

Tanzania

Railways Act

Chapter 170

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Railways Act (Chapter 170)

Contents

Part I – Preliminary provisions (ss. 1-3)	1
1. Short title	1
2. Interpretation	1
3. This Act to apply notwithstanding the East African Railways Corporation Act	4
Part II – Establishment of the Corporation (s. 4)	4
4. Establishment and incorporation of the Tanzania Railways Corporation	4
Part III – Management of the Corporation (ss. 5-9)	4
5. Board of Directors	4
6. Remuneration of members of the Board	5
7. Appointment of Director-General and other employees	5
8. Superannuation benefits	5
9. Power of Board to delegate	5
Part IV – Functions and powers of the Corporation (ss. 10-24)	6
10. General duty of the Board	6
11. Powers of the Director-General	6
12. Powers of the Board	6
13. Powers of the Minister	7
14. Powers of the Corporation as a statutory body	7
15. Power under the law to survey, etc.	9
16. Power to enter land to prevent accidents, etc.	9
17. Power to enter land to alter position of pipes	10
18. Power to take water	10
19. The provision of transport services, etc., other than by the Corporation	10
20. The Corporation may not be required to provide services at a loss	10
21. Accommodation works	10
22. Additional accommodation works	11
23. Construction of railway crossing public road	11
24. Certification of new railway	12
Part V – Financial provisions (ss. 25-31)	12
25. Authorised capital	12
26. Principles of operation and power to invest	12
27. Power to borrow	13
28. Annual and supplementary budget	13
29. Accounts and audit	14

30. Annual report	14
31. Audited accounts and annual report to be laid before the National Assembly	14
Part VI – Responsibility of the Corporation as a carrier and warehouseman (ss. 32-41)	15
Responsibility as a carrier (ss. 32-39)	15
(a) – Passengers (ss. 32-33)	15
32. Liability for loss of life, etc., of passengers	15
33. No liability for delay in arrival of passengers, etc.	16
(b) – Goods (ss. 34-39)	16
34. Liability for loss of goods	16
35. Liability for delay of goods	17
36. Limitation of liability for animals	17
37. Limitation of liability for loss of specified articles	18
38. Limitation of liability for loss where false account given	18
39. Limitation of liability by contract	18
Responsibility as a warehouseman (ss. 40-41)	18
40. Liability for loss of goods, etc.	18
41. Limitation of liability for loss of goods deposited in cloakroom	19
Part VII – Operations of the corporation (ss. 42-59)	19
(a) – Passengers and luggage (ss. 42-47)	19
42. Corporation may determine conditions for the carriage of passengers and luggage	19
43. General right of persons to be carried as passengers	20
44. General conditions on which tickets may be issued	20
45. Person without ticket may be removed from train, etc.	21
46. Fares payable by person travelling without a valid ticket, etc.	21
47. Conditions of carriage of luggage	22
(b) – Goods (ss. 48-56)	22
48. Corporation may determine conditions for carriage of goods	22
49. General right to have goods carried	22
50. Description of goods to be delivered	23
51. Goods may be sold to pay fares, rates, etc.	23
52. Unclaimed goods in possession of the Corporation	24
53. Indemnity where goods are claimed by two persons, etc.	24
54. Dangerous or offensive goods	25
55. Corporation to prepare Tariff Book	25
56. Corporation shall determine maximum load	26

(c) – Accidents (ss. 57-59)	26
57. Accidents to be reported	26
58. The Minister or the Board may order inquiry	26
59. Director-General to make a return of accidents	26
Part VIII – Special provisions relating to ports in inland waterways (ss. 60-69)	26
60. Inland waterways ports	26
61. Power to amend Third Schedule	27
62. Passengers to be embarked only at an inland waterways port	27
63. Master to supply information, etc.	27
64. Port rates may be levied	27
65. Power to arrest vessel for port charges	27
66. Powers of authorised employees in relation to inland waterways port	28
67. Power of health officer in an inland waterways port	28
68. Liability for demurrage	28
69. Master responsible for contravention of Act, etc., in respect of vessel	29
Part IX – Provisions relating to offences (ss. 70-82)	29
70. Major offences	29
71. Minor offences	29
72. Travelling without ticket	31
73. Offence by passengers	31
74. Offence relating to tickets	32
75. Forgeries of tickets	32
76. False returns	32
77. Unlawfully transporting dangerous goods	32
78. Offence by master of vessel	33
79. Employee endangering safety of operation	33
80. Employee demanding improper amount	33
81. Arrest of employee	33
82. Power of arrest, removal and place of trial	33
Part X – Miscellaneous provisions (ss. 83-93)	34
(a) – Legal provisions (ss. 83-92)	34
83. Compensation	34
84. Liability for damage caused by fire	35
85. Burden of proof	35
86. Notice of claim	35

87. Limitation	36
88. Restriction on execution against property of Corporation	36
89. Overcharge and undercharge	36
90. Medical examination of person claiming compensation	37
91. Service of notice on the Director-General	37
92. Service of notice by the Director-General	37
(b) – Regulations (s. 93)	37
93. Regulations	37
Part XI – Transitional provisions (ss. 94-96)	38
94. Regulations, beacons, etc., made or installed under the East African Railways Corporation Act	38
95. Corporation may assume East African Railways Corporation's functions	39
96. President may make transitional provisions	39
Third Schedule (Sections 2(1) and 60)	42
Second Schedule (Section 37)	41

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Railways Act

Chapter 170

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[Note: This legislation has been thoroughly revised and consolidated under the supervision of the Attorney General's Office, in compliance with the Laws Revision Act No. 7 of 1994, the Revised Laws and Annual Revision Act (Chapter 356 (R.L.)), and the Interpretation of Laws and General Clauses Act No. 30 of 1972. This version is up-to-date as at 31st July 2002.]

[G.N. No. 145 of 1977; Acts Nos. 11 of 1977; 2 of 1988]

An Act to provide for the establishment of the Tanzania Railways Corporation, its functions and for purposes connected therewith.

Part I – Preliminary provisions (ss. 1-3)

1. Short title

This Act may be cited as the Tanzania Railways Corporation Act.

2. Interpretation

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

"**animals**" means animate things of any kind except human beings;

"**authorised employee**" means an employee authorised by the Director-General to exercise the powers or perform the duties in respect of which the expression is used;

"**beacon**" includes a light, mark or other structure erected by the Corporation for the purposes of navigation on inland waterways;

"**Board**" means the Board of Directors of the Corporation provided for by section 4;

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

"**charges**" means all sums received or receivable, charged or chargeable, for, or in respect of, the carriage or warehousing of goods by the Corporation or for, or in respect of, any vessel or inland waterways port or any other service performed or facilities provided by the Corporation;

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

"**consignment**" means one or more packages of goods or a quantity of loose goods tendered for carriage by the Corporation;

"**consignor**" means the person, firm or body who has tendered goods which have been accepted for carriage by the Corporation;

"**Corporation**" means the Tanzania Railways Corporation established under section 4;

"**customs law**" means any law in force within the United Republic imposing or relating to the collection of customs or excise duties or transfer tax;

"**East African Railways Corporation**" means the East African Railways Corporation established under the East African Railways Corporation Act of the Community¹;

"**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 by the Corporation;

"**ferry**" means any vessel plying from one side of waterway to the other for the purpose of the carriage of passengers or goods;

"**firebreak**" means a strip of land, whether under trees or not, which has been cleared of inflammable matter to prevent the spread of fire, and which is not less than nine metres (measured from the boundary of the land upon which a railway is constructed) in width, or of such other dimensions or sited at such place as may have been agreed upon between the Director-General and the owner or occupier of the land contiguous to any land occupied by the Corporation on which a railway is constructed;

"**free pass**" means an authority in writing for the carriage by the Corporation without the payment of any fare of any person as a passenger;

"**Director-General**" means the Director-General of the Corporation appointed under section 7;

"**goods**" includes luggage, animals (whether alive or dead) and all other movable property of any description;

"**inland waterways ports**" means the ports specified in the Third Schedule to this Act;

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

"**master**", in relation to a vessel, means any person having charge of that vessel;

"**Minister**" means the Minister responsible for transport;

"**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 thing which the Director-General may by notice in the *Gazette* declare to be perishable goods;

"**purposes of the Corporation**" means any purposes necessary or desirable for the performance of the services, or the provision of any facilities, which the Corporation is authorised to perform under this Act;

"**railway**" means the whole or any portion of the lines of railway operated by the Corporation and all other movable and immovable property used, or placed at the disposal of the Corporation for use, in connection therewith;

"**railway station**" includes a road service station;

"**rates**" includes all sums which may, under the provisions of this Act, be levied for, or in respect of, the carriage or warehousing of goods by the Corporation or for, or in respect of, any vessel or inland waterways port or any other service performed or facility provided by the Corporation;

"**road**" includes any street, thoroughfare, path or lane;

¹

"**season ticket**" means a ticket entitling the person to whom it is issued to be carried by the Corporation as a passenger between the places specified thereon on the number of occasions or during the period specified thereon;

"**Tariff Book**" means the tariff book published by the Corporation under the provisions of this Act;

"**ticket**" includes a single ticket, a return ticket, a season ticket, and any other written authority (not a free pass) for the carriage of a person by the corporation as a passenger;

"**train**" includes locomotive engine, tender, motor, coaches, wagons, trolleys and rolling stock of all kinds used, whether separately or in conjunction, on a railway;

"**vehicle**" means any vehicle other than a train or vessel;

"**vessel**" includes any ship, tug, lighter or boat of any kind whatsoever whether propelled by steam or otherwise towed;

"**warehouse**" includes any building, place, wagon, vessel or vehicle when used by the Corporation for the purpose of warehousing or depositing goods;

"**watercourse**" means any river, stream, drain, gully, canal or other channel, whether artificial or not, in which water flows whether constantly or intermittently;

"**waterworks**" includes boreholes, wells, reservoirs, dams, tanks, cisterns, conduits, aqueducts, pipes, hydrants, taps, pumps, engines and all other structures, plant and appliance used or constructed for obtaining, storing, purifying, conveying, distributing, measuring or regulating water.

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

Provided that—

- (a) where such goods are delivered to the consignee within such period of twenty-four hours, the goods shall cease to be in transit as from the time when they are delivered;
 - (b) where such goods are perishable goods and the Corporation, in the exercise of its powers under this Act, disposes of such goods within such period of twenty-four hours, the goods shall cease to be in transit as from the time when they are so disposed of;
 - (c) where such goods are, in respect of their carriage by the Corporation, consigned to a place at which the Corporation does not maintain any staff for the receipt thereof, the goods shall cease to be in transit as from the time when they arrived at such place;
 - (d) where such goods are consigned for delivery to a place other than a railway station by means of a delivery service operating from a railway station or inland waterway port by the Corporation and such goods cannot due to causes beyond the control of the Corporation, be delivered at such place within twenty-four hours after the time of such arrival at the railway station or inland waterways port from which the delivery service is operated, such goods shall cease to be in transit after the time when such goods are tendered for delivery at such place or after the expiry of twenty-four hours after the time of their arrival at the railway station or inland waterways port from which the delivery service operated, whichever is the earlier.
- (3) In this Act and in all documents issued under this Act unless the context otherwise requires—
- (a) "**premises occupied by the Corporation**" means premises vested in or placed at the disposal of the Corporation for the purposes of the Corporation;

- (b) **"property of the Corporation"** means vested in or placed at the disposal of the Corporation for the purposes of the Corporation;
- (c) **"the possession of the Corporation"** means the possession by any employee in the course of his duty;
- (d) **"carried by the Corporation"** means carried by the Corporation in accordance with the provisions of this Act;
- (e) **"accepted by the Corporation"** means accepted by an employee or agent of the Corporation for carriage or warehousing by the Corporation in accordance with the provisions of this Act:

Provided that acceptance 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;
- (f) **"services or facilities provided by the Corporation"** means services performed or facilities provided by the Corporation in accordance with the provisions of this Act;
- (g) **"operated by the Corporation"** means operated by the Corporation in accordance with the provisions of this Act;
- (h) **"vessel or vehicle of the Corporation"** includes a vessel or vehicle operated on behalf of the Corporation.

3. This Act to apply notwithstanding the East African Railways Corporation Act

Notwithstanding the provisions of the East African Railways Corporation Act of the Community the Corporation established by this Act shall, as from the commencement of this Act, have the powers, duties, functions and responsibilities vested therein by the East African Railways Corporation Act of the Community and this Act, and the provisions of this Act shall prevail in relation to all matters arising after the commencement of this Act.

Part II – Establishment of the Corporation (s. 4)

4. Establishment and incorporation of the Tanzania Railways Corporation

- (1) There shall be established a Corporation to be known as the Tanzania Railways Corporation.
- (2) The Corporation shall be a body corporate with perpetual succession and an official seal and shall have power to sue and be sued in its corporate name and to acquire, hold and dispose of movable and immovable property for the purposes of the Corporation.

Part III – Management of the Corporation (ss. 5-9)

5. Board of Directors

- (1) There shall be a Board of Directors of the Corporation which shall, subject to this Act, carry out the functions and manage the business and affairs of the Corporation.
- (2) The provisions of the First Schedule to this Act shall have effect as to the constitution and proceedings of the Board and in respect of other matters relating to the Board.
- (3) The Minister may, by order published in the *Gazette*, vary or replace all or any of the provisions of the First Schedule.

6. Remuneration of members of the Board

- (1) Subject to subsection (2), the Board shall be entitled to such remuneration, fees or allowances for expenses as the Minister may, upon the recommendation of the Board, determine.
- (2) No remuneration, fees or allowances except such allowances for expenses as may be expressly authorised by the Minister, shall be paid to any member of the Board who is a public officer.

7. Appointment of Director-General and other employees

- (1) The President shall appoint a Director-General of the Corporation who shall be the chief executive officer of the Corporation.
- (2) The Board may from time to time appoint such number of other employees of the Corporation as it may deem necessary for the proper and efficient conduct of the business and the activities of the Corporation.

8. Superannuation benefits

The Board may, with the approval of the Minister—

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

9. Power of Board to delegate

- (1) Subject to subsection (4), the Board may, from time to time by instrument in writing under the seal of the Corporation, delegate to any committee of the Board or to any employee of the Corporation any of its functions or powers under this Act and where such delegation has been made the delegated function or power may be exercised by the delegate in accordance with the terms of the instrument of delegation.
- (2) A delegation under this section may be made to the holder of an office under the Corporation specifying the office but without naming the holder, and in that case each successive holder of the office in question and each person who acts in, occupies or performs the duties of that office may, without any further authority exercise the delegated function or power in accordance with the delegation made.
- (3) The Board may at any time revoke a delegation made under this section and no delegation made under this section shall prevent the Board from itself exercising the function or power delegated.
- (4) The Board shall not delegate—
 - (a) its power to delegate; and
 - (b) the power to approve the annual budget or any supplementary budget, the annual balance sheet or any statement of account.

Part IV – Functions and powers of the Corporation (ss. 10-24)

10. General duty of the Board

- (1) It shall be the duty of the Board to provide, by means of the undertaking of the Corporation, a co-ordinated and integrated system within the United Republic of transport services by rail, road and inland waterways; and to ensure that—
 - (a) the undertaking of the Corporation is operated efficiently, economically and with due regard to safety;
 - (b) the financial administration of the Corporation is conducted in accordance with the provisions of this Act;
 - (c) the Corporation provides all reasonable facilities for the carriage of passengers and goods; and
 - (d) no particular person or body is given any undue preference or subjected to any undue disadvantage.

11. Powers of the Director-General

Subject to the directions of the Board, the Director-General may—

- (a) establish and operate rail, road and inland waterways transport services and facilities relating thereto;
- (b) approve recurrent expenditure within limits determined by the Board;
- (c) approve any individual capital work of which the estimated cost does not exceed such sum as the Minister may determine;
- (d) 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
- (e) allocate functions to employees of the Corporation;

12. Powers of the Board

In the performance of its duty under section 10 of this Act, and subject to any directions which may be given to it by the Minister, the Board may—

- (a) approve any minor alteration in the tariffs, rates, fares and other charges;
- (b) approve any individual capital work, for the purposes of the Corporation, not included within a programme of works approved by the Minister of which the estimated cost does not exceed such sum as the Minister may determine;
- (c) establish, from among its members, or Committees for the purposes of the Corporation and delegate functions thereto;
- (d) consider legislative proposals and recommend their enactment to the Minister;
- (e) subject to the provisions of section 20 of this Act, provide services or facilities requested by the government of any other country;
- (f) approve any alteration in the organisation or establishment of the Corporation other than an alteration referred to in paragraph (d) of section 11 of this Act; and
- (g) give directions to the Director-General.

13. Powers of the Minister

- (1) The Minister shall be responsible for the general direction and control of the Corporation and may for that purpose—
 - (a) give directions of a general nature to the Board relating to the operation of the undertaking of the Corporation;
 - (b) approve any major alterations in the tariffs, rates, fares and other charges made for the services provided by the Corporation;
 - (c) approve any individual capital work, for the purposes of the Corporation;
 - (d) give particular directions to the Board concerning any matters involving agreement with, or the interest of, any foreign country.

14. Powers of the Corporation as a statutory body

- (1) The Corporation shall have power—
 - (a) to carry goods and passengers by rail, road and inland waterways within the United Republic;
 - (b) to provide within the United Republic ports and facilities for traffic by inland waterways;
 - (c) to provide and use upon the inland waterways within and contiguous to the United Republic vessels—
 - (i) for the towage, protection or salvage of life and property;
 - (ii) for the carriage of goods and passengers;
 - (d) to store goods within the United Republic, whether or not such goods have been, or are to be, carried by the Corporation;
 - (e) to consign goods on behalf of other persons from any place within the United Republic to any other place whether within the United Republic or elsewhere;
 - (f) to provide within the United Republic, both for the passengers carried by the Corporation and other persons, hotels, other living accommodation and place of refreshment;
 - (g) to provide within the United Republic such other amenities of facilities for passengers carried by the Corporation and other persons making use of the services performed or the facilities provided by the Corporation as may appear to the Board necessary or desirable.
- (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, without prejudice to the generality of the foregoing, shall include power—
 - (a) subject to the provisions of subsection (3), to construct or improve any railway, inland waterways port, ferry, road, bridge, building or any other necessary or desirable works required for the purpose of the Corporation;
 - (b) to operate trains and to acquire, construct, manufacture, maintain or repair anything required for the purposes of the Corporation;
 - (c) to 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 functions;
 - (d) to acquire, construct, manufacture, maintain or repair water works or electric generating plant or any other works, plant or apparatus necessary or desirable for the supply or transmission of water or of electric energy for the purposes of the Corporation;

- (e) subject to the approval of the Government to alter the course of, or raise or lower the level of, any watercourse or road if such alteration, raising or lowering is necessary for the purposes of the Corporation;
- (f) to determine, impose and levy rates, fares, charges, dues or fees for any service performed by the Corporation or for the use by any person of the facilities provided by the Corporation or for the grant to any person of any licence, permit or certificate;
- (g) to prohibit, control or regulate—
 - (i) the use by any person of the services performed, or the facilities provided by the Corporation; or
 - (ii) the presence of any person, vessel, vehicle or goods within any inland waterways port or on any premises occupied by the Corporation for the purposes of the Corporation;
- (h) to sell, let or otherwise dispose of any property, movable or immovable, which in the opinion of the Board is not necessary for the purposes of the Corporation:

Provided that the Corporation shall not sell, let or otherwise dispose of any building or land placed at its disposal by the Government otherwise than with the consent of, and under conditions agreed by the President;
- (i) to provide houses and other accommodation for employees;
- (j) to act as agent for any person engaged, whether within the United Republic or elsewhere, in the performance of services or the provision of facilities of a kind similar, or complementary to, those performed or provided by the Corporation;
- (k) to enter into agreement with any person—
 - (i) for the supply, construction, manufacture, maintenance or repair by that person of any property, movable or immovable, necessary or desirable for the purposes of the Corporation;
 - (ii) for the performance or provision by that person of any of the services or the facilities which may be performed or provided by the Corporation;
 - (iii) for the payment, collection or apportionment of any fares, rates, charges or other receipts arising out of the performance or the provision by that person of any such services or facilities and, for such purposes, to finance or assist in financing the activities of that person, whether by way of loan, the holding of stocks, shares or securities, the guaranteeing of interest or the retention of any stock, share or securities or otherwise;
- (l) to enter into agreement with any person carrying on business as a carrier of passengers or goods, whether within the United Republic or elsewhere, providing for the carriage of passengers or goods by or on behalf of the Corporation, and of that person, under one contract or at a through fare or rate; and
- (m) to enter into any arrangement with the Tanzania Harbours Authority which, in the opinion of the Board, will promote or secure the provision, or improved provision, of any service or facilities which they 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 temporary employment of staff of one party by the other on secondment or otherwise;
 - (iii) the charges made in respect of the use of any service or facility to which the arrangement or agreement relates;

- (iv) the financing of any project by either or both parties;
 - (v) research connected with any existing service or facility provided by either party or in relation to any service or facility under consideration; and
 - (vi) the joinder in the arrangement or agreement by any other person.
- (3) For the avoidance of doubts it is hereby declared that the provisions of subsections (1) and (2) relate only to the capacity of the Corporation as a statutory corporation and nothing in those provisions shall be construed as authorising the disregard by the Corporation of any law.
- (4) The powers conferred on the Corporation under this section to construct or execute any works shall empower the construction or execution of such works on land vested in the Corporation or on land placed at its disposal by the Government for the purposes of the Corporation; or in the case of land not so vested in, or placed at the disposal of, the Corporation, only with the agreement of the owner of the land on which such works are to be constructed or executed, and where any land is required by the Corporation for the purposes of the Corporation, the Corporation shall make representations to the President and the President may proceed to acquire the land in accordance with the provisions of any written law relating to the acquisition of land for public purposes.

15. Power under the law to survey, etc.

- (1) Any authorised employee of the Corporation may, for the purposes of the Corporation, enter upon—
 - (a) any land and survey such land or any portion thereof;
 - (b) any land contiguous to any premises occupied by the Corporation and—
 - (i) excavate, take away and use any earth, stone, gravel or similar materials out of such land;
 - (ii) cut, take away and use any timber on any land.
- (2) Where any materials or timber are taken away in, or any damage is caused by reason of, the exercise of the powers conferred by this section, the owner or occupier of the land shall be entitled to compensation therefor in accordance with the provisions of this Act.

16. Power to enter land to prevent accidents, etc.

- (1) Any authorised employee of the Corporation may, for the purpose of preventing the safe operation of any transport service provided by the Corporation or repairing any damage caused by any accident, enter upon any land and—
 - (a) cut down or remove any tree or other obstruction, not being a building, which obscures the view of any fixed signal or beacon or which is likely to cause any obstruction or any danger to any such 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) If any tree or other obstruction cut down or removed under paragraph (a) of subsection (1) came into existence subsequent to the transport services being provided at that place, then no compensation shall be payable in respect of such entry or the cutting down or removal of such tree or other obstruction.
- (3) Where any person erects any building which obscures the view of a fixed signal or is likely to cause any obstruction or any danger to any rail or transport service provided by the Corporation, the Corporation may, unless such person has previously obtained the approval of the Director-General to the erection of such building or has modified it to the satisfaction of the Director-General, apply to a judge of the High Court for an order for the demolition or modification of such building or, as the case may require, for the payment to the Corporation of the cost incurred in residing or

replacing any signalling equipment or otherwise necessary to prevent such obstruction or danger and the court, at its discretion, may grant such order and may make such order as to the payment of compensation and costs as it thinks fit.

- (4) The Rules of Court referred to in subsection (2) of section 8 of this Act shall apply to an application under this section as they apply to the determination of compensation under that section.

17. Power to enter land to alter position of pipes

- (1) The Corporation, or any authorised employee, may, for the purposes of the Corporation, enter upon any land and alter the position of any pipe for the supply of gas, oil, water or compressed air or the position of any electric, telephone or telegraphic wire or the position of any drain.
- (2) Where the Corporation exercises any power under subsection (1), it shall give reasonable notice of its intention so to do to the authority or person having control of the pipe, wire or drain and—
- (a) such authority or person may authorise a representative to superintend such work and may require the Corporation to execute such work to the satisfaction of such representative;
 - (b) the Corporation shall make arrangements for the maintenance of the supply of gas, oil, water, compressed air or electricity, for the continuance of the telephonic or telegraphic communications or for the maintenance of the drainage, as the case may be, during the execution of such work.
- (3) Where any damage is caused by reason of the exercise of the powers conferred by this section, the person suffering such damage shall be entitled to compensation therefore in accordance with the provisions of this Act.

18. Power to take water

The Corporation may, for the purposes of the Corporation, take any water from any natural watercourse within the United Republic subject to any written law regulating the taking of any such water or, if there is no such written law, subject to the approval of the President.

19. The provision of transport services, etc., other than by the Corporation

Subject to the right of the Government to provide and operate transport services, other than the carriage of passengers or goods for hire or reward, for its own purposes—

- (a) no rail transport services shall be provided; and
- (b) no railway shall be constructed for the carriage thereon of goods or passenger for reward, within the United Republic by any person other than the Corporation or the East African Railways Corporation, or, to the extent permitted by law, the Tanzania Harbours Authority and the Tanzania-Zambia Railway Authority.

20. The Corporation may not be required to provide services at a loss

The Corporation shall not be required to provide any authority or person transport services or inland waterways port facilities either gratuitously or at a rate or charge which is insufficient to meet the cost involved in the provision of such services or facilities by the Corporation unless the authority or person concerned undertakes to make good the amount of the loss incurred by reason of the provisions of such services or facilities.

21. Accommodation works

Where, in the exercise of powers under this Act, the Corporation constructs a railway, then, during the construction of the railway or as soon as practicable thereafter it shall construct and maintain the

following accommodation works for the benefit of the owners and occupiers of lands adjoining those on which the railway is constructed—

- (a) such crossings, bridges or other works as, in the opinion of the Board, are necessary for the purpose of making good any interruption caused by the construction of the railway to the use of the lands through which the railway is constructed;
- (b) such culverts, drains or other works as, in the opinion of the Board, are necessary to convey water as freely, or as nearly thereto as practicable, from or to such adjoining land as before the construction of the railway:

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

- (i) in such a manner as to prevent or obstruct the proper operation of the railway;
- (ii) where the owners or occupiers or their predecessors in title, of the lands have received an agreed amount of compensation in consideration of such works not being constructed or maintained; or
- (iii) at any time after a period of five years from the date on which the railway passing through the lands was opened for the public carriage of passengers or goods:

Provided further that where suitable accommodation works for the crossing of roads or watercourse have been constructed under this section and such road or watercourse is afterwards diverted by some person other than the Corporation, then, the Corporation shall not be required to construct other accommodation works for the crossing of the road or watercourse.

22. Additional accommodation works

If at any time—

- (a) the owner or occupier of any lands on which a railway is constructed desires any accommodation works in addition to those, if any, constructed by the Corporation under section 21 of this Act; or
- (b) any authority proposes to construct a public road or any other works across a railway such owner, occupier or authority, as the case may be, may require the Corporation to construct such accommodation works—
 - (i) as may be agreed between the Corporation and the owner, occupier or authority;
 - (ii) if no such agreement is reached, as may be determined by the Minister, and the cost of constructing such accommodation works shall be borne by the owner, occupier or authority requiring them.

23. Construction of railway crossing public road

- (1) Where, in the exercise of powers under this Act, the Corporation proposes to construct a railway across a public road, the Minister responsible for public lands, may, subject to the provisions of subsection (3), require the Corporation to construct the railway in such a manner that it does not cross such road on the level and to execute such other works as may be necessary for the safety of the public; and the Corporation shall comply with such requirements.
- (2) Where any railway has been constructed so as to cross a public road on the level, the Minister responsible for public lands may, subject to the provisions of subsection (3), require the Corporation—
 - (a) to erect such gates; or

- (b) to raise or lower the level of the public road so that it crosses the railway above or below and not on the level,

and to execute such other works as may be necessary for the safety of the public; and the Corporation shall comply with such requirements.

- (3) The Minister responsible for public lands shall, before making any requirement under this section communicate with the Corporation and the authority responsible for the maintenance of such public roads and shall take into consideration any representations made by the Corporation or such authority.
- (4) Where, as a result of a requirement made by the Minister responsible for public lands under this section, any works are to be constructed by the Corporation, then the manner of the construction of such works and the apportionment of the cost of construction and maintenance thereof shall be determined by agreement between the Corporation and the authority responsible for the maintenance of the public road or, if no such agreement is reached, it shall be determined by the President.

24. Certification of new railway

- (1) Before any section of a new railway is declared open for the public carriage of passengers or goods, such qualified public officer as the Minister may appoint in that behalf shall furnish a certificate that such section complies with the standards laid down by the Corporation and may, in the opinion of such person, be opened for the public carriage of passengers or goods without danger to the public; and upon such certificate being furnished, the Corporation may by notice in the *Gazette* declare the section to which the certificate refers, to be open for such purposes.
- (2) Nothing in subsection (1) shall prohibit the Corporation from carrying passengers or goods on a railway in the course of construction or before it has been so declared open but, in such case, the Corporation shall not be liable for the death of, or injury to, any passenger or for the loss of, or damage to, any goods occasioned in the course of such carriage.
- (3) For the purposes of this section, the expression "new railway" does not include any diversion or realignment of track made to any existing railway.

Part V – Financial provisions (ss. 25-31)

25. Authorised capital

The authorised capital of the Corporation shall be such sum as the Minister may declare after consultation with the Minister responsible for finance.

26. Principles of operation and power to invest

- (1) The Corporation shall conduct its business according to commercial principles and shall perform its functions in such manner as to secure that, taking one year with another, its revenue is not less than sufficient to meet its outgoings which are properly chargeable to revenue account including proper allocations to the general reserve and provision in respect of depreciation of capital assets, pension liabilities and interest and other provision for the repayment of loans and shall further ensure that, taking one year with another, its net operating income is not less than sufficient to secure an annual return on the value of the net fixed assets in operation by the Corporation of such a percentage as the Minister may, determine.
- (2) For the purposes of subsection (1)—
 - (a) "net operating income" shall be determined by subtracting from gross operating revenue all operating and administrative expenses including any taxes (if any) and adequate provision for maintenance and depreciation; and

- (b) "value of the net fixed assets in operation" shall be the value of the assets less the amount of accumulated depreciation shown in the statement of accounts of the Corporation, but if the amounts shown in the statement of accounts do not reflect a true measure of value of the assets concerned because of currency revaluations, changes in prices or similar factors, the value of the fixed assets shall be adjusted adequately to reflect those currency revaluations, changes in prices or similar factors.
- (3) With the prior approval of the Minister, the Board may, invest any part of the moneys available in any fund of the Corporation and which is not for the time being required for the purposes of the business of the Corporation in such investments as are authorised investments in relation to investment of funds by a trustee under the Trustee Investments Act².

27. Power to borrow

- (1) The Board may, with the approval of the Minister and with the consent 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.
- (2) The Board may, with the approval of the Minister and with the consent of the Minister responsible for finance, borrow money for the purposes of the Corporation by the issue of stock or otherwise.
- (3) Stock issued under subsection (2) and the interest payable thereon shall be charged upon all the property and revenue of the Corporation.
- (4) A person lending any money or according any credit facility to the Corporation shall not be bound to enquire whether the necessary consent has been obtained and the Corporation shall be liable in respect of the transaction notwithstanding that such consent was not obtained.

28. Annual and supplementary budget

- (1) In this Act "financial year" means any period not exceeding twelve consecutive months designated by the Board as the accounting period of the Corporation.
- (2) The first financial year of the Corporation shall commence on the date of the commencement of this Act and may be of a period longer or shorter than twelve months.
- (3) Not less than two months before the beginning of every financial year (other than the first financial year) the Board shall, at a meeting, pass a detailed budget (in this Act called the "annual budget") of the amounts respectively—
 - (a) expected to be received; and
 - (b) expected to be disbursed,by the Corporation during that financial year, and whenever circumstances so require, the Board may pass a supplementary budget in any financial year.
- (4) The annual budget and every supplementary budget shall be in such form and include such details as the Minister may approve.
- (5) Forthwith upon passing any annual budget or any supplementary budget the Board shall submit to the Minister for his approval the annual budget or, as the case may be, the supplementary budget.
- (6) The Minister shall, upon receipt of the annual budget or any supplementary budget, approve or disapprove it or may approve it subject to such amendment as he may consider fit.

- (7) Where the Minister approves any annual or supplementary budget, with or without amendment, the budget as approved by him, shall be binding on the Board which, subject to subsection (8), shall confine the disbursements of the Corporation within the items and amounts contained in the relevant budget as approved by the Minister.
- (8) The Board may—
 - (a) with the sanction in writing of the Minister, make a disbursement notwithstanding that such disbursement is not provided for in any budget;
 - (b) adjust expenditure limits to take account of circumstances not foreseeable the time the budget was prepared, subject to submitting a supplementary budget to the Minister within two months of the alteration of expenditure becoming necessary.

29. Accounts and audit

- (1) The Board shall cause to be provided and kept proper books of accounts and records with respect to—
 - (a) the receipt and expenditure of moneys by, and other financial transactions of, the Corporation; and
 - (b) the assets and liabilities of the Corporation, and shall cause to be made out for every financial year a balance sheet showing the details of the income and expenditures of the Corporation and all its assets and liabilities.
- (2) Within six months of the close of every financial year the accounts including the balance sheet of the Corporation in respect of that financial year shall be audited by the Tanzania Audit Corporation established by the Tanzania Audit Corporation Act³.
- (3) Every audited balance sheet shall be placed before a meeting of the Board and, if adopted by the Board, shall be endorsed with a certificate that it has been so adopted.
- (4) As soon as the accounts of the Corporation have been audited, and in any case not later than nine months after the close of the financial year, the Board shall submit to the Minister a copy of the audited statement of accounts together with a copy of the report, (if any) on that statement made by the auditors.

30. Annual report

- (1) The Board shall cause to be prepared and submitted to the Minister within nine months after the close of each financial year an annual report dealing generally with the activities and operation of the Corporation during that year and the report shall include—
 - (a) a statement of all directions given under this Act by the President and by the Minister to the Corporation during that year;
 - (b) such other information as the Minister may, by writing request.
- (2) The Corporation shall also submit to the Minister such other reports on its financial affairs as the Minister may by writing request.

31. Audited accounts and annual report to be laid before the National Assembly

The Minister shall, as soon as practicable after receiving audited accounts together with the annual report of the Corporation lay before the National Assembly.

Part VI – Responsibility of the Corporation as a carrier and warehouseman (ss. 32-41)

Responsibility as a carrier (ss. 32-39)

(a) – Passengers (ss. 32-33)

32. Liability for loss of life, etc., of passengers

- (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 personal injury is caused by the want of ordinary care, diligence or skill on the part of the Corporation or of any employee:

Provided that nothing herein shall impose upon the Corporation any liability from which it is exempt 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 of a train, vessel or vehicle other than a part normally provided for the use of passengers during travelling;
- (b) who is travelling on a free pass;
- (c) who is travelling over a railway in the course of construction whether with or without permission;
- (d) who, at the time of such loss of life or injury occurred, is being carried by any transport service other than one provided by the Corporation or under the control of the Board,

and to avoid liability in accordance with the provisions of this subsection it shall not be necessary for notice to be given to such passenger of the conditions on which he travels and it shall be immaterial whether or not such passenger is an infant.

- (3) 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 vessel or partly by train and vehicle and partly by vessel, when the loss of life or injury occurs during the carriage by vessel and articles from—

- (a) act of God;
- (b) act of war;
- (c) fire or accident from machinery, boilers or steam;
- (d) any peril or accident of the inland waterways, or navigation, of whatsoever nature or kind and from whatsoever cause arising,

but subject thereto and to any conditions expressed in the contract of carriage, the Corporation shall be liable for such loss of life or personal injury which occurs during the carriage by vessel to the extent to which as owner of such vessel, it would be liable under any law for the time being in force relating to merchant shipping (or to the limitation of liability for loss of life or personal injury upon a vessel in inland waterways) as if the vessel were subject to the provisions of such law and not to any greater extent; and where the Corporation seeks to avoid liability under this subsection, the burden of proving that any such loss of life or injury occurred during the carriage by vessel shall be upon the Corporation:

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

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

33. No liability for delay in arrival of passengers, etc.

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

- (a) by the failure of any train, vessel or vehicle to start on or complete any journey; or
- (b) by the late starting or late arrival of any train, vessel or vehicle, from whatever cause arising.

(b) – Goods (ss. 34-39)

34. Liability for loss of goods

- (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; or
 - (g) casualty including fire or explosion:

Provided that where such loss, misdelivery or damage occurs in any of the cases specified in this subsection due to the failure of the Corporation, or any employee, to use reasonable foresight and care in the carriage of goods, the Corporation shall not be relieved from liability for such loss, misdelivery or damage.

- (2) The Corporation shall not be liable for loss, misdelivery or damage in respect of goods in relation to which an account false in any material particular has been given under subsection (1) of section 50 of this Act or any incorrect or insufficient address for delivery has been given and such loss, misdelivery or damage is in any way caused by such false account or incorrect or insufficient address.
- (3) 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 of such loss, misdelivery or damage occurring are being carried by any transport service other than one provided by the Corporation or under the control of 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 or improper packing or from riots, civil commotion, strikes, lockouts, stoppage or restraint of labour from whatsoever cause whether partial or general,

and nothing in subsection (1) of this section shall impose upon the Corporation any liability from which it is exempted under the provisions of this Act.

- (4) The Corporation shall not be liable for loss of, or damage to, goods carried by the Corporation solely by vessel, when the loss of, or damage to, goods carried by the Corporation occurs during the carriage by vessel and arises from—

- (a) act of God;
- (b) act of war;
- (c) fire or accident from machinery, boilers or steam;
- (d) any peril or accident of the inland waterways, or navigation,

of whatsoever nature or kind and from whatsoever cause arising but subject thereto, and to any conditions expressed in the contract of carriage, the Corporation shall be liable for any such loss or damage which occurs during the carriage by vessel to the extent to which, as owner of such vessel, it would be liable under any law for the time being in force relating to merchant shipping (or to the limitation of liability for loss or, damage to, goods upon a vessel in inland waterways as if the vessel were subject to the provisions of such law and not to any greater extent; and where the Corporation seeks to avoid liability under this subsection, the burden of proving that any such loss or damage occurred during the carriage by vessel shall be upon the Corporation:

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

35. Liability for delay of goods

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 or any employee:

Provided that the Corporation shall not in any circumstances be 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 one provided by the Corporation or under the control of 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 or address, riot, civil commotions, strikes, lockouts, stoppage or restraint of labour from whatsoever cause whether partial or general.

36. Limitation of liability for animals

- (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 the 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 and paid, or agreed to pay, such additional charges as may be determined in the Tariff Book in respect of such excess value; and thereupon the liability of the Corporation shall not in any case exceed such 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.

37. Limitation of liability for loss of specified articles

- (1) The liability of the Corporation in respect of any article or articles specified in the Second Schedule to this Act, and contained in any parcel or package, shall not, in any circumstance, exceed five hundred shillings unless at the time of acceptance of such parcel or package by the Corporation for carriage the consignor or his agent declare that the value of such article or articles exceeded five hundred shillings and paid, or agreed to pay, such additional charges as may be determined in the Tariff Book in respect of such excess value; and thereupon the liability of the corporation shall not in any case exceed such declared value.
- (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 five hundred 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 five hundred 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 Corporation may, by regulations made under this Act, amend the provisions of the Second Schedule or vary the amount of the maximum liability to the Corporation as specified in this section.

38. Limitation of liability for loss where false account given

The liability of the Corporation in respect of any goods carried by the Corporation in relation to which an account false in any material particular has been given under subsection (1) of section 49 of this Act shall not in any case exceed the value of the goods as calculated in accordance with the description contained in such false account.

39. Limitation of liability by contract

- (1) The liability of the Corporation under this Act for the 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 section:

Provided that nothing in this section shall apply to a contract for the carriage of goods by vessel.

- (2) A contract purporting to limit the liability of the Corporation under this Act for the carriage of goods by the Corporation shall, to the extent to which it purports to limit such liability but not otherwise, be void unless it is in writing, signed by or on behalf of the person delivering the goods to the Corporation.

Responsibility as a warehouseman (ss. 40-41)

40. Liability for loss of goods, etc.

Subject to the provisions of this Act, or any contract, the Corporation shall not be liable for the loss, misdelivery or 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 the want of reasonable foresight and care on the part of the Corporation or of any employee:

Provided that the Corporation shall in no case be liable for such loss, misdelivery, detention or damage arising from—

- (i) act of God;
- (ii) act of war;
- (iii) seizure under legal process;
- (iv) act or order of the government;
- (v) act or omission of the consignor, consignee, or depositor, or of the servant or agent of any such person;
- (vi) fire, flood, tempest, riots, civil commotions, strikes, lock-outs, stoppage or restraint of labour from whatsoever cause whether partial or general;
- (vii) inherent liability to wastage in bulk or weight, latent or inherent defect, vice or natural deterioration;
- (viii) deficiency in the contents of unbroken packages; or
- (ix) insufficient packing or leakage from defective drums, container or packages:

Provided further that where such loss misdelivery, detention or damage occurs—

- (i) 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 36, 37 and 58 or limited by any contract under section 39, of this Act shall continue to apply;
- (ii) in relation to goods accepted by the Corporation for warehousing, the limitation of the liability of the Corporation contained in section 38 of this Act shall apply.

41. Limitation of liability for loss of goods deposited in cloakroom

- (1) The liability of the Corporation for any loss or misdelivery of, damage to or delay in the delivery of any goods deposited in a cloakroom shall not in any case exceed one hundred 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 thereupon the liability of the Corporation shall not in any case 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 and other persons.

Part VII – Operations of the corporation (ss. 42-59)

(a) – Passengers and luggage (ss. 42-47)

42. Corporation may determine conditions for the carriage of passengers and luggage

- (1) The Corporation may, subject to the provisions of this Act—
 - (a) determine the conditions upon which passengers and luggage shall be carried by the Corporation and different conditions may be determined in different cases; and such conditions shall be published in the Tariff Book and shall, subject as aforesaid, have effect from the date of such publication or from such later date as may be specified therein;

- (b) determine the rates, fares and charges for the carriage of passengers and luggage by the Corporation and such rates, fares and charges shall be published in the Tariff Book and shall, subject as-aforesaid, have effect from the date of such publication or from such later date as may be specified therein:

Provided that provision shall be made for the carriage of a specified amount of baggage by a passenger free of charge, and different amounts may be determined for passengers travelling by different classes;

- (c) determine the different classes of accommodation available to passengers in trains, vessels or vehicles of the Corporation.
- (2) Notwithstanding the provisions of subsection (1) the Corporation may, in relation to the special circumstances of any particular case, determine conditions, rates, fares and charges applicable to such case for the carriage of passengers and luggage by the Corporation and such conditions, rates, fares and charges shall have immediate effect in relation to such case:

Provided that such conditions, rates, fares and charges shall as soon as practicable after such determination be published in the Tariff Book:

Provided further that the determination of such conditions, rates, fares and charges shall not of itself constitute an undue preference under the provisions of section 10 of this Act.

43. General right of persons to be carried as passengers

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

Provided that if, in the opinion of an authorised employee, a person who applies for a ticket, or a person in possession of a ticket or free pass, appears—

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

such person shall not be entitled to obtain such 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.

44. General conditions on which tickets may be issued

- (1) Every ticket and free pass shall be issued by the Corporation subject to the provisions of this Act and, in addition to any other conditions, to the condition that—
- (a) there is room available in the train, vessel or vehicle of the class for which the ticket or free pass is issued;
 - (b) 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 or vessel; and
 - (c) the passenger shall, on being required so to do, present his ticket or free pass for examination by an authorised employee and shall deliver up such ticket or pass to such employee—
 - (i) in the case of a ticket or free pass issued for a particular journey, at or near the end of such journey;
 - (ii) in the case of a season ticket or free pass, at the expiration of the period for which it was issued.

- (2) If no such room as is referred to in paragraph (a) of subsection (1) is available, the holder of a ticket —
- (a) may 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) may elect, subject to there being available a room, 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:

Provided that the provisions of this subsection relating to a refund shall not apply to the holder of a season ticket.

45. Person without ticket may be removed from train, etc.

No person shall be upon any train, vessel or vehicle of the Corporation for the purposes of travelling therein as a passenger unless he is in possession of a valid ticket or free pass; and any person found on any such train, vessel or vehicle without a valid ticket or free pass may, without prejudice to any other action which may be taken against him, be required by any employee of the Corporation to leave the train, vessel or vehicle and, if he does not do so, may be removed, therefrom with such force as may be reasonable and necessary in the circumstances.

46. Fares payable by person travelling without a valid ticket, etc.

- (1) Any person who—
- (a) travels on any train, vessel or vehicle of the Corporation without a valid ticket or free pass; or
 - (b) being in, or having come from, any such train, vessel or vehicle does not present his ticket or free pass in accordance with the conditions on which the ticket or free pass is issued, shall be liable to pay on demand by an authorised employee the fare for the distance he has travelled or proposes to travel and, in addition, such excess charges as the Corporation may determine and publish in the Tariff Book; and for the purpose of ascertaining such fare it shall be presumed that such person has travelled from the station or inland waterways port—
 - (i) from which the train, vessel or vehicle originally started; or
 - (ii) if the ticket or free passes passengers have to be in order, from the place where they were last examined and found in order, unless he satisfies such authorised employee to the contrary.
- (2) Any person who—
- (a) travels in a class of a train, vessel or vehicle higher than that for which he is in possession of a valid ticket or free pass; or
 - (b) travels in a train, vessel or vehicle beyond the place authorised by his ticket or free pass, shall be liable to pay on demand by an authorised employee a fare equal to the difference between the fare he has paid and that which he should have paid and, in addition, such excess charges as the Corporation may determine and publish in the Tariff Book.
- (3) If, on demand by an authorised employee, any person refuses to pay the fare and excess charge for which he is liable under this section any authorised employee or any police officer may, if there is reasonable ground for belief that there would be difficulty or delay in bringing such 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.

47. Conditions of carriage of luggage

- (1) Subject to the provisions of this Act, every passenger shall, on payment of the appropriate charge, if any, be entitled to deliver his luggage to an authorised employee for carriage by the Corporation in the appropriate part of the train, vessel or vehicle and to receive a document of receipt for each such piece of luggage so delivered.
- (2) Luggage shall be carried by the Corporation subject to the provisions of this Act and, in addition to any other conditions—
 - (a) to the condition that unless the luggage is delivered to an employee for carriage in accordance with the provisions of subsection (1), it shall be carried at the risk of the passenger; and
 - (b) to the condition that the provisions of this Act in respect of the carriage of goods shall apply to the carriage of luggage save in so far as it is otherwise specifically provided.

(b) – Goods (ss. 48-56)**48. Corporation may determine conditions for carriage of goods**

- (1) The Corporation may, subject to the provisions of this Act—
 - (a) determine the 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, subject as aforesaid, have effect from the date of such publication or from such later date as may be specified therein;
 - (b) determine the rates and charges for the carriage or warehousing of goods and for any other service or facility; and such rates and charges shall be published in the Tariff Book and shall, subject as aforesaid, 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 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 or for any other service or facility and such conditions, rates and charges shall have immediate effect in relation to such cases:

Provided that such conditions, rates and charges shall, if they are of a continuing nature, be available to the public on request:

Provided further that such condition rates and charges shall, not itself constitute an undue preference under the provisions of section 10 of this Act.

49. General right to have goods carried

Subject to the provisions of this Act, 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 document of receipt for such goods and to have such goods carried by the Corporation in accordance with the conditions of carriage:

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

- (a) any animal tendered for carriage appears to be suffering from any infections or contagious disease;
- (b) any goods tendered for carriage are goods to which section 54 of this Act applies;
- (c) any goods tendered for carriage exceed the maximum weight or dimension specified in the Tariff Book;

- (d) any goods tendered for carriage are insufficiently or improperly packed;
- (e) any animal tendered for carriage is wild or dangerous;
- (f) the 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 en route,

the person tendering such goods for carriage shall not be entitled to have such goods carried by the Corporation save, when such goods are accepted for carriage, under and in accordance with any special provisions dealing with the carriage of such goods.

50. Description of goods to be delivered

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

51. Goods may be sold to pay fares, rates, etc.

- (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 or, if the value of the goods is, 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.
- (2) Where any goods have been detained under subsection (1), 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;

- (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, 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 provisions of the customs laws.

- (3) 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 Director-General to be entitled thereto:

Provided that if such person fails, after notice so to do, to remove within a reasonable time the goods, if any, remaining unsold, the Corporation may sell such goods and dispose of the proceeds of such sale in accordance with the provisions of this section.

- (4) 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.

52. Unclaimed goods in possession of the Corporation

- (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 thereof, the Corporation shall, if such owner or person is known, take all reasonable steps to cause a notice to be served upon him requiring him to remove the goods.

- (2) If—

- (a) the owner of any goods in the possession of the Corporation is not known and no person appears to be entitled thereto; or
- (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 (except in the case of perishable goods) than three months, sell the goods and retain the proceeds of the sale thereof:

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

53. Indemnity where goods are claimed by two persons, etc.

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 valued documents showing that he is entitled to take delivery thereof,

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

54. Dangerous or offensive goods

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

55. Corporation to prepare Tariff Book

- (1) The Corporation shall 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 therein together with such other matters as, under this Act, may be determined by the Corporation and such other matters as the Corporation may think fit;
 - (b) such other books, time-tables and other documents as under this Act are 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 for the time being in force;
 - (b) a list specifying the fares for the carriage of passengers by the Corporation from the place at which the list is kept to every other place to which bookings are commonly made; and
 - (c) a timetable of the passenger transport services operated by the Corporation.

56. Corporation shall determine maximum load

- (1) The Corporation shall determine—
 - (a) the maximum load for every wagon of the Corporation and no wagon shall, except with the permission of the Director-General be loaded in excess of such maximum load;
 - (b) the maximum number of passengers that may be carried in any compartment of a coach of a train or cabin of a vessel or in a passenger lighter of the Corporation.
- (2) The Director-General shall cause the maximum load determined under subsection (1) in respect of every wagon to be shown in a conspicuous manner on each wagon.

(c) – Accidents (ss. 57-59)**57. Accidents to be reported**

Where any accident occurs in any transport service of the Corporation (other than a road transport service) or in any inland waterways port, then, if that accident—

- (a) is attended, or is of a kind usually attended, with loss of human life or with serious injury to any person or property;
- (b) involves any collision between trains or between vessels of which one is a train or vessel, as the case may be carrying passengers;
- (c) involves the derailment of any train, or any part thereof, carrying passenger; 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 such accident to the Minister and the Board and, in the case of any such accident involving injury to any person, also to the police station or administrative authority nearest to the scene of such accident.

58. The Minister or the Board may order inquiry

- (1) The Minister or the Board may order such inquiry into any accident which occurs in any transport service of the Corporation, or in any inland waterways port, as the Minister or the Board may think fit.
- (2) In the case of an accident of the kind referred to in section 57 the Board shall submit to the Minister and the Attorney-General a report on such 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 to avoiding a repetition thereof.

59. Director-General to make a return of accidents

The Director-General shall make to the Minister and the Board a return, in such form and at such intervals as the Board may direct, of all accidents occurring to the transport services of the Corporation, or in any inland waterways port, whether or not any such accident is attended with injury to any person.

Part VIII – Special provisions relating to ports in inland waterways (ss. 60-69)**60. Inland waterways ports**

- (1) The ports specified in the Third Schedule to this Act shall be inland waterways ports for the purposes of this Act.

- (2) The President may, by order, define the limits of any inland waterways port.

61. Power to amend Third Schedule

The President may by order amend the Third Schedule to this Act.

62. Passengers to be embarked only at an inland waterways port

No vessel shall, without lawful excuse, embark or disembark any passenger or goods at any place other than an inland waterways port:

Provided that—

- (i) the Director-General may authorise the master of any vessel to embark or disembark passengers or goods at any place than an inland waterways port;
- (ii) nothing in this section shall apply to small boats carrying passengers or goods from any place within the United Republic or within such neighbouring country as the Minister may, by notice in the *Gazette*, specify for the purposes of this section.

63. Master to supply information, etc.

The master of any vessel arriving in an inland waterways port shall, if required, produce to any authorised employee—

- (a) a register of the vessel and its papers;
- (b) a list of the crew;
- (c) a list of the passengers, 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 vessel, passengers and cargo thereof, as such employee may require.

64. Port rates may be levied

- (1) There shall be levied upon every vessel entering an inland waterways port such port rates and charges as the Corporation may determine and public in the Tariff Book.
- (2) At every booking office within an inland waterways port there shall be maintained, available for public inspection a list of rates and charges applicable to that port.

65. Power to arrest vessel for port charges

- (1) Where any port charges are owing in respect of any vessel, an authorised employee may arrest the vessel and the tackle, apparel and furniture thereof and may detain it until the amount of such charges is paid.
- (2) Where, after such arrest, any such port charges remain unpaid for a period of seven days, the authorised employee may cause the vessel and the tackle, apparel and furniture thereof, arrested to be sold and out of the proceeds of such sale he may retain the amount of any port charges which are owing and the expenses of the detention and sale thereof, and shall deliver the balance, if any to the person responsible, under this Act, for the payment of such port charges.
- (3) Where any vessel in respect of which port charges are owing, and have not been secured to the satisfaction of an authorised employee, leaves any inland waterways port and enters or in any other

inland waterways port, then such vessel may be dealt with as if the port charges so owing and not secured were port charges owing in respect of such other inland waterways port.

66. Powers of authorised employees in relation to inland waterways port

- (1) Any authorised employee may—
 - (a) give directions to the master of any vessel within any inland waterways port with regard to the berthing of such vessel, or the removal of such vessel 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 port 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 port or the use of any wharf or dock therein;
 - (c) in case of urgent necessity, take any action in an inland waterways port which, in his opinion, may be necessary to prevent any danger to life or shipping;
 - (d) enter upon any vessel or into any building in an inland waterways port if it is necessary for him so to do in the performance of any duty under this Act or if he has reasonable grounds for believing that an offence under this Act has been, or is about to be, committed therein.
- (2) The owner of any wreck or other thing removed by an authorised employee under the provisions of paragraph (b) of subsection (1) shall, without prejudice to any other action which may be taken against him, be liable to pay the reasonable expenses of such removals and such wreck or other thing may be detained by such employee until such expenses are paid.
- (3) Where any wreck or other thing is removed under the provisions of paragraph (b) of subsection (1), and the expenses of removal have been paid within seven days of such removal, the Corporation may sell such wreck or other thing by public auction and may out of the proceeds of sale retain the expenses of such removal, detention and sale and shall deliver the balance, if any, to the person appearing to the Director-General to be entitled thereto.

67. Power of health officer in an inland waterways port

- (1) A health officer may board any vessel arriving from a port otherwise than within the United Republic and—
 - (a) medically examine any person therein;
 - (b) inspect the provisions, medicines and accommodation therein;
 - (c) require the master to produce the log-book and any other documents which such health officer may think necessary for the purpose of ascertaining the state of health of such persons therein;
 - (d) question any person therein for the purpose of ascertaining the state of health of such person; or
 - (e) prohibit any person therein who appears to be infected with, or who has been exposed to the risk of infection of, any infectious or contagious disease from leaving such vessel or cause any such person to be landed and detained in any hospital or quarantine station.
- (2) In this Act the expression "health officer" means a medical practitioner appointed under any written law to discharge the duties of a health officer at an inland waterways port or such other person as may be deputed by such health officer to perform any of his duties under this section.

68. Liability for demurrage

The Corporation shall not be liable for any demurrage which may occur or be due on any vessel howsoever such demurrage may have been caused.

69. Master responsible for contravention of Act, etc., in respect of vessel

- (1) The master of a vessel shall be responsible for the compliance in respect of such vessel with the provisions of this Act, and, in the event of a contravention thereof, he may be proceeded against and held responsible for such contravention.
- (2) The Corporation shall, at every inland waterways port, maintain, for the inspection of the master of any vessel, a copy of this Act and any regulation relating to inland waterways made thereunder.

Part IX – Provisions relating to offences (ss. 70-82)**70. Major offences**

- (1) Any person who unlawfully—
 - (a) does any act which obstructs, or might obstruct, the working of a train, vessel or vehicle of the Corporation and which endangers, or might endanger, the life of any person travelling thereon; or
 - (b) damages or in any way interferes with any train, vessel, vehicle, signal points, rail sleeper, lighthouse, buoy, mark, beacon or other property of the Corporation in such a manner as to endanger, or as might endanger, the life of any person,commits an offence under this Act and is liable upon conviction therefor to imprisonment for a term not exceeding fifteen years.
- (2) Without prejudice to the generality of subsection (1), any person who, being a member of the crew of a vessel operated by the Corporation, without lawful excuse disobeys any lawful order given to him as a member of such crew or, at an inland waterways port or other place, unlawfully deserts his employment upon such vessel commits an offence under this Act and is liable upon conviction to a fine not exceeding five thousand shillings or to imprisonment for a term not exceeding one year or to both such fine and imprisonment.

71. Minor offences

Any person who—

- (a) not being specifically authorised in that behalf or an employee, passenger or agent of the Corporation—
 - (i) is found during the hours of darkness on any premises occupied by the Corporation;
 - (ii) is found in any area designated by the Corporation as dangerous by the erection of notice boards to that effect; or
 - (iii) refuses to leave premises occupied by the Corporation, or any train, vessel or vehicle thereof after being lawfully warned to do so by any employee or police officer;
- (b) being on any premises occupied by the Corporation or upon any train, vessel or vehicle of the Corporation—
 - (i) refuses when called upon by an employee or police officer to give his name and address or gives a false name or address for the purpose of avoiding prosecution;
 - (ii) is in a state of intoxication or behaves in a violent or offensive manner to the annoyance of any other person;
 - (iii) discharges any firearm or does anything which may cause injury to any person on such premises or upon such train, vessel or vehicle;

- (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 any employee under this Act;
 - (vi) save with the express permission of the Director-General 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, trains, vessel or vehicle bearing a notice that smoking is not permitted in that part;
- (c) writes, draws or affixes any profane, obscene, indecent or abusive word, matter, representation of character upon any premises occupied by the Corporation or upon any train, vessel or vehicle of the Corporation;
 - (d) defaces the writing on any board or any notice authorised to be maintained upon any premises occupied by the Corporation or upon any train, vessel or vehicle of the Corporation;
 - (e) damages or without lawful excuse, interferes with any property of the Corporation;
 - (f) without lawful excuse does any act which obstructs, or is likely to obstruct, the free navigation of any inland waterways port or the use of any wharf or dock therein;
 - (g) without lawful excuse, enters or leaves any train, vessel or vehicle of the Corporation while it is in motion or elsewhere than at the place appointed by the Corporation for passengers to enter or leave or opens any outer door of any train while in motion;
 - (h) being a driver or conductor of any vehicle, disobeys while upon premises occupied by the Corporation any reasonable direction given to him in respect of such vehicle by any police officer or, not being an employee of the Corporation, disobeys any such direction given by an authorised employee;
 - (i) in the absence of a gate-keeper, omits to shut and fasten if any form of fastener is provided, any gate on any railway belonging to the corporation as soon as such person and any animal, vehicle or other thing under his charge has passed through the gate;
 - (j) 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, chair or bar set up on either side of a railway or drives any animal, vehicle or other thing onto or across such railway;
 - (k) permits or allows any animal to stray on any premises occupied by the corporation and properly fenced;
 - (l) fails to deliver at the earliest possible opportunity to any authorised employee any property which there is reason to believe has been lost or forgotten and is found on any premises, train vessel or vehicle of the Corporation;
 - (m) wilfully obstructs or impedes an employee of the Corporation in the discharge of his duties;
 - (n) gives or offers to any employee any money or anything of value for the purpose of avoiding payment of any sum due to the Corporation;
 - (o) unlawfully removes any property of the Corporation;
 - (p) if any employee of the Corporation, receives from any passenger, or from any other person delivering goods to the Corporation for carriage or warehousing or from any other person making use of the facilities provided by the Corporation, any amount of money and fails within a reasonable time not exceeding half an hour to issue a ticket or other receipt in respect of such amount of money;
 - (q) without the permission of an authorised employee travels in or upon any part of a train, vessel or vehicle of the Corporation other than the part ordinarily provided for passengers during travel; or

- (r) contravenes any direction given by a health officer under the provisions of section 66 of this Act or refuses to answer any question put to him under the provisions of that section or gives in reply thereto any information which is false in a material particular,

commits an offence under this Act and is liable upon conviction therefor to a fine not exceeding five thousand shillings or to imprisonment for a term not exceeding twelve months or to both such fine and imprisonment.

72. Travelling without ticket

(1) Any person who—

- (a) travels on a train, vessel or vehicle of the Corporation without a valid ticket or free pass with intent to avoid payment of any fare for which he is liable;
- (b) having a valid ticket or free pass for a certain distance, knowingly travels on a train, vessel or vehicle of the Corporation beyond that distance with intent to avoid payment of the fare for the additional distance;
- (c) travels on a train, vessel or vehicle of the Corporation by a higher class than the valid ticket or free pass which he holds entitling him to travel with intent to avoid payment of any additional fare;
- (d) wilfully refuses to pay the fare and excess charge which, on demand, he is liable to pay under section 46 of this Act; or
- (e) travels on a train, vessel or vehicle of the Corporation with a ticket or free pass, or any portion thereof, purchased or obtained by him from any person other than an authorised employee,

commits an offence under this Act, and is liable upon conviction to a fine not exceeding one thousand shillings or imprisonment for a term not exceeding six months and, in addition, shall be liable to a penalty equal to the fare and excess charge for which he is liable under section 46 of this Act or, in the case of an offence against paragraph (e) hereof, equal to the single fare for the journey and in the class which the offender has travelled, unless the offender has already paid such penalty to an authorised employee.

- (2) Where any penalty imposed under this section is recovered, the amount thereof shall be paid to the Corporation.
- (3) Nothing in this section shall prejudice the right of the Corporation to recover any amounts due from the offence by any other lawful means.

73. Offence by passengers

Any person who, being a passenger on any train, vessel or vehicle of the Corporation—

- (a) enters any part thereof reserved for the use of another person, or already containing the maximum number of persons authorised for that part, and refuses to leave that part after being required to do so by an authorised employee;
- (b) resists or obstructs the lawful entry of any person into any part thereof not already containing the maximum number of persons authorised for that part;
- (c) refuses or fails to obey the requirement of an authorised employee made under section 43 of this Act;
- (d) knowingly enters or refuses to leave any part thereof not intended for the use of passengers;
- (e) without reasonable cause uses or interferes with any means of communication provided thereon for communication between passengers and any employee therein; or

- (f) knowingly enters, or refuses to leave after being required so to do, any part thereof provided for the exclusive use of persons of a different class or sex,

commits an offence under this Act and is liable upon conviction to a fine not exceeding five hundred shillings or to imprisonment for a term not exceeding two months or to both such fine and imprisonment.

74. Offence relating to tickets

Any person who—

- (a) not being an authorised employee or agent of the Corporation, sells or parts with any ticket or free pass, or any portion thereof, in order to enable any other person to travel therewith a train, vessel or vehicle;
- (b) purchases or obtains any ticket or free pass, or any portion thereof, from any person other than an authorised employee or agent of the Corporation; or
- (c) lawfully alter, obliterates or defaces any ticket or free pass with intent to render any material portion thereof illegible,

commits an offence under the Act and is liable upon conviction therefore to a fine not exceeding one thousand shillings or to imprisonment for a term not exceeding six months.

75. Forgeries of tickets

Any person who—

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

commits an offence under this Act and is liable upon conviction to a fine not exceeding five thousand shillings or to imprisonment for a term not exceeding twelve months, or to both such fine and imprisonment and shall, in addition, be liable to a penalty equal to the fare due in respect of any journey travelled by means of any such ticket or free pass together with the excess charge which on demand he is liable to pay under section 46 of this Act.

76. False returns

Any person who makes, either knowingly or recklessly, any statement which is false in any material particular in any return, claim or other document which is required or authorised to be made for the purposes of the Corporation under this Act commits an offence under this Act and is liable upon conviction to a fine not exceeding five thousand shillings or to imprisonment for a term not exceeding twelve months or to both such fine and imprisonment.

77. Unlawfully transporting dangerous goods

- (1) Any person, who in contravention of the provisions of section 54 of this Act—

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

commits an offence under this Act and is liable upon conviction to a fine not exceeding ten thousand shillings or to imprisonment for a term not exceeding two years or to both such fine and imprisonment.

- (2) Any person who is convicted of an offence under this section shall also be responsible for any loss, injury or damage which may be caused by reason of such goods having been so taken upon the train, vessel or vehicle or delivered to the Corporation for carriage or warehousing; and the court which convicts such offender may order him to pay the amount of any such loss, injury or damage to the person suffering it and in default of such payment may impose a further term of imprisonment not exceeding twelve months.

78. Offence by master of vessel

Any master of a vessel who contravenes any of the provisions of section 62, section 63, paragraph (a) of subsection (1) of section 66 or of subsection (1) of section 67 of this Act, or produces any document or gives any information which is false in any material particular, commits an offence under this Act and is liable upon conviction to a fine not exceeding five thousand shillings or in default of payment thereof to imprisonment for a term not exceeding twelve months.

79. Employee endangering safety of operation

Any employee of the Corporation who, while on duty, endangers the safety of any person—

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

commits an offence under this Act and is liable upon conviction to a fine not exceeding ten thousand shillings or to imprisonment for a term not exceeding three years or to both such fine and imprisonment.

80. Employee demanding improper amount

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 or 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 under this Act and is liable upon conviction to a fine not exceeding five thousand shillings or to imprisonment for a term not exceeding twelve months or to both such fine and imprisonment.

81. Arrest of employee

- (1) Where the safe operation of any transport service of the Corporation would be endangered by the immediate arrest, whether with or without a warrant, of any employee thereof, the police officer whose duty it is to make such arrest shall—
 - (a) request the head of the department of such employee to relieve such employee from his duties as soon as practicable; and
 - (b) refrain from arresting such employee until he is so relieved and shall, take all necessary steps to ensure that such employee 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.

82. Power of arrest, removal and place of trial

- (1) Any person who commits any offence mentioned in sections 70, 71, 72, 73, 75 or 80 of this Act may be arrested without warrant by any authorised employee of the Corporation or police officer and

shall thereupon, with the least possible delay be taken before a magistrate having jurisdiction to try him or to commit him for trial.

- (2) Any person who commits any offence under this Act, other than an offence mentioned in subsection (1), may be arrested without warrant by any authorised employee of the corporation or police officer if—

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

and shall thereupon, with the least possible delay, be taken before a magistrate having jurisdiction to try him or commit him for trial:

Provided that, save where there is reason to believe that such person will abscond, he shall, if his true name and address are ascertained, be released on his executing a bond without sureties for his appearance before a magistrate when required.

- (3) Any person who commits any of the offence set out in section 71, 72, 73, or 77 of this Act may be required by any authorised employee of the Corporation or police officer to leave the premises occupied by the Corporation or the train, vessel or vehicle, as the case may be, in which such person is at the time of the commission of the offence; and if such person fails to comply with such requirement he may be removed therefrom with such force as may be reasonably necessary in the circumstance.
- (4) Any person who, under the provisions of this section, is arrested or required to leave any premises occupied by the Corporation or any train, vessel or vehicle thereof shall not be entitled to the return of any fare which he may have paid.
- (5) Any person charged with any offence under this Act may be proceeded against, tried and punished in any place in which he may be in custody for that offence as if the offence had been committed in such place; and the offence shall for all purposes incidental to, or consequential upon, the prosecution, trial or punishment thereof be deemed to have been committed in that place:

Provided that nothing herein contained shall preclude the prosecution, trial and punishment of such person in any place in which, but for the provisions of this section, such person might have been prosecuted, tried and punished.

Part X – Miscellaneous provisions (ss. 83-93)

(a) – Legal provisions (ss. 83-92)

83. Compensation

- (1) In the exercise of the powers conferred by sections 14, 15 and subsection (1) and (2) of section 16 and section 17 of this Act, the Corporation shall do as little damage as possible, and where any damage is so caused to any person, an action or suit shall not lie but that person shall be entitled to compensation therefor and, in the case of dispute, the liability to, and the amount of, compensation shall be determined in accordance with provisions of this section:

Provided that nothing herein shall be construed as entitling any person to compensation—

- (a) for any damage suffered, unless he would have been entitled thereto otherwise than under the provisions of this section;
- (b) for any damage suffered as a result of the user of any works authorised under this Act unless such damage results from negligence in such user;

- (c) for any damage in respect of which it is expressly provided in this Act or any other written law that no compensation shall be payable.
- (2) Where any person is entitled to compensation under subsection (1), such compensation shall be determined by a judge of the High Court in accordance with Rules of Court to be made for that purpose and such Rules of Court may provide for assessors sitting with the judge.

84. Liability for damage caused by fire

- (1) The Corporation shall not be liable for any loss or damage caused by fire from any engine of the Corporation to any building, or any property therein, if any part of such building is within seventy metres of the rails of any railway.
- (2) Subject to the provisions of subsection (1), the Corporation shall be liable for any loss or damage caused by fire from any engine of the Corporation where there is negligence in the working or the construction of such engine. (3) Subject to the provisions of subsection (1), the Corporation shall be liable for any loss or damage caused by fire from any engine of the Corporation without proof of any such negligence as is mentioned in subsection (2) if—
 - (a) such loss or damage is caused to the owner or occupier of any land which is contiguous with land occupied by the Corporation;
 - (b) at the time of such loss or damage such owner or occupier maintained upon such land a firebreak in good condition;
 - (c) where no firebreak in good condition was maintained at that time by the Corporation, such owner or occupier had given notice in writing of such fact to the Director-General at least one month prior to the occurrence of such loss or damage; and
 - (d) the owner or occupier suffering any such loss or damage gives to the Director-General—
 - (i) within fourteen days of the occurrence of such loss or damage, notice in writing thereof; and
 - (ii) within twenty-one days of the occurrence of such loss or damage, particulars in writing of his claim and of the loss or damage suffered by him:

Provided that the maximum compensation payable by the Corporation under the provisions of this subsection shall be ten thousand shillings.

85. Burden of proof

In any proceedings against the Corporation for compensation under the provisions of sections 34, 35 or 40 of this Act, it shall not be necessary for the person claiming compensation to prove how such loss, misdelivery, damage, detention, delay or deviation was caused.

86. Notice of claim

- (1) No person shall be entitled to compensation for non-delivery of the whole of a consignment of goods, or of any separate package forming part of such consignment, accepted by the Corporation for carriage or warehousing unless a claim in writing, giving such particulars as may reasonably be necessary, is given to the Director-General within six months of the date upon which such goods were accepted by the Corporation.
- (2) No person shall be entitled to compensation for any goods missing from a packed or unpacked consignment of, or for misdelivery of, damage or delay to, detention of or deviation in carriage of any goods accepted by the Corporation for carriage or warehousing unless—
 - (a) the Director-General is notified of such fact in writing within four days of the date upon which such goods were delivered, or offered by the Corporation for delivery, to the consignee or person entitled to take delivery thereof; and

- (b) a claim in writing, giving such particulars as may reasonably be necessary, is given to the Director-General within one month of such date.
- (3) Where the person claiming compensation proves that it was impracticable for him to notify the Director-General, or gives to the Director-General his claim, as set out in subsections (1) and (2) within the time specified therein and that such notification or claim was made or given in reasonable time, nothing in those subsections shall prejudice the right of such person to obtain compensation.

87. Limitation

Where any action or other legal proceeding is commenced against the Corporation for any act done in pursuance or execution, or intended execution, of this Act or of any public duty or authority or in respect of any alleged neglect or default in the execution of this Act or of any such duty or authority, the following provisions shall have effect—

- (a) the action or legal proceedings shall not be commenced against the Corporation until at least one month after the written notice containing the particulars of the claim, and of intention to commence the action or legal proceedings, has been served upon the Director-General by the plaintiff or his agent; and
- (b) the action or legal proceeding shall not lie or be instituted unless it is commenced within twelve months next after the act, neglect or default complained of or, in the case of a continuing injury or damage, within six months next after the cessation thereof.

88. Restriction on execution against property of Corporation

Notwithstanding anything to the contrary in any law—

- (a) where any judgment or order has been obtained against the Corporation, no execution or attachment, or process in the nature thereof, shall be issued against the Corporation or against any property of the Corporation; but the Director-General shall cause to be paid out of the revenue of the Corporation such amounts as may, by the judgment or order, be awarded against the Corporation to the person entitled thereto.
- (b) no property of the Corporation shall be seized or taken by any person having by law any power to attach or distrain property without the previous written permission of the Director-General.

89. Overcharge and undercharge

- (1) Where the amount paid for the carriage of any passenger or goods by the Corporation, or for inland waterways port charges, is found to be incorrect, then if such amount is—
 - (a) an overcharge, the passenger or the person who paid the charge shall be entitled to a refund of the amount of the overcharge;
 - (b) an undercharge, the Corporation shall be entitled to collect the amount of the undercharge from the passenger or the person who paid the charge:

Provided that such overcharge or undercharge shall not be refunded or collected, as the case may be, unless a notice in writing containing such particulars as may be reasonably necessary is given—

- (a) by the person claiming such overcharge to the Director-General; or
- (b) by the Director-General, to the person against whom the amount of such undercharge is claimed,

within six months after the commencement of the passenger's journey or the acceptance of the goods by the Corporation, as the case may be, however, where such undercharge is caused by any information or description subsequently found to be incorrect such period of six months shall commence from the discovery by the Corporation of the correct information or description.

- (2) Where a ticket issued under the provisions of this Act has not been used, a refund of the amount paid for such ticket shall be given if, within two months of the date of the expiry of the availability of such ticket a notice in writing containing such particulars as may reasonably be necessary is given to the Director-General by the person claiming such refund.
- (3) Where the person claiming a refund under subsection (1) or subsection (2) proves, to the satisfaction of the Director-General, that it was impracticable for him to notify the Director-General of his claim within the times specified in those subsection and that such notification was made, or given, in reasonable time, nothing in those subsection shall prejudice the right of such person to obtain such refund.

90. Medical examination of person claiming compensation

Whenever any person claims compensation against the Corporation in respect of any injury alleged to be suffered by him as a result of the operations of the Corporation, any court or person having by law, or consent of the parties, authority to determine the claim may order that the person injured be examined by a medical practitioner named in the order and may also make such order with respect to the costs of the examination as may be thought fit.

91. Service of notice on the Director-General

- (1) Any notice or other document required or authorised under this Act to be served on the Corporation, or the Director-General, may be served—
 - (a) by delivery of the notice or other document to the Director-General or to any authorised employee;
 - (b) by leaving it at the office of the Director-General; or
 - (c) by sending it by registered post to the Director-General.
- (2) For the purposes of subsection (1), "office of the Director-General" shall include the principal office of the Corporation.

92. Service of notice by the Director-General

Any notice or other document required or authorised under this Act to be served on any person by the Corporation or the Director-General or any employee may be served—

- (a) by delivering it to that person; or
- (b) by leaving it at the usual or last known place of abode of that person; or
- (c) by sending it by registered post addressed to that person at his usual or last known address.

(b) – Regulations (s. 93)

93. Regulations

- (1) The Minister may make regulations generally with respect to the services performed and the functions provided by the Corporation, for the maintenance of order on any premises occupied by the Corporation or in any inland waterways port or on any train, vessel or vehicle of the Corporation and, without prejudice to the generality of the foregoing, with respect to—
 - (a) the proper control management and protection of any such premises, train, vessel or vehicle and any property of the Corporation;

- (b) the proper control and management of inland waterways ports and the entrances thereof, the prevention and removal of obstructions therein and the regulation of any work, service or facility performed or provided thereat;
 - (c) the licensing of porters, landing agents, stevedores, forwarding agents, shipping agents and baggage and parcels agents at inland waterways ports;
 - (d) the control of all persons on any such premises, the maintenance of order thereon and the admission or exclusion of persons therefrom;
 - (e) subject to the provisions of any written law—
 - (i) the taking of measures for the prevention of vessels from leaving any inland waterways ports is overloaded, improperly loaded, improperly found, insufficiently manned or without qualified officers or engineers or with a number of passengers in excess of the number that can be carried with reasonable safety or if otherwise unseaworthy;
 - (ii) the examination and certification of masters, mates and engineers of vessels engaged in trade upon inland waterways, tugs, dredgers, fishing boats and light craft and the charges and licence fees payable in respect thereof;
 - (iii) the registration, licensing, inspection and control of ferries, tugs, launches, hulks, fishing or ferry boats or other crafts upon inland waterways, the charges to be paid therefor and the number of passengers to be carried therein; and
 - (f) the protection of vessels and cargoes and the removal, destruction, sale or abandonment of stranded vessels and their cargoes and appurtenances which obstruct or are likely to obstruct the fairway of any inland waterways port, the payment of expenses in connection therewith and the levy and recovery of a rent for the right of a hulk or wreck or wreckage to lie in any inland waterways port.
- (2) The power of the Minister to make regulations under this section in relation to any matter shall not be construed as derogating from any other power conferred upon it under this Act to make provisions in relation to any such matter in any different manner.

Part XI – Transitional provisions (ss. 94-96)

94. Regulations, beacons, etc., made or installed under the East African Railways Corporation Act

- (1) Until regulations are made by the Minister under this Act, all subsidiary legislation, other than subsidiary legislation relating to pensions, gratuities or other superannuation benefits, made under the East African Railways Corporation Act shall apply, with necessary modifications, as if such subsidiary legislations were made under this Act.
- (2) Until such time as a Tariff Book is published under this Act, the Tariff Book published by the Corporation under the East African Railways Corporation Act⁴ shall continue in force as the Tariff Book published under this Act and may be amended and replaced accordingly.
- (3) All beacons erected under the authority of the East African Harbours Corporation Act shall be deemed to have been erected under this Act.

95. Corporation may assume East African Railways Corporation's functions

Until such time as the East African Railways Corporation ceases to exist or the President by order published in the *Gazette*, declares that the East African Railways Corporation Act of the Community shall cease to extend and apply to the United Republic, it shall be lawful for the Corporation to assume from the East African Railways Corporation or any other person or authority in whom the functions of the East African Railways Corporation have been lawfully vested, the management of the affairs, properties and operations of the East African Railways Corporation as at the assumption by the Corporation of such management and the Corporation shall manage such affairs, properties and operations of the East African Railways Corporation subject to such directions as the Minister may give in that behalf, and the provisions of this Act shall apply as if such affairs, properties and operations were the affairs, properties and operations of the Corporation.

96. President may make transitional provisions

The President may, by order in the *Gazette*, make such provisions as he may consider necessary or desirable for the maintenance of continuity between the operations of the East African Railways Corporation and those of the Corporation and for the effective assumption by the Corporation of the responsibility for the operations, projects and activities of the East African Railways Corporation and upon the occurrence of either of the events referred to in section 95 the President may, by order in the *Gazette*, provide for any of the matters which he may provide for under section 8 of the Public Corporations Act⁵, as if the East African Railways Corporation were a statutory corporation and the Corporation were a public corporation as defined in that Act.

First Schedule (Section 5)

Board of directors

1. Composition of Board

- (1) The Board shall consist of—
 - (a) a Chairman, who shall be appointed by the President;
 - (b) the Director-General;
 - (c) not less than seven but not more than nine other members, who shall be appointed by the Minister.
- (2) When appointing members under paragraph (1)(c), due regard shall be paid to the experience and involvement of the person in commerce, industry, agriculture, finance or administration.

2. Vice-Chairman

The members of the Board shall elect a member from amongst themselves to be the Vice-Chairman of the Board, and any member elected as Vice-Chairman shall, subject to his continuing to be a member, hold office for a term of one year from the date of his election, and shall be eligible for re-election.

3. Tenure of appointment

- (1) A member of the Board, other than the Director-General, shall, unless this appointment is sooner terminated by the appointing authority, or he ceases in any other way to be a member, hold office for the period specified in the instrument of his appointment or, if no period is so specified, for a period of three years from the date of his appointment and shall be eligible for re-appointment.

- (2) Any member of the Board, other than the Director-General, may at any time resign his office by giving notice in writing addressed to the appointing authority, 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 appointing authority, he shall cease to be a member.

4. Appointment of temporary member

When any member of the Board, other than the Director-General is by reason of absence from the United Republic or illness 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 term of office of the substantive member expires, whichever occurs first.

5. Meetings of the Board

- (1) The Board shall ordinarily meet for the transaction of business at the times and at the places decided upon by the Board, but shall meet at least once every two months.
- (2) The Chairman, or in his absence the Vice-Chairman, may at any time call a special meeting of the Board, and shall call a special meeting upon a written request by a majority of the members of the Board in office.
- (3) The Chairman, or in his absence the Vice-Chairman, shall preside at every meeting of the Board and in the absence of both the Chairman and the Vice-Chairman the members present shall appoint a member from amongst themselves to preside over the meeting.

6. Quorum

The quorum at a meeting of the Board shall be the majority of the members in office.

7. Decisions of the Board

- (1) Questions proposed at a meeting of the Board shall be decided by a majority of the votes of the members present and voting and in the event of an equality of votes the person presiding shall have a second or casting vote.
- (2) Notwithstanding subparagraph (1), a decision may be made by the Board without a meeting by circulation of the relevant papers among the members of the Board, and the expression of the views in writing of the majority of the members of the Board, but any member shall be entitled to require that the decision be deferred and the subject matter be considered at a meeting of the Board.

8. Minutes of meetings

The Board shall cause to be recorded and kept minutes of all proceedings of its meetings, and the minutes of each meeting of the Board shall be confirmed by the Board at the next meeting and signed by the Chairman of the meeting.

9. Vacancies, etc., not to invalidate proceedings

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.

10. Execution of contracts, etc.

- (1) The application of the official seal of the Corporation shall be authenticated by two signatures, namely—
 - (a) the signature of the Chairman of the Board or some other member of the Board, other than the Director-General authorised by the Board in that behalf; and
 - (b) the signature of the Director-General or some other employee of the Corporation authorised by the Board to act for that purpose in place of the Director-General.

- (2) Any instrument or contract which, if executed or entered into by a person other than a body corporate, would not be required to be under seal, may be executed or entered into on behalf of the Corporation by the Director-General or any other member of the Board if that member has previously been authorised, either specifically or generally by resolution of the Board, to execute or enter into that particular instrument or contract or that class of instrument or contracts.
- (3) Every document purporting to be a document executed or issued by or on behalf of the Corporation and to be—
 - (a) sealed with the official seal of the Corporation authenticated in the manner provided by subparagraph (1); or
 - (b) signed by the Director-General or by a member of the Board authorised in accordance with subparagraph (2) to act for that purpose, shall be deemed to be so executed or issued until the contrary is proved.

11. Board may regulate its own proceedings

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

12. Proof of documents

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, as the case may be without further proof unless the contrary is shown.

Second Schedule (Section 37)

Specified 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, china 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 thousand shillings per tonne.

Third Schedule (Sections 2(1) and 60)

Inland waterways ports

Lake Victoria—	Lake Tanganyika—
Bukoba	Kala
Musoma	Karema
Mwanza North	Kasanga
Mwanza South	Kibweza
Kemondo Bay	Kigoma
Shirati	Kipili
Nansio	Kirando
Nassoro	Lagossa
Nyamirembe	Wapembe
Solima Point	