(b) to carry out or permit to be carried out any such accommodation works or additional accommodation works as are referred to in the foregoing provisions of this section, in such a manner as would prevent or obstruct the working or use of the railway.

(4) The foregoing provisions of this section shall apply only to railway works executed by the Corporation after the vesting day.

10.—(1) Subject to the provisions of this Act, the Corporation shall have power—

General powers of the Corporation.

- (a) to carry goods and passengers by rail, road and inland waterway within Jamaica;
- (b) to store goods;
- (c) to consign goods on behalf of other persons from any place in Jamaica to any other place, whether within Jamaica or elsewhere;
- (d) to provide for passengers carried by the Corporation and other persons using the services performed or the facilities provided by the Corporation such other amenities and facilities as may appear to the Corporation requisite or expedient.

(2) Subject to the provisions of this Act, the powers conferred by subsection (1) shall include all such powers as are necessary or advantageous and proper for the purposes of the Corporation and in particular, but without prejudice to the generality of the foregoing, shall include power—

- (a) to carry on any business necessary or desirable to be carried on for the purposes of the Corporation;
- (b) to sell, let or otherwise dispose of any property of the Corporation, movable or immovable, which in the opinion of the Corporation is not necessary for the purposes of the Corporation;
- (c) to enter into agreements with any person for the performance or the provision by that person of any of the services or facilities which may be performed or provided by the Corporation;
- (d) where it appears to the Corporation to be essential so to do, to provide suitable accommodation for persons employed by the Corporation;

JAMAICA RAILWAY CORPORATION

- (e) to sell food and drink, including alcoholic beverages, on railway premises and on carriages at such times and on such conditions as the Corporation may think fit;
- (f) to do anything for the purpose of advancing the skill of persons employed by the Corporation or the efficiency of the equipment of the Corporation or of the method of operating that equipment including the provision of facilities for training, education and research;
- (g) to make reasonable provisions by grants, loans or otherwise for purposes conducive to the welfare of persons employed by the Corporation;
- (h) to establish, maintain and work a telecommunication service for the use of the Corporation; and
- (i) generally to do any other thing, or carry on or arrange for the carrying on of any business ancillary or incidental to the functions of the Corporation which, in the opinion of the Corporation, is in the interest of the public or of the due performance of those functions.

(3) This section shall not be construed as limiting any power of the Corporation conferred by or under any other provision of this Act.

Power to
fix rates,
fares and
other
charges.

11. The Corporation shall have power from time to time—

- (a) subject to such upper limits as may be determined by the Minister, to fix rates and fares;
- (b) to fix charges other than rates and fares;
- (c) to enter into agreement for the carriage of goods at rates lower than the rates fixed under para-

- graph (a) but subject to such other charges and conditions, if any, as the Corporation thinks fit;
- (d) to convey passengers at fares lower than the fares fixed under paragraph (a) but subject to such conditions, if any, as the Corporation thinks fit, other than a condition exempting the Corporation from liability for injury to any person caused by the negligence of the Corporation, its servants or agents;
- (e) for any particular purpose, or on any particular occasion, or in any particular circumstance, and subject to any conditions the Corporation thinks fit, to remit in whole or in part any rate, fare or other charge fixed under paragraph (a) or paragraph (b);
- (f) in circumstances requiring the Corporation to render services additional to those normally provided by it in respect of the carriage of goods or passengers, and notwithstanding that an upper limit has been determined by the Minister under paragraph (a), to fix a rate or fare higher than such upper limit,

and to levy any rate, fare, or other charge fixed under any of the provisions of this section.

12. The Corporation may (in addition to fixing charges other than rates and fares under the provisions of section 11) impose conditions not inconsistent with the provisions of this Act for the holding of goods left upon a railway before or after carriage or for warehousing or in any other circumstances whatsoever.

Conditions for holding goods on railway.

13.—(1) The Corporation may provide and maintain—

- (a) footways and roadways on any of its bridges for the passage of persons or vehicles;

Provision of additional facilities for traffic.

- (b) piers and wharves for the accommodation of traffic;
- (c) other facilities for the accommodation of traffic.

(2) The Corporation may (in addition to fixing charges other than rates and fares under the provisions of section 11) impose conditions not inconsistent with the provisions of this Act in respect of traffic using such footways, roadways and facilities as aforesaid.

Alteration of pipes, wires and drains.

14. Subject to section 16, the Corporation may, for the purpose of exercising the powers conferred on it by this Act, alter the level or position of any pipe, conduit, drain, electric wire or post.

Temporary entry upon land for purpose of preventing accident or repairing damage.

15. Subject to section 16, the Corporation may, in case of any slip or other accident happening or being apprehended to any cutting, embankment or other work under the control of the Corporation, enter upon any lands adjoining the railway for the purpose of preventing such accident or of repairing damage caused thereby, and may do all such works as may be necessary for the purpose.

Notice of entry and compensation in relation to sections 14 and 15.

16.—(1) In the exercise of the powers conferred by sections 14 and 15 the Corporation shall, when practicable, give notice of the intention to enter upon any occupied land to the occupier thereof, and shall do as little damage as possible, and shall pay compensation for any damage caused by the exercise of those powers.

(2) In the event of dispute as to the amount of any compensation payable under this section, the amount of the compensation may be determined by the Resident Magistrate having jurisdiction in respect of the place where the land is situated.

17.—(1) An officer duly authorized in that behalf by the Corporation, if there appears to him to be danger that a tree standing near a railway may fall on the railway so as to obstruct traffic, or may obstruct the view of any fixed signal, may fell the tree or deal with it in such other manner as will avert the danger or remove the obstruction, as the case may be.

Removal of trees obstructing working of railway

(2) When the power conferred by subsection (1) is exercised in respect of a tree on land other than railway land, if the tree was in existence before the railway was constructed or the signal was fixed near the place where the tree was standing, the Corporation shall pay compensation to the person entitled thereto.

(3) In the event of dispute as to the amount of any compensation payable under this section the amount of compensation may be determined by the Resident Magistrate having jurisdiction in respect of the place where the land is situated.

18. It shall be unlawful for any person, without the consent of the Minister, to construct or operate a railway for the public carriage of passengers or goods within Jamaica.

Construction of railways by persons other than the Corporation.

PART III *Further Powers in relation to Land*

19.—(1) Whenever it appears to the Corporation that land in any locality is likely to be needed for any purposes of the railway, the Corporation, after giving notice to the occupier of such land of its intention so to do, by its servants or agents, together with all necessary workmen—

Preliminary investigation of land required for railway purposes.

- (a) may enter upon any land in such locality;
- (b) may—
 - (i) survey and take levels of such land;
 - (ii) dig or bore under the subsoil;

[The inclusion of this page is authorized by L.N. 480/1973]

- (iii) do all other acts necessary to ascertain whether the land is adapted for such purposes;
- (c) may clear, set out and mark the boundaries of the land which the Corporation proposes to acquire and the intended line of work (if any) proposed to be made therein;
- (d) may mark such levels, boundaries and line by placing marks and cutting trenches; and
- (e) may cut down and clear away any standing crop, fence, bush or woodland, whose removal is necessary to enable the survey to be completed, the levels taken or the boundaries or line of the work marked,

so, however, that no such servant, agent or workman shall enter into any building or upon any enclosed court or garden attached to a dwelling-house (except with the consent of the occupier thereof) unless at least seven days' notice of the intended entry has been given to such occupier.

(2) As soon as conveniently may be after any entry made under subsection (1) the Corporation shall pay compensation for all damage arising out of the exercise of any power conferred by that subsection.

(3) In case of dispute as to the amount of any compensation payable under this section, the amount of the compensation may be determined by the Resident Magistrate having jurisdiction in respect of the place where the land is situated.

20.—(1) For the purpose of carrying out this Part, it shall be lawful for the Corporation to acquire land under the Lands Clauses Act.

Power to
acquire land
under the
Lands
Clauses
Act.

[The inclusion of this page is authorized by L.N. 480/1973]

(2) The Lands Clauses Act is incorporated with this Part, except sections 10, 11, 15, 16, 84, 88, 89, 90, 91, 92, 93, 101, 103, 104, 105 and except in so far as that Act is inconsistent with or varied by the provisions of this Act.

(3) If in any case compensation should be demanded for the alienation of any land required for the purposes of the railway and proceedings should arise for the assessment of such compensation under the Lands Clauses Act the valuing authority named and provided in that Act shall, before making an award, estimate the advantage as well as the disadvantage likely to accrue to the adjoining land, if any, of the claimant for compensation on account of the operating of the railway and shall reduce the compensation by the value of such advantage but, so, however, that nominal compensation shall in all cases be payable.

21. The Corporation shall not without the approval of the Minister alienate, mortgage, charge or demise any immovable property vested in the Corporation under any of the provisions of this Act.

Restriction on alienation.

PART IV *Transfer of Assets and Liabilities*

22. Upon a day to be appointed by the Minister by notice in the *Gazette** by virtue of this section and without further assurance there shall be transferred to and vested in the Corporation—

Transfer of rights and powers, assets and liabilities.

- (a) all the rights, powers and privileges for carrying on and regulating and maintaining the business of the Jamaica Government Railway which are vested in the Governor by section 2 of the Jamaica Government Railway Law (now repealed) and by any other law of this Island;

Cap. 174 (1953 Revised Edn.).

* 1st April, 1960 was appointed by L.N. 58/1960

[The inclusion of this page is authorized by L.N. 480/1973]

- (b) all the assets of the Jamaica Government Railway of whatsoever kind and wheresoever situated which are the property of the Government vested in the Governor, or the Chief Secretary, as the case may be, and all the liabilities of the Government in respect of the Jamaica Government Railway.

Exceptions
as to certain
liabilities.

23. Notwithstanding anything contained in section 22 there shall not, by reason of the transfer of assets and liabilities provided for therein, be transferred to the Corporation—

- (a) any liability in respect of amounts shown in the accounts of the Jamaica Government Railway as outstanding railway loans on vesting day so, however, that—
- (i) the existing liability of the Government in respect of those loans shall remain with the Government;
 - (ii) the Corporation shall pay all interest charges on those loans;
 - (iii) the total amount of the loan liabilities, to which shall be added the value of usable goods on order at vesting day, shall appear on the books of the Corporation as an unsecured loan;
- (b) any liability for the payment of pensions, gratuities, provident fund benefits or allowances in the nature of retirement benefits to or in respect of persons employed in the Jamaica Government Railway in respect of service before the vesting day.

Provisions
relating to
land.

24.—(1) Land transferred to and vested in the Corporation by virtue of section 22 shall not be valued for the purpose of such transfer and vesting.

(2) The Corporation shall not without the prior approval of the Minister acquire land other than land transferred to and vested in the Corporation by virtue of section 22.

25.—(1) In consideration of the vesting in the Corporation of the assets and liabilities of the Jamaica Government Railway the Corporation shall on vesting day issue to the Government stock of an amount sufficient to cover the difference between the sum appearing on the books of the Corporation as an unsecured loan and the value of the assets so vested which value shall for the purposes of this section be deemed to be six million dollars.

Issue of
stock to
Govern-
ment.

(2) The Corporation is hereby empowered to pay dividends on such stock.

26.—(1) All deeds, bonds, agreements, instruments and working arrangements subsisting immediately before the vesting day and affecting the Jamaica Government Railway shall have effect against or in favour of the Corporation and be enforceable as fully and effectually as if instead of the Jamaica Government Railway, or some person on behalf thereof, the Corporation had been named therein or had been a party thereto.

Existing
contracts
and pending
proceedings,
etc.

(2) Any proceedings or causes of action pending or existing immediately before the vesting day by or against the Jamaica Government Railway or the general manager thereof in respect of the Jamaica Government Railway may be continued or enforced by or against the Corporation as such proceedings or causes of action might have been continued or enforced by or against the Jamaica Government Railway or the general manager thereof if this Act had not been enacted.

PART V *Financial Provisions*

Application
of revenues.

27.—(1) The revenues of the Corporation shall be applied for the purposes authorized by this or any other Act in relation to the functions of the Corporation and without prejudice to the generality of the foregoing words may be applied for all or any of the following purposes, that is to say—

- (a) grants for purposes conducive to the welfare of persons employed by the Corporation;
- (b) debt charges (including sinking fund), minor works of a capital nature, and the redemption of capital.

(2) Nothing in this section shall require the Corporation to make charges against revenue both for redemption of capital and for depreciation or renewal of capital assets which have been acquired directly or indirectly from funds derived from the issue of such capital.

Borrowing
powers.

28.—(1) Subject to the provisions of subsection (2), the Corporation may borrow sums required by it for meeting any of its obligations or discharging any of its functions.

(2) The power of the Corporation to borrow shall be exercisable only with the approval of the Minister as to the amount, as to the sources of the borrowing and as to the terms on which the borrowing may be effected. An approval given in any respect for the purposes of this subsection may be either general or limited to a particular borrowing or otherwise, and may be either unconditional or subject to conditions.

Advances,
grants and
guarantee of
borrowings
by
Minister.

29.—(1) The Minister may from time to time make advances and grants to the Corporation out of sums placed upon the estimates of the Island for the purpose and approved by the House of Representatives.

(2) With the approval of the House of Representatives, the Minister may guarantee, in such manner and on such conditions as he may think fit, the payment of the principal and of interest on any authorized borrowings of the Corporation made otherwise than by way of advance under subsection (1).

(3) Where the Minister is satisfied that there has been default in the repayment of any principal moneys or interest guaranteed under this section, he shall direct the repayment out of the Consolidated Fund of the amount in respect of which there has been such default.

30. The Corporation shall make to the Accountant-General, at such times and in such manner as the Minister may direct, payments of such amounts as may be so directed in or towards repayment of advances made to the Corporation under section 29, and of any sums issued in fulfilment of any guarantee given thereunder, and payments of interest on any sum outstanding for the time being in respect of such advances and of any sums so issued at such rate as the Minister may direct, and different rates of interest may be directed as respects different advances or sums and as respects interest for different periods.

Repayment of, and interest on, advances and sums issued to meet guarantees.

42/1969
3rd Sch.

31. The Corporation—

Securities.

- (a) may create and issue stock, including debentures, required for the purpose of exercising its borrowing powers under section 29;
- (b) shall establish a sinking fund for the redemption of debentures so created;
- (c) may postpone sinking fund contributions for such period or periods of time as may be approved by the Minister.

General
reserve.

32.—(1) Without prejudice to the power of the Corporation to set aside from revenue appropriate amounts for replacements, contingencies or other purposes, the Corporation shall establish and maintain a general reserve for the purposes of its functions.

(2) The management of the general reserve, the sums to be carried from time to time to the credit thereof, the charges to be made against the general reserve and any other application of the moneys comprised therein shall be as the Corporation may determine.

PART VI *Accounts and Reports*

Accounts.

33.—(1) The Corporation shall cause to be kept proper accounts and relevant records; and its system of accounting, in so far as it relates to---

- (a) the determination of rates of depreciation;
- (b) the establishment of procedures regulating reserves, deficits or accumulated surpluses and the disposal of balances on net revenue account;
- (c) the procedure to be adopted in relation to the charging for operations outside normal railway operations and arising from Government directives,

shall be subject to the approval of the Minister.

(2) The accounts of the Corporation shall be audited by auditors to be appointed annually by the Corporation with the approval of the Minister.

Annual
statement
and report.

34.—(1) The Corporation shall prepare an annual statement of accounts in such form, containing such particulars and compiled in such manner as the Minister may from time to time direct with the approval of the Minister responsible for finance.

(2) The said annual statement shall be so framed as to provide separately, so far as may be, information as respects the performance of the several functions of the Corporation and to show, so far as may be, the financial and operating results of the performance of its principal functions.

(3) So soon as the accounts of the Corporation have been audited, the Corporation shall furnish to the Minister a copy of the statement of accounts together with a copy of any report made by the auditors thereon or on the accounts of the Corporation.

(4) The Corporation shall, as soon as may be, after the end of each financial year furnish to the Minister a report dealing generally with the operations of the Corporation during that year.

35. The Minister shall lay before each House of Parliament a copy of the statement of accounts and of any reports made by the auditors thereon, together with the report made under subsection (3) of section 34.

Laying of accounts, etc., before Parliament.

PART VII *Staff*

36.—(1) Subject to the other provisions of this Part, the Corporation may appoint and employ at such remuneration and on such terms and conditions as it thinks fit a general manager and a secretary and such other servants and agents as it thinks necessary for the due performance of its functions:

Appointment of general manager, secretary and other servants.

Provided that—

- (a) a person shall not be appointed general manager without the prior approval of the Minister;
- (b) the Corporation shall have power to dismiss the general manager, subject to the prior approval of the Minister;

27/1988
S.2 (a).

(c) a salary exceeding the prescribed rate shall not be assigned to any post without the prior approval of the Minister.

27/1988
S.2 (c).

(2) In subsection (1) the prescribed rate means a rate of \$15,000 per annum or such rate as the Minister may, by order, prescribe.

Regulations.

37.—(1) The Corporation may make regulations determining generally the conditions of service of servants of the Corporation and in particular, but without prejudice to the generality of the foregoing power, may make regulations relating to—

- (a) the appointment, dismissal, discipline, hours of employment, pay and leave of such servants;
- (b) appeals by such servants against dismissal or other disciplinary measures;
- (c) the grant of pensions, gratuities and other benefits to or in respect of the service of such servants;
- (d) the establishment and maintenance of sick funds, superannuation funds and provident funds, the contributions payable thereto and the benefits receivable therefrom;
- (e) the deduction from the salary or wages of such servants of money owed by them to the Corporation.

(2) Regulations made by the Corporation in relation to any of the matters referred in paragraph (e) of subsection (1) shall not take effect unless they have been approved by the Minister.

Pension
scheme.

L.N.
149B/79

38.—(1) The Corporation shall, as soon as may be, make regulations establishing a pension scheme which shall be such as to make it possible in the opinion of the Minister responsible for the public service for service with the Corporation to be declared public service under the provisions of the Pensions Act; and regulations establishing such scheme shall not come into force unless the Minister responsible for

the public service by notice in the *Gazette* declares that such regulations comply with the provisions of this subsection. L.N.
149B/79

(2) A pension scheme established under subsection (1) shall apply in relation to such class or classes of servants of the Corporation as may be specified in the scheme; and nothing in that subsection shall be construed as preventing the Corporation from providing by regulations made under section 37 for the grant of—

- (a) retirement benefits of any kind for or in respect of servants of the Corporation in relation to whom the said scheme does not apply; or
- (b) any benefits for or in respect of servants to whom the said scheme applies, in addition to the benefits provided by the said scheme.

(3) Such a pension scheme as aforesaid shall, in relation to persons transferred to the service of the Corporation under section 39, provide for the grant upon retirement of benefits calculated as if such persons had not ceased to be employees of Government, so, however, that the Corporation shall be liable to pay such portion only of any such benefit as is not payable from the funds of Government.

39.—(1) The Corporation shall, subject to the provisions of this section, continue to employ in the service of the Corporation all such persons as immediately prior to the vesting day were employed in the Jamaica Government Railway either as the holders of posts declared to be pensionable or non-pensionable within the meaning of the Pensions Act or as permanent employees of the Jamaica Government Railway and all such persons shall be deemed to be seconded from the service of the Government to the service of the Corporation; and any person to whom this subsection applies is for the purposes of this section referred to as an “officer”. Transfer of
officers to
Corpora-
tion.

(2) The Governor may at any time determine the secondment of an officer.

(3) The Corporation shall within twelve months from vesting day give to every officer then in its employment by virtue of subsection (1) notice in writing—

(a) offering him employment on such terms as may be agreed upon between the Minister and the Corporation; or

(b) of the intention of the Corporation to request the Governor to determine his secondment,

and the secondment of every officer shall unless sooner determined cease upon the expiration of eighteen months from vesting day.

(4) The Corporation shall not offer employment to any officer except upon terms and conditions certified under the hand of the Chief Personnel Officer to be in his opinion not less favourable than those enjoyed by the officer in his substantive post at the date of such offer.

(5) The Chief Personnel Officer shall not decline so to certify the terms and conditions comprised in any offer merely because they are not in all respects identical with or superior to the terms and conditions enjoyed by the officer concerned at the date of such offer, if the first-mentioned terms and conditions, taken as a whole, in the opinion of the Chief Personnel Officer offer substantially equivalent or greater benefits.

(6) If an officer refuses an offer of employment made to him in pursuance of this section, the obligation imposed upon the Corporation by subsection (1) to employ the officer shall thereupon determine.

(7) When an officer accepts an offer of employment made in pursuance of this section, his service with the Corporation shall be deemed to have commenced, and his ser-

vice with the Government to have ceased, upon the expiration of the period of one year from the vesting day.

(8) A contributor making payments in pursuance of the Pensions (Civil Service Widows and Orphans) Act (now repealed) whose service with the Corporation has commenced, and whose service with the Government has ceased, by virtue of subsection (7), may, from the date of the commencement of his service with the Corporation, continue to make such payments calculated on the salary he was receiving while in the service of the Government, at the same rate and subject to the same terms as if he had continued in the service of the Government at that salary. In the event of his ceasing to contribute, or in the event of any contribution due from him not having been paid for six months, his widow, or his widow and children, as the case may be, shall be entitled, after the death of such contributor, only to a pension computed on the basis of the interest acquired by such contributor at the date of the commencement of his service with the Corporation or of his ceasing to contribute, in accordance with the relevant provisions of section 8 of the Pensions (Civil Service Family Benefits) Act.

(9) In the exercise of any powers conferred upon him by this section, the Governor may act in his discretion.

40. Every person employed by the Government and serving in the Jamaica Government Railway, not being an officer within the meaning of section 39, shall cease to be in the employment of the Government on the vesting day and shall be deemed to be employed by the Corporation with effect from the vesting day on the same terms and conditions as those on which he was employed immediately before the vesting day, but without prejudice to the right of the Corporation to dispense with the services of any such person.

Transfer
of other
employees
to
Corpora-
tion.

or to alter the terms and conditions on which he is employed.

Retirement,
etc., of trans-
ferred
employees.

41.—(1) Where any employee who, by virtue of section 40, is deemed to be employed by the Corporation with effect from the vesting day, retires from or dies in the service of the Corporation in circumstances in which, if his service with the Corporation had been service with the Government, he would have been eligible for the grant of a pension, gratuity or other allowance, the Corporation may, with the concurrence of the Minister, grant to him or his legal personal representative a pension, gratuity or other allowance not exceeding that for which he would have been eligible if his service with the Corporation had been service with the Government.

(2) The Government shall pay to the Corporation in respect of any pension, gratuity or other allowance granted under subsection (1), a contribution equal to such proportion of the pension, gratuity or other allowance as the term of service of the employee with the Government bears to the total term of his service with the Government and the Corporation.

(3) Nothing in this section shall be construed as preventing the Corporation from granting, in its discretion, any sum or sums to or in respect of any such employee by way of pension, gratuity or other allowance in addition to any pension, gratuity or other allowance granted under the provisions of subsection (1), but the Government shall not be required to make any contribution towards any such additional sum so granted.

PART VIII. *By-Laws and Rules*

By-laws.

42.—(1) The Corporation may, with the approval of the Minister, make by-laws, not inconsistent with the provisions of this Act, for all or any of the following purposes—

- (a) for providing for the accommodation and convenience of passengers, and regulating the carriage of their baggage;
- (b) for declaring what shall be deemed to be, for the purposes of this Act, dangerous or offensive goods, and for regulating the carriage of such goods;
- (c) for regulating the conditions on which the Corporation will carry passengers or animals suffering from infectious or contagious disorders, and providing for the disinfection of vehicles which have been used by or for such passengers or animals;
- (d) for regulating the terms and conditions on which the Corporation will warehouse or retain goods at any station on behalf of the consignee or owner;
- (e) for preventing the commission of any offence or nuisance in or about any of the stations, works, plant, buildings or premises of the railway;
- (f) for preventing trespasses upon or injury to the railway, roadways, stations, works, plant, buildings or premises attached thereto or otherwise belonging thereto;
- (g) for the regulation of any motor transport service operated by or on behalf of the Corporation;
- (h) for regulating the duties and conduct of porters or other persons, not being railway servants, at any railway station or on other railway premises in relation to the carrying of goods or the driving, drawing or propelling of vehicles for the carriage of passengers or goods, and for fixing the charges to be paid to them therefor;
- (i) for regulating public or private traffic across the railway at any level crossing or elsewhere; and

- (j) generally for regulating the travelling upon and use of the railway and the governance thereof and maintenance of good order thereon.

(2) By-laws made under this section may provide that the breach of any of them shall be an offence punishable on summary conviction in a Resident Magistrate's Court or a Court of Petty Sessions with such fine as may be specified in relation thereto, not exceeding forty dollars, or, in the case of a by-law regulating the carriage of dangerous or offensive goods, one hundred dollars.

(3) The Corporation shall keep at each station on the railway a copy of the by-laws made under this section and for the time being in force, and shall allow any person to inspect it free of charge.

Rules.

43.—(1) The Corporation may make rules for the guidance and conduct of railway servants and for regulating the working and management of the railway.

(2) Rules made under this section shall not be required to be published in the *Gazette* or for the information of the public, but shall be brought to the notice of all servants of the Corporation in such manner as the Corporation may think fit.

PART IX *Carriage of Passengers*

Conditions for carriage of passengers.

44. The Corporation may, in addition to fixing fares under the provisions of section 11, impose conditions, not inconsistent with the provisions of this Act, for the carriage of passengers.

Time-tables and lists of fares.

45. The Corporation shall keep constantly exhibited in some conspicuous place at each station on the railway—

- (a) time-tables indicating the passenger train services for the time being in operation on the railway;

- (b) a list showing the fares of passengers by the trains included in the time-tables of the railway from that station to every other place for which passenger tickets are there issued.

PART X *Carriage of Goods*

46. The Corporation may, in addition to fixing rates under the provisions of section 11, impose conditions for the receiving, forwarding, conveying and delivering of goods.

Conditions
for carriage
of goods.

47.—(1) Where goods are delivered to the Corporation it shall be lawful for the Corporation to receive and hold such goods subject to—

Lien for
rates and
charges.

- (a) a lien for moneys due for the carriage of or other proper charges or expenses upon or in connection with such goods; and
- (b) a general lien for any moneys or charges due to the Corporation from the owners of such goods for any services rendered or accommodation provided in relation to the carriage or storage of goods.

(2) If any lien as aforesaid is not satisfied within a reasonable time from the date upon which the Corporation first gave notice of the exercise of its lien to the owners of the goods, the goods may be sold and the proceeds of sale applied in or towards the satisfaction of every such lien and all proper charges and expenses in relation thereto and the Corporation shall account to the owners of the goods for any surplus.

(3) A general lien conferred by this section shall not prejudice an unpaid vendor's right of stoppage *in transitu*.

Disposal of
unclaimed
goods on
railway.

48.—(1) Where any goods have come into the possession of the Corporation for carriage or otherwise and are not claimed by the owner or other person appearing to the Corporation to be entitled thereto, the Corporation may, in the case of perishable goods, sell such goods at any time and in the case of other goods shall, if such owner or person is known, cause a notice to be served upon him requiring him to remove the goods within two months from the date of such notice.

(2) If such person or owner is not known, or the notice cannot be served upon him, or he does not comply with the requisition in the notice, the Corporation may sell the goods and shall render the surplus, if any, of the proceeds of the sale to any person who satisfies the Corporation that he is entitled thereto.

Written
description
of goods
required.

49.—(1) The owner or person having charge of any goods which are brought upon a railway for the purpose of being carried thereon, and, if so required by a railway servant, the consignee of any goods which have been carried on the railway, shall deliver to a railway servant an account in writing signed by such owner or person, or by such consignee, as the case may be, and containing a description of the goods sufficient to determine the rate which the Corporation is entitled to charge in respect thereof and the conditions of carriage under which it will accept the goods.

(2) If such owner, person or consignee neglects to give such an account, the Corporation may—

- (a) in respect of goods which have been brought for the purpose of being carried on the railway, agree to carry the goods and charge a rate not exceeding the highest rate which may be in force at the time on the railway for any class of goods; or

(b) in respect of goods which have been carried on the railway, charge a rate not exceeding such highest rate.

(3) If an account delivered under subsection (1) is materially false with respect to the description of any goods to which it purports to relate, and which have been carried on the railway, the Corporation may charge in respect of the carriage of the goods a rate not exceeding double the highest rate which may be in force at the time on the railway for any class of goods.

(4) If any difference arises between a railway servant and the owner or person having charge or the consignee of any goods which have been brought to be carried or have been carried on the railway respecting the description of goods of which an account has been delivered under this section, the railway servant may detain and examine the goods.

(5) If it appears from the examination that the description of the goods is different from that stated in an account delivered under subsection (1), the person who delivered the account, or, if that person is not the owner of the goods, then that person and the owner, jointly and severally, shall be liable to pay to the Corporation the cost, if any, of the detention and examination of the goods.

(6) If a person required under this section to give an account of any goods wilfully gives an account which is materially false, he shall be guilty of an offence and, in addition to the liability to pay any rate or other charge hereinbefore provided in respect of the goods, shall be liable to a fine not exceeding one hundred dollars.

50.—(1) A person shall not carry or cause to be carried upon a railway any goods declared by any by-law made under this Act to be dangerous or offensive, except in

Goods of a dangerous or offensive nature.

accordance with the provisions of any by-law applicable to such goods.

(2) Any person who carries upon or delivers for carriage by the railway any such dangerous or offensive goods without distinctly declaring the nature of the same shall be liable to a fine not exceeding one hundred dollars.

(3) Any person who contravenes the provisions of subsection (2) or any by-law referred to in subsection (1), shall, in addition to any penalty incurred in respect of such contravention, be liable—

- (a) to compensate the Corporation for and indemnify the Corporation against any damage, loss, expense or liability suffered or sustained by the Corporation directly or indirectly as a result of such contravention; and
- (b) to pay compensation for any injury or damage to persons or property arising out of any accident occurring directly or indirectly as a result of that contravention.

(4) It shall be lawful for any railway servant to refuse to accept for carriage on the railway any baggage or parcel, vessel or package suspected of containing dangerous or offensive goods, and to require the same to be opened, and in case any such baggage or parcel, vessel or package shall have been so accepted, it shall be lawful for any railway servant to stop the transit thereof until he is satisfied that the nature and contents of the baggage or parcel, vessel or package are not dangerous or offensive.

Carriage
of animals
infected
with disease.

51. It shall be lawful for any railway servant to refuse to accept for carriage on a railway any animal which he has reason to believe to be infected with any infectious or contagious disease, or to have been in contact with any animal so infected.

PART XI *Responsibility of Corporation as Carriers
and Warehousemen*

52.—(1) Notwithstanding the other provisions of this Part, the Corporation shall not be liable for any loss, damage, deviation, misdelivery, delay or detention of or to goods arising from—

Corporation
not liable
in certain
cases.

- (a) act of God;
- (b) act of war or the Queen's enemies;
- (c) seizure under any legal process;
- (d) orders or restrictions imposed by the Government;
- (e) act or omission of the consignor, consignee or the servants or agents of either;
- (f) inherent liability to wastage in bulk or weight, latent defect or inherent defect, vice or natural deterioration of the goods;
- (g) casualty, including fire or explosion;
- (h) riots, civil commotion, strikes, lock-outs, stoppage or restraint of labour from whatever cause, whether partial or general:

Provided that—

- (i) where such loss, damage, deviation, misdelivery, delay or detention arises with respect to goods which the Corporation has accepted for carriage at railway's risk rates or for warehousing and the Corporation fails to prove that it used all reasonable foresight and care in the carriage or (as the case may be) the warehousing of the goods, the Corporation shall not be relieved from liability for such loss, damage, deviation, misdelivery, delay or detention;
- (ii) the Corporation shall not incur liability of any kind in respect of goods where there has

been fraud on the part of the consignor, consignee or the servants or agents of either.

(2) Subsection (1) shall not apply to passengers' baggage.

Delay to
vessels.

53. The Corporation shall not be liable for any demurrage or delay incurred upon or caused to a vessel at any pier or wharf owned or operated by the Corporation.

Liability
for goods.

54.—(1) Save as provided in subsection (2), the Corporation shall not be liable for the loss, damage, deviation, misdelivery, delay or detention of or to a consignment of goods or any part thereof carried or delivered for carriage by the railway unless the goods in respect of which compensation is claimed have been accepted and booked by a railway servant and unless—

- (a) in the case of goods consigned at railway's risk rates, the Corporation fails to prove that the loss, damage, deviation, misdelivery, delay or detention was not caused by the negligence or misconduct of the servants or agents of the Corporation; or
- (b) in the case of goods consigned at owner's risk rates, a complete consignment or a complete package forming part of the consignment has been lost, damaged, diverted, misdelivered, delayed or detained as a result of the wilful misconduct of the servants or agents of the Corporation.

(2) The Corporation shall not be exempt from any liability it might otherwise incur in the following cases—

- (a) non-delivery of the whole of a consignment, or of any separate package forming part of a consignment, properly packed and addressed, unless such non-delivery is due to accident to trains or to fire;

- (b) pilferage from packages of merchandise protected otherwise than by paper or other packing readily removable by hand, if, and only if, the pilferage is pointed out to a servant of the Corporation on or before delivery;
- (c) misdelivery where merchandise properly addressed is not tendered to or placed at the disposal of the consignee within twenty-eight days, or in the case of perishable merchandise within a reasonable time which shall not be less than seventy-two hours after receipt of the consignment by the Corporation from the sender :

Provided, however, that the Corporation shall not be liable under this subsection if it proves that the non-delivery, pilferage or misdelivery, as the case may be, has not been caused by the negligence or misconduct of the Corporation or its servants.

(3) Notwithstanding the provisions of subsections (1) and (2), the Corporation may—

- (a) agree to carry any goods on conditions more favourable to the consignor than those set out in this section; or
- (b) by special contract, which shall be in writing and signed by the consignor or his agent, limit the liability imposed on the Corporation by this section.

55. The Corporation shall not be liable for the loss, damage, deviation, misdelivery, delay or detention of or to any passenger's baggage—

Passengers' baggage.

- (a) unless—
 - (i) it has been accepted and booked, and a receipt has been given therefor, by a railway servant; and

- (ii) the loss, damage, deviation, misdelivery, delay or detention has been caused by the negligence or misconduct of the servants or agents of the Corporation; or
- (b) save in such other circumstances as may be notified by the Corporation by general notice or otherwise.

Animals.

56.—(1) The liability of the Corporation for the loss, damage, deviation, misdelivery, delay or detention of or to animals accepted for carriage by the Corporation shall not exceed, in the case of—

- (a) a horse, forty dollars;
- (b) neat cattle or mules, per head, thirty dollars;
- (c) a donkey, sixteen dollars;
- (d) a sheep, goat or pig, four dollars;
- (e) a dog or other animal not hereinbefore in this subsection mentioned, two dollars,

unless a higher value has been declared in writing by or on behalf of the consignor at the time of consignment.

(2) Where such higher value has been declared, the Corporation may impose an additional charge in respect of the increased liability or, if the value of the animal has been declared to exceed two hundred dollars, may either impose such additional charge or, notwithstanding the provisions of subsection (1), decline to accept liability in excess of the sum specified by that subsection in relation to such an animal.

Vehicles.

57.—(1) The liability of the Corporation for the loss, damage, deviation, misdelivery, delay or detention of or to vehicles accepted for carriage by the Corporation shall not exceed, in the case of—

- (a) a motorcycle with or without a side-car, one hundred dollars;

- (b) any other motor vehicle, two hundred dollars;
- (c) any vehicle other than a motor vehicle, ten dollars, unless a higher value has been declared in writing by or on behalf of the consignor at the time of consignment.

(2) Where such higher value has been declared, the Corporation may impose an additional charge in respect of the increased liability or, if the value of the vehicle has been declared to exceed two thousand dollars, may either impose such additional charge or, notwithstanding the provisions of subsection (1), decline to accept liability in excess of the sum specified by that subsection in relation to such a vehicle.

58. Nothing contained in this Act shall alter or affect the rights, privileges or liabilities of the Corporation under Part I of the Carriage of Goods Act with respect to articles of the description mentioned in the said Act.

Carriage of Goods Act applied.

59. The compensation recoverable in respect of any animal or vehicle which has been declared under section 56 or section 57 to be of higher value than the amount for which the Corporation might be liable apart from such declaration shall not exceed the amount of the value so declared, and, notwithstanding that such declaration was made, it shall lie upon the person claiming the compensation to prove the value of the animal or vehicle in respect of which the claim is made.

Limit to compensation in certain cases and proof of value.

60.—(1) Subject to the provisions of subsection (2) the Corporation shall not be liable to pay compensation for the loss, damage, deviation, misdelivery, delay or detention of or to goods accepted by the Corporation for carriage or custody unless the Corporation is advised thereof in writing (otherwise than upon any of the Corporation's documents) within one month and the claim for compensation be made

Notification of claims.

within three months after acceptance of the goods by the Corporation.

(2) Where the Corporation is satisfied that it was not reasonably possible for the person claiming compensation to advise the Corporation in writing or make his claim in writing within the aforesaid times, the Corporation may grant an extension of the aforesaid times :

Provided that where such extension has been refused and the person claiming compensation has instituted proceedings pursuant to section 67, the Court may determine the matter as if he had complied with the requirements of subsection (1), if in the opinion of the Court the extension ought reasonably to have been granted.

Effect of
false description of
goods.

61. Notwithstanding anything in the foregoing provisions of this Part, the Corporation shall not be liable for the loss, damage, deviation, misdelivery, delay or detention of or to any goods with respect to which a materially false description has been given (whether the description was given under the provisions of this Part or of Part X) to the Corporation by the owner or person having charge of the goods, if the loss, damage, deviation, misdelivery, delay or detention was in any way brought about by the false description, and the Corporation shall not in any event be liable for an amount exceeding the value of the goods calculated in accordance with the description.

Injury to
or loss of
life of
passenger.

62.—(1) The Corporation shall not be liable for personal injury to, or loss of life of, a passenger unless the personal injury or loss of life is caused by want of reasonable care, diligence or skill on the part of the Corporation or its servants.

(2) For the purposes of this section the expression "passenger" includes every person, other than a railway servant on duty, lawfully travelling on the railway.

63. The law relating to common carriers shall not apply to the Corporation.

Law relating to common carriers not applicable.

PART XII *Tariffs*

64.—(1) Subject to the provisions of subsection (3), the following matters shall be embodied in printed tariffs and published by the Corporation—

Publication of tariffs.

- (a) rates, fares, other charges and conditions fixed or imposed under the provisions of this Act;
- (b) the upper limits of rates and fares determined by the Minister under section 11.

(2) Subject to the provisions of subsection (3) every amendment made to any of the matters mentioned in subsection (1) shall be printed and published by the Corporation and shall take effect upon such date as may be specified in the amendment; and for the purposes of this subsection an amendment shall be deemed to be published upon a notice containing particulars of the amendment, or stating that a printed copy of the amendment may be inspected at any station on the railway, being published in the *Gazette* or in any newspaper circulating in Jamaica.

(3) Notwithstanding the foregoing provisions of this section, the Corporation shall not be obliged to print or publish the following matters—

- (a) a remission of any rate, fare or other charge granted under the powers conferred by paragraph (e) of section 11;
- (b) an amendment reducing any rate, fare or other charge temporarily or in special circumstances;
- (c) the fixing of charges other than rates and fares;
- (d) the fixing, under the powers conferred by paragraph (f) of section 11, of a rate or charge higher

than the upper limit determined in respect thereof by the Minister,

and any such remission or amendment or fixing of a rate, fare or other charge shall take effect at such time, or for such period, or in such circumstances and subject to such conditions as the Corporation may specify.

Printed
copies to
be evidence.

65. In any legal proceedings the production of a printed copy of any tariff or amendment of a tariff purporting to be published by the Corporation shall be *prima facie* evidence of the matters provided therein and that the rates, fares, charges, conditions or limits fixed, imposed or determined thereby have been duly fixed, imposed or determined.

Copies to be
kept at all
stations.

66. The Corporation shall keep at each station on the railway a copy of every tariff and amendment thereto published under the provisions of section 64 and for the time being in force, and shall allow any person to inspect the same free of charge at any reasonable time.

PART XIII *Legal Proceedings*

Limitation
of suits
against the
Corporation.

67. No suit against the Corporation or any servant of the Corporation for any act done in pursuance or execution or intended execution of any law or of any public duty or authority or in respect of any alleged neglect or default in the execution of such law, duty or authority, shall lie or be instituted in any court unless it is commenced within twelve months next after the act, neglect or default complained of or, in the case of a continuance of damage or injury, within twelve months next after the ceasing thereof:

Provided that, in the case of a claim for the refund of an overcharge in respect of goods accepted by the Corporation for carriage, or for compensation in respect of loss, damage, deviation, misdelivery, delay or detention of or to any goods

so accepted, the cause of action shall be deemed to have arisen on the day of such acceptance.

68. Any summons, notice or other document required or authorized to be served upon the Corporation by or under the provisions of this or any other enactment may, unless in any case there is express provision to the contrary, be served by delivering the same to the chairman or secretary of the Corporation, or by sending it by registered post addressed to the secretary of the Corporation at the principal office of the Corporation.

Service of documents.

PART XIV *Offences and Penalties*

- 69.—(1) Any person who unlawfully or maliciously—
- (a) puts or throws anything upon or across the railway; or
 - (b) causes anything to come into contact with any person or thing on the railway; or
 - (c) removes or displaces any rail, sleeper or thing belonging to the railway; or
 - (d) turns, moves or diverts any points or other machinery of any kind belonging to the railway; or
 - (e) makes or shows, hides or removes any signal or light upon or near to the railway; or
 - (f) does or causes to be done any other matter or thing,

Endangering safety of persons on railway.

with intent to injure or endanger the safety of persons travelling or being upon the railway, whether a particular person or not, is guilty of felony, and is liable to imprisonment for life.

(2) Any person who by any unlawful act or by any omission to do any act which it is his duty to do causes the

safety of any person travelling or being upon any railway to be endangered is guilty of a misdemeanour and is liable to imprisonment with or without hard labour for two years

Obstructing
railways.

70. Any person who by any unlawful act or by any intentional omission to do any act which it is his duty to do causes any engine or vehicle in use upon a railway to be obstructed in its passage on the railway is guilty of a misdemeanour, and is liable to imprisonment with or without hard labour for two years.

Drunken-
ness of
railway
servants and
power to
apprehend.

71.—(1) If a railway servant is in a state of intoxication while on duty he shall be guilty of an offence and liable to a fine not exceeding ten dollars or imprisonment with or without hard labour for a term not exceeding three months, or, if the duty on which he is engaged is such that its improper performance would be likely to endanger the safety of any person travelling or being upon the railway, to a fine not exceeding two hundred dollars or imprisonment with or without hard labour for a term not exceeding two years, or to both such fine and such imprisonment.

(2) It shall be lawful for any railway servant, and for all persons whom he may call to his aid, to apprehend any railway servant who is or appears to be in a state of intoxication while on duty, and to convey him to the nearest police station and there hand him over to the custody of the police.

Drunken-
ness or
nuisance
on a rail-
way.

72.—(1) If a person on any part of a railway—

- (a) commits any nuisance or act of indecency or uses obscene, indecent or abusive language;
- (b) wilfully and without lawful excuse interferes with the comfort of any passenger; or
- (c) wilfully and without lawful excuse interferes with any railway servant in the execution of his duty,

he may be removed from the railway by any railway servant or police officer or any other person whom the railway servant or police officer may call to his aid, and shall be guilty of an offence and liable to a fine not exceeding twenty dollars.

(2) A person removed from the railway under the provisions of this section shall not be entitled to the return of any fare he may have paid.

73. Any person who travels or attempts to travel in any carriage or vehicle of the Corporation with intent to defraud the Corporation shall be guilty of an offence and liable to a fine not exceeding ten dollars.

Travelling
with intent
to defraud.

74.—(1) An offence under section 70 may be tried either on indictment before a Circuit Court or summarily before a Resident Magistrate; and in respect of any such offence a Resident Magistrate shall not award a sentence of more than one year's imprisonment, with or without hard labour, and a fine of one hundred dollars.

Trial of
Offences.
42/1960
S. 2.

(2) Any offence under section 71, section 72 or section 73 is triable summarily before a Resident Magistrate.

75. It shall be lawful for any railway servant or agent of the railway, and all persons called by him to his assistance, to seize and detain any person found committing any offence against the provisions of this Act, or against any by-laws or regulations of the railway made under the provisions of this Act, or any person counselling, aiding or assisting in such offences, and to hand over the offender to a police officer without unnecessary delay.

Power to
arrest
offender.

PART XV. *General*

76. Notwithstanding anything contained in the Kingston and St. Andrew Corporation Act, the Parochial Rates and

Rates and
taxes.

Finance Act or the Property Tax Act the rates and taxes to be paid by the Corporation shall be determined by the Minister with the approval of the Minister responsible for finance.

Savings.

Cap. 174
(1953
Revised
Edtn.).

77. All by-laws, regulations, rules and tariffs, including rates, fares, other charges and conditions regulating the conveyance of passengers and goods made under the Jamaica Government Railway Law (hereby repealed) and in force at the time of coming into operation of this Act shall be deemed to have been made under this Act and shall continue in force until other provision is made by virtue of this Act.

SCHEDULE

(Section 3)

Constitution and Procedure of the Corporation

1. The Corporation shall consist of nine persons to be appointed by the Minister. Appointment of members. 52/1975 S. 3(a).

2. The Minister may appoint any person to act temporarily in the place of any member of the Corporation in the case of the absence or inability to act of such member. Temporary appointments.

3. (1) The Minister shall appoint one of the members of the Corporation to be the chairman thereof. Chairman.
 - (2) The Minister shall appoint one of the members of the Corporation to be the vice-chairman thereof.
 - (3) In the case of the absence or inability to act of the chairman the vice-chairman shall exercise the functions of the chairman.
 - (4) At any meeting, in the case of the absence or inability to act of both the chairman and the vice-chairman the remaining members of the Corporation shall elect one of their number to act as chairman at that meeting.

4. (1) A member of the Corporation shall, subject to the provisions of this Schedule, hold office for a period not exceeding three years but shall be eligible for reappointment. Tenure of office and revocation of appointment.
 - (2) The Minister may, if he thinks it expedient so to do, at any time revoke the appointment of any member of the Corporation.

5. (1) Any member of the Corporation, other than the chairman, may at any time resign his office by instrument in writing addressed to the Minister and transmitted through the chairman, and from the date of the receipt by the Minister of such instrument such member shall cease to be a member of the Corporation. Resignation.
 - (2) The chairman may at any time resign his office by instrument in writing addressed to the Minister and such resignation shall take effect as from the date of the receipt of such instrument by the Minister.

6. The names of all members of the Corporation as first constituted and every change in the membership thereof shall be published in the *Gazette*. Publication of membership.

[The inclusion of this page is authorized by L.N. 60/1976]

Authentic-
ation of
seal and
documents.

7. (1) The seal of the Corporation shall be authenticated by the signatures of the chairman or one member of the Corporation authorized to act in that behalf and the secretary of the Corporation.

(2) All documents, other than those required by law to be under seal, made by, and all decisions of, the Corporation may be signified under the hand of the chairman or any member authorized to act in that behalf or the secretary of the Corporation.

Disclosure
of interest.

8. A member of the Corporation who is directly or indirectly interested in a contract made or proposed to be made by the Corporation—

(a) shall disclose the nature of his interest at a meeting of the Corporation; and

(b) shall not take part in any deliberation or decision of the Corporation with respect to that contract.

Procedure
and
meetings.

9. (1) The Corporation shall meet so often as may be necessary or expedient for the transaction of business, and such meetings shall be held at such places and times on such days as the Corporation may determine.

(2) The chairman may at any time call a special meeting of the Corporation and shall call a special meeting to be held within seven days from the receipt of a written request for that purpose addressed to him by any three members of the Corporation.

(3) The chairman or, in the case of the absence or inability to act of the chairman, the vice-chairman or the person elected to act as chairman in accordance with sub-paragraph (4) of paragraph 3 shall preside at the meetings of the Corporation, and when so presiding shall have an original and a casting vote.

52/1975
S. 3(b).

(4) The quorum of the Corporation shall be five including the chairman, or the vice-chairman or person elected to act as chairman as aforesaid.

(5) Subject to the provisions of this Schedule the Corporation may regulate its own proceedings.

(6) The validity of any proceeding of the Corporation shall not be affected by any vacancy amongst the members thereof or by any defect in the appointment of a member thereof.

Remunera-
tion of
members.

10. There shall be paid from the revenue of the Corporation to the chairman and other members of the Corporation such remuneration (whether by way of salaries or travelling or other allowances) as the Minister may determine.

Office of
member of
Corporation
not to be
public office.

11. The office of member of the Corporation shall not be a public office for the purposes of Chapter V of the Constitution of Jamaica.

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