

SECTION.

37. (1) Abandonment of railway.
 (3) Option for Government to acquire.
 38. Application of penal provisions of Cap. 134.
 39. Power to make rules.

CHAPTER 135.

PROPRIETARY RAILWAYS.

30 of 1909.
 Sec. 2 of
 12 of 1928.

An Ordinance to make provision as to the construction of railways by private enterprise and for their regulation.

[31ST DECEMBER, 1909.]

Short title.

1. This Ordinance may be cited as the Proprietary Railways Ordinance, and shall apply to the Colony and Protectorate.

Interpretation.

2. In this Ordinance, unless the context otherwise requires—
 “ railway ” includes a tramway and every kind of railway constructed by private enterprise, and intended for the conveyance of goods, or passengers, or both, by means of vehicles drawn or impelled by the power of steam, or by electricity, or by any other mechanical power.

Prohibition of construction of railway without licence.

3. (1) No person shall construct, or attempt or commence to construct, or be concerned in the construction of, any railway for the conveyance of goods or passengers, or any buildings or works for use in connection with any such intended railway, except by licence from the Governor, and subject to such terms and conditions as the Governor in Council shall think fit.

(2) Any person contravening the provisions of this section shall be liable to a penalty not exceeding fifty pounds, or to imprisonment, with or without hard labour, for a period not exceeding six months, and all plant, materials, and things used in the commission of any offence under this section shall be liable to forfeiture.

Saving.

(3) Nothing in this section shall prevent a landowner or a concession holder from constructing without such licence, and working a railway within the limits of his land or concession, to be used exclusively in connection with the development of his land, or with the exercise of the rights granted by the concession, as the case may be:

Provided that he comply with any directions that may be given him in writing by any inspector appointed under this Ordinance with a view to ensuring the safety of the general public and of persons using or working the railway.

4. (1) An application for a licence shall be in writing, and shall contain such particulars with reference to the proposed railway as may be prescribed; and there shall be deposited therewith, or within such time as the Governor may direct, such plans and sections as may be prescribed.

Form of application.

(2) Notice of every such application shall be published in the *Gazette*, and copies thereof posted at such place or places as the Governor shall direct, and such notice shall specify some public place where the plans and sections in connection therewith can be seen.

Gazetting and posting.

(3) Any person desiring to object to the construction of the proposed railway, or any part thereof, shall send full particulars of his objections, and the reasons therefor, to the Minister within two months after the date of the publication of the said notice in the *Gazette*.

Objections.

5. (1) It shall be lawful for the Governor to grant to any person desiring to lodge an application under the preceding section a provisional licence to survey the projected route of the proposed railway for the purpose of preparing the prescribed plans and sections.

Provisional licence for survey.

(2) A provisional licence shall empower the person named therein, his servants and workmen—

Powers of entry, etc.

(a) to enter upon and survey and take levels of any lands along the projected route of the proposed railway;

(b) to dig or bore into the sub-soil;

(c) to do all other acts necessary to ascertain whether the land is adapted for the purpose of railway construction;

(d) to set out the boundaries of the land proposed to be acquired, and the intended line of the work (if any) proposed to be made thereon;

(e) to mark such levels, boundaries and line by placing marks and cutting trenches; and

(f) when otherwise the survey cannot be completed, the levels taken, or the boundaries or line of the work marked, to cut down and clear away any standing crop, fence, tree, or other growth:

Provided that no person shall enter into any building, or upon any enclosed land attached to a building, unless with the consent of the occupier thereof, without giving such occupier, or posting on some conspicuous part of the building if no occupier can be found, seven days' notice in writing of his intention so to do.

(3) So soon as conveniently may be after any entry made under this section, the person so authorised as aforesaid shall pay for all damage done, and, in case of dispute as to the amount to be paid for such damage, he shall at once refer the dispute to the Magistrate of the district wherein the lands are situated, whose decision shall be final.

Reference of
application to
Commission
of Inquiry.
Cap. 54.

6. (1) It shall be lawful for the Governor, upon receipt of any such application, to appoint a commission of inquiry under the Commissions of Inquiry Ordinance, to inquire into and report upon the application.

(2) The costs of such Commission of Inquiry shall be paid by the applicant, and it shall be lawful for the Governor to require the applicant, within a specified time, to deposit with the Accountant General such sum as the Governor may think proper, to be applied towards the payment of such costs, and the surplus, if any, to be returned to the applicant; and if any applicant shall make default in depositing such sum within the prescribed time, his application shall be deemed to have been refused. No licence shall be granted under section 8 hereof until the costs of any Commission of Inquiry into the application shall have been paid in full by the applicant.

Power for
Governor to
refuse
application.

7. It shall be lawful for the Governor either, on receipt of the report of the commission appointed under the preceding section, or without appointing any Commission of Inquiry, to refuse any application without assigning any reason to the applicant.

Grant of
licence to
construct.

8. If the Governor decide to entertain the application for a licence he shall grant to the applicant a licence for construction, wherein shall be imposed such conditions with reference to the construction and maintenance of the intended railway as the Governor in Council may deem expedient; and, subject to such conditions, the railway shall be made and maintained in the lines and according to the levels shown in the deposited plans and sections, with all proper bridges, viaducts, stations, sidings, approaches, junctions, roads, buildings, yards, works and conveniences connected therewith and incidental thereto:

Provided that it shall be lawful for the licensee to deviate from the line of railway shown on the deposited plans, but so that no such deviation shall extend beyond the limits of deviation shown on the said plans.

9. (1) On the granting of a licence under the preceding section, the lands situate in the Colony required for the construction of the railway shall be deemed to be required for the service of the Colony within the meaning of the Public Lands Ordinance, and may be acquired under the provisions of that Ordinance:

Mode of
acquisition
of land
required.
Cap. 116.

Provided that all costs of, and incidental to, such acquisition shall be paid by the licensee, and that any lands not used for the purposes of the railway within the time specified by the Governor for its construction, or if no such time be specified, within ten years from the date of the licence, shall be retransferred to the owner of such lands, subject to such conditions as the Governor may impose.

(2) Before putting any of the provisions of the said Ordinance into force in order to acquire the said lands, the Governor shall require the licensee to enter into an agreement with him, providing to the satisfaction of the Governor for the following matters—

(a) the payment to the Colonial Government of the cost of acquisition, including any lands which the Government may agree to sell to the licensee;

(b) the transfer of the lands to the licensee;

(c) the terms on which the lands shall be held; and

(d) the performance of the conditions imposed by the licence.

(3) Before acquiring any lands in the Protectorate, the Governor shall require the licensee to enter into an agreement with him, providing to the satisfaction of the Governor for the following matters—

(a) the payment of the customary presents to the Paramount Chiefs of the chiefdoms through which the railway passes, for the acquisition of lands required for the purposes of the railway.

(b) the payment of compensation to inhabitants of the Protectorate being owners or occupiers of, or parties interested in, any buildings enclosed, or cultivated lands required for the purposes of the railway.

(4) It shall be lawful for the Governor, in addition to such agreements, to require the licensee, at any time before or during

acquisition of the lands or any part thereof, to deposit with the Accountant General such sums as the Governor may think proper, to be applied towards the payment of the costs and incidental to the acquisition of the lands generally, or of any particular lands, and the surplus, if any, to be returned to the licensee.

Authority
for licensee
to execute
all necessary
works.

10. (1) Subject to the provisions of his licence and of this Ordinance, and of any contract under the last preceding section, and subject also, as regards the parties thereto, to the provisions of any contract entered into between the licensee and the owner or occupiers, or other parties interested in any lands taken or used for the licensed railway, the licensee may, for the purpose of constructing such railway, or the accommodation, or other works connected therewith—

(a) make or construct in, upon, across, under or over any lands or any streets, hills, valleys, roads, railways, or tramways, or any rivers, brooks, streams or other waters, or any drains, water-pipes, electric wires or posts, such temporary or permanent inclined planes, arches, tunnels, culverts, embankments, aqueducts, bridges, roads, lines of railway, ways, passages, conduits, drains, piers, abutments, cuttings and fences, as the licensee thinks proper.

(b) alter the course of any rivers, brooks, streams or watercourses for the purpose of constructing and maintaining tunnels, bridges, passages or other works over or under them; and divert or alter, as well temporarily as permanently, the course of any rivers, brooks, streams, or watercourses, or any roads, streets or ways; or raise or sink the level thereof in order the more conveniently to carry them over, or under, or by the side of the railway, as the licensee thinks proper;

(c) make drains or conduits into, through or under any lands adjoining the railway for the purpose of conveying water from or to the railway;

(d) erect and construct such houses, warehouses, offices and other buildings, and such yards, stations, wharves, engines, machinery, apparatus, and other works and conveniences, as the licensee thinks proper;

(e) alter, repair or discontinue such buildings, works and conveniences, as aforesaid, or any of them, and substitute others in their stead; and

(f) do all other acts necessary for making, maintaining, altering or repairing, and using the railway.

(2) The exercise of the powers conferred on the licensee by this section shall be subject to the control of the Governor.

(3) The licensee shall do as little damage as possible in the exercise of the powers conferred by this section, and compensation shall be paid for any damage in respect of lands situate in the Colony caused by the exercise of such powers, the amount of which compensation shall, in case of difference of opinion, be settled in accordance with the provisions of the Public Lands Ordinance, the words "Director of Surveys and Lands" being construed as meaning the licensee. Cap. 116.

(4) In this section, and in sections 8, 9 and 11 hereof, the term "licensee" shall, where the context admits, include the assigns of the licensee, and every person claiming through, under or in trust for the licensee or his assigns.

11. (1) In either of the following cases, namely—

(a) when there is at any time danger that a tree standing near a railway may fall on the railway so as to obstruct traffic, or damage any telegraph wires or posts;

Removal of trees dangerous to or obstructing the working of the railway.

(b) when a tree obstructs the view of any fixed signal;

the licensee or other the owner of the railway may, with the permission of the Magistrate of the district wherein the tree is situated, fell the tree, or deal with it in such other manner as will, in the opinion of the licensee, or other the owner of the railway, avert the danger or remove the obstruction.

(2) In case of emergency the power mentioned in sub-section (1) may be exercised by the licensee or other the owner of the railway without the permission of the Magistrate.

(3) When a tree, felled or otherwise dealt with under sub-section (1) or sub-section (2), was in existence before the railway was constructed, or the signal was fixed, the said Magistrate may, upon the application of the persons interested in the tree, award to those persons such compensation as he thinks reasonable.

(4) Such an award shall be enforceable in like manner, and subject to the like appeal, as a decision in a civil suit.

(5) No Court shall entertain a suit to recover compensation for any tree felled, or otherwise dealt with, under this section.

12. (1) Before any railway, or portion of a railway, shall be opened for the public conveyance of goods or passengers, the person constructing the same shall give to the Governor at least two months' notice in writing of the date of the proposed Railway to be opened only with permission of Governor.

opening, and shall obtain the Governor's permission thereto in writing.

(2) If any railway, or portion of a railway, be opened without such permission, as aforesaid, the person to whom the railway shall belong shall, on summary conviction before a Magistrate, be liable to a penalty not exceeding twenty pounds for every day during which such railway, or portion of a railway, shall continue open without such permission.

Inspection by
Governor's
Order.

13. The Governor, on receipt of a notice as to the opening of a railway, or portion of a railway, may appoint any person to inspect such railway, or portion of a railway, and if such person shall report, in writing, that, in his opinion, the opening of the same would be attended with danger to the public using the same, by reason of the incompleteness of the works or permanent way, or the insufficiency of the establishment for working such railway, or portion of a railway, or that the railway has not been constructed in accordance with the conditions imposed by the licence, and shall state the grounds of such opinion, it shall be lawful for the Governor to postpone the permission for such opening until it shall appear on further report that it may take place without danger to the public, or that the said conditions have been complied with.

Opening for
passenger
traffic of a
railway
already
opened for
goods traffic.

14. (1) If permission shall have been given for the opening of a railway for the conveyance of goods only, further permission shall be required for the conveyance of passengers.

(2) The same provisions as to notice, inspection and postponement of opening shall apply to the opening for the conveyance of passengers of a railway already opened for the conveyance of goods, as are applicable to the first opening of a railway under this Ordinance.

(3) The owner of any railway carrying passengers without permission therefor shall be liable, on summary conviction before a Magistrate, to a penalty not exceeding fifty pounds for each passenger so carried.

Re-opening
of line after
temporary
suspension of
traffic.

15. (1) When an accident has occurred resulting in a temporary suspension of passenger traffic, and either the original line and works have been restored to their original standard, or a temporary diversion has been laid for the purpose of restoring communication, the original line and works, or the temporary diversion, as the case may be, may be opened for the public carriage of passengers, subject to the following conditions, namely—

(a) that the railway servant in charge of the works undertaken by reason of the accident has certified in writing that the opening of the restored line and works, or the temporary diversion, will not, in his opinion, be attended with danger to the public using the line and works, or the diversion; and

(b) that notice by telegraph of the opening of the line and works, or the diversion, shall be sent as soon as may be to the Governor.

(2) If any railway shall be re-opened, or a temporary diversion shall be opened for passenger traffic in contravention of the provisions of this section, the owner of the railway shall, on summary conviction before a Magistrate, be liable to a penalty not exceeding fifty pounds for every day during which such contravention continues.

16. The Governor may, from time to time, appoint any person to be an inspector for the purpose of inspecting any railway, and of ascertaining whether the provisions of this Ordinance and any rules made under section 39 hereof, or any directions given under sub-section (3) of section 3 hereof, are being duly complied with.

Appointment
by Governor
of inspectors
of railways.

17. Every inspector appointed under sections 13 or 16 hereof shall have power—

Powers of
inspectors of
railways.

(i) to enter upon and inspect any railway, and all the stations, works, buildings, offices, stock, plant, and machinery belonging thereto;

(ii) by summons under his hand to require the attendance of any person who is engaged in the management of the railway, or who is in the service or employment of the owner thereof, and whom he thinks fit to call before him and examine on oath for the purpose of the inspection he is appointed to make, and to require from any such person answers or returns to such inquiries as he thinks fit to make for the purpose;

(iii) to require and enforce the production of all books, papers, and documents relating to the railway which he considers expedient for the said purpose.

18. Any person who, without reasonable excuse, proof whereof shall lie on him, either—

Disobedience
to, or
obstruction
of, inspector.

(a) being summoned under the preceding section fails to attend before an inspector; or

(b) refuses to answer any question put to him by an inspector, or to make any return or produce any book, paper or document required by an inspector; or

(c) prevents or impedes an inspector in the execution of his duty; or

(d) neglects or refuses to comply, or makes default in complying, with any directions given under sub-section (3) of section 3 hereof,

shall be liable, on summary conviction before a Magistrate, to a penalty not exceeding ten pounds, and in the case of a continuing offence to a further penalty not exceeding ten pounds during every day that such offence continues.

Power to
close railway
when opened.

19. (1) If at any time after inspecting a railway, or any rolling stock, an inspector is of opinion that the use of the railway, or of any specified rolling stock, will be attended with danger to the public, he shall state, in writing, to the Governor that opinion, together with the grounds thereof; and the Governor may thereupon order that the railway, or any specified portion thereof, be closed, or that the use of any specified rolling stock be discontinued, or that the railway, or specified portion thereof, or the specified rolling stock, be used on such conditions only as the Governor may consider necessary for the safety of the public. In case of emergency an inspector may order the closing of any portion of a railway, or the discontinuance of the use of any rolling stock, without previous reference to the Governor, but such action shall immediately be reported to the Governor for confirmation.

(2) An Order made under sub-section (1) shall set forth the grounds on which it is founded.

(3) A railway, or any specified portion thereof, closed under this section shall not be re-opened until it has been inspected, and its re-opening has been sanctioned by the Governor.

(4) No rolling stock the use whereof has been ordered to be discontinued under this section, shall be again used until an inspector has reported it fit for use, and the Governor has sanctioned its use.

(5) The owner of any railway acting in contravention of any Order of the Governor, or an inspector, under this section shall, on summary conviction before a Magistrate, be liable to a penalty not exceeding one hundred pounds for every day during which such contravention continues, and, in addition, any specified rolling stock used in contravention of any such Order shall be liable to forfeiture.

20. The owner of a railway shall, according to his powers, afford all reasonable facilities for the receiving, forwarding, and delivery of traffic upon, and from, the several railways belonging to or worked by him.

Duty of railway owner as to traffic facilities.



21. The owner of a railway shall not make or give any undue or unreasonable preference, or advantage to, or in favour of any particular person, or any particular description of traffic in any respect whatsoever, nor subject any particular person or any particular description of traffic to any undue or unreasonable prejudice or disadvantage in any respect whatsoever.

Undue preference prohibited.

22. The owner of a railway having, or working, a railway which forms a continuous line of communication with another railway, or having his terminus or stations within one mile of the terminus or stations of another railway (such other railway being in each case either a Government or a private railway), shall afford all due and reasonable facilities for receiving and forwarding by the railways owned or worked by him all traffic arriving by, or destined for, the other railway, without any unreasonable delay, and without any such preference or advantage, or prejudice or disadvantage, as aforesaid.

Facilities for forwarding traffic by and from other railways.

23. (1) Any person who considers himself aggrieved by any alleged contravention of either of the last two preceding sections by the owner of a railway may apply, by petition, to the Supreme Court for relief.

Procedure when complaint is made of breach of last two sections.

(2) An application under this section shall be heard by the Chief Justice, and the Chief Justice shall have power to make such order as he considers proper in the circumstances.

(3) Every case so referred shall be deemed to be a "matter" within the meaning of the Courts Ordinance.

Cap. 7.

24. (1) Whenever it is shown that the owner of a railway charges one trader, or class of traders, or the traders of any local area, lower rates for the same or similar animals, produce or goods, or lower rates for the same or similar service, than he charges to other traders, or classes of traders, or to the traders of another local area, the burden of proving that such lower charge does not amount to undue preference shall lie on the owner of the railway.

Proof of undue preference.

(2) In deciding whether a lower charge does or does not amount to undue preference, the Court may, so far as it thinks reasonable, in addition to any other conditions affecting the case, take into consideration whether such lower rate is necessary

for the purpose of securing, in the interests of the public, the traffic in respect of which it is made.

Power to
make rules.

25. (1) The owner of a railway may, from time to time, make rules with regard to all or any of the following matters, that is to say—

(a) the guidance and conduct of the officers and workmen employed in the construction, maintenance and working of the railway;

(b) preventing the commission of any offences or nuisances in, on, or about any of the stations, works, plant, or premises of the railway;

(c) the prevention of trespasses upon, or injury to, the roadways, stations, works, plant, buildings or premises attached or belonging to the railway;

(d) regulating the charges to be paid by, and the conduct of, persons travelling upon the railway; and the charges to be paid for the carriage of animals, produce and goods, and the conditions under which they will be carried:

Provided that in no case shall the minimum rate authorised for the conveyance of passengers be more than that for the time being in force upon the Sierra Leone Railway;

(e) further or better effectuating any of the purposes of this Ordinance;

and may attach a penalty, not exceeding ten pounds, to any breach of any such rule.

(2) Every such rule, or the alteration, suspension or repeal thereof, shall be subject to the approval of the Governor in Council, and shall come into operation upon being published in the *Gazette* (such publication to be at the expense of the owner of the railway), and shall thereupon be binding upon all persons concerned:

Provided always that the Governor in Council shall have power to alter, suspend and repeal any such rule after it has been so made and approved.

(3) All penalties imposed under any rules or bye-laws made under this section shall be recovered upon summary conviction before a Magistrate, and shall form part of the general revenue of the Colony.

Power of
entry on
adjoining
lands in case
of accident.

26. It shall be lawful for the owner of a railway, or any person appointed by him, in case of any accident or slip happening, or being apprehended, to any cutting, embankment, or other

work belonging to him, to enter upon any lands adjoining his railway for the purpose of repairing or preventing such accident, and to do such works as may be necessary for the purpose:

Provided that—

(i) such works shall be as little injurious to the said adjoining lands as the nature of the accident or apprehended accident will admit of, and shall be executed with all possible despatch;

(ii) full compensation shall be made to the owners or occupiers of such lands for the loss or injury or inconvenience sustained by them respectively by reason of such works, the amount of which compensation shall, in case of dispute, be settled by the Magistrate of the district, or any person appointed by him for the purpose, whose decision shall be final;

(iii) lands required permanently for such works may be acquired under the provisions of section 9 hereof in the same manner as lands required for original construction, but no lands shall be taken permanently for the said works unless acquired under the said section or by private treaty.

27. (1) The owner of a railway shall convey by any train all such mails as may be tendered for conveyance by such train, whether such mails be under the charge of a guard appointed by the Postmaster General, or not, and notwithstanding that no notice in writing requiring mails to be conveyed by such train shall have been given by the Postmaster General.

Conveyance
of mails.

(2) The owner of any railway shall be entitled to reasonable remuneration for any services performed by him with respect to the conveyance of mails, and such remuneration shall be paid by the Accountant General. In case of a difference of opinion as to the amount of such remuneration, the question shall be settled by petition to the Supreme Court.

28. The owner of a railway shall be bound, on being so required in writing by the Director of Surveys and Lands, to allow any person authorised by the Director of Surveys and Lands, with workmen and servants, at all reasonable times to enter into and upon his lands, and to set up or lay down on such lands adjoining the line of railway, and when so set up or laid down, to maintain and use, telegraph or telephone lines, or any apparatus for wireless telegraphy, for Her Majesty's service, and to give him and them every reasonable facility for any of such purposes, subject to such reasonable remuneration as may be

Rights of
Government
to construct
telegraph
lines
adjoining a
railway.

Cap. 116.

agreed upon between the owner of the railway and the Director of Surveys and Lands, and in case of difference of opinion, the amount of such remuneration shall be settled in accordance as nearly as may be with the provisions of the Public Lands Ordinance.

Power of Government in emergency to take possession of railways.

29. (1) If any insurrection, rebellion, or other emergency shall arise in which the Governor considers it expedient for the public service or welfare that the Colonial Government should have the control over the railways in the Colony or Protectorate, or any of them, the Governor may, by warrant under his hand, empower any person named in such warrant to take possession of any railway therein named, and of the buildings, works and plant belonging thereto, and to use the same for Her Majesty's service at such times, and in such manner, as the Governor may direct; and the owner and all officers and servants of such railway shall obey the directions of the Governor as to the user of such railway, buildings, works or plant as aforesaid for Her Majesty's service.

(2) A warrant granted by the Governor in pursuance of this section shall remain in force for one month only, but may be renewed from month to month so long as, in the opinion of the Governor, the emergency continues.

(3) There shall be paid to the person whose railway, buildings, works or plant may be taken possession of in pursuance of this section, such compensation for any loss or injury he may have sustained by the exercise of the Governor's powers under this section, as may be agreed upon between the Governor and such person or, in case of difference of opinion, as may be settled by petition to the Supreme Court.

(4) When any railway, buildings, works or plant are taken possession of in the name, or on behalf, of Her Majesty in pursuance of this section, all contracts and engagements between the person whose property is so taken possession of, and the officers and servants of such person, or between such person and any other person in relation to the working or maintenance of the railway, buildings, works or plant, or in relation to the supply of such plant, which would, if such possession had not been taken, have been enforceable by or against the person whose property is so taken possession of, shall during the continuance of such possession be enforceable by or against the Colonial Government.

Publication of rates and fares.

30. (1) The owner of a railway shall post up in a conspicuous position at each station on the line, a copy of all bye-laws and

of every alteration, suspension or repeal of bye-laws, approved by the Governor in Council under section 25 hereof, and a notice specifying every rate for the time being charged by him for the carriage of passengers, animals, produce and goods.

(2) Any person failing to comply with the provisions of this section shall for each offence, and, in the case of a continuing offence, for every day during which the offence continues, be liable, on summary conviction before a Magistrate, to a penalty not exceeding five pounds.

31. (1) When in or about any railway, or any of the works or buildings connected with such railway, or any building or place, whether open or enclosed, occupied by the person working such railway, any of the following accidents takes place in the course of working any railway, that is to say—

Returns of accidents.

(i) any accident attended with loss of life or personal injury to any person whomsoever;

(ii) any collision where one of the trains is a passenger train;

(iii) any passenger train, or part thereof, accidentally leaving the rails;

(iv) any accident of a kind not comprised in the foregoing descriptions, which may be specified by any Order of the Governor in Council,

the person working such railway shall send notice of such accident, and of the loss of life or personal injury (if any) occasioned thereby, to the Governor.

(2) Such notice shall be in the prescribed form, and shall contain the prescribed particulars, and shall be sent at the earliest possible opportunity after the accident takes place.

(3) The Governor may, from time to time, by Order, direct that notice of any class of accidents shall be sent to him by telegraph, and may revoke any such Order. Notice of every such Order shall be published in the *Gazette*, and while it is in force notice of every accident of the class to which the Order relates shall be sent to the Governor by telegraph at the earliest possible opportunity after the accident takes place.

(4) Every person who fails to comply with the provisions of this section shall, for each offence, be liable on summary conviction before a Magistrate, to a penalty not exceeding twenty pounds.

Compulsory
medical
examination
of person
injured in
railway
accident.

32. Whenever any person injured by an accident on the railway claims compensation on account of any injury, any Court or person having by law, or by consent of the parties, authority to determine the claims, may order that the person injured be examined by some duly qualified medical practitioner named in the order, and not being a witness on either side, and may make such order with respect to the costs of the examination as it, or he, thinks fit.

Returns.

33. The person working a railway shall send in such periodical returns in connection with his railway as may be prescribed by the Governor in Council.

Conveyance
of explosives
subject to
rules in
force on
Government
railway.

34. (1) Explosives and other dangerous goods shall only be carried on such conditions, and subject to such rules, as to packing, conveyance and otherwise as may, for the time being, be in force with reference to explosives and other dangerous goods conveyed by the Sierra Leone Railway.

(2) Any person contravening the provisions of this section shall, for every offence, be liable, on summary conviction before a Magistrate, to a penalty not exceeding one hundred pounds.

Sale of
railway only
with
approval of
Governor in
Council.

35. (1) No person owning a railway shall sell, mortgage, grant, convey, assign, underlet or part with the possession or control of such railway, or any part thereof, or any interest therein, without the approval of the Governor in Council, and when such approval shall have been granted a notification thereof, signed by the Clerk of Executive Council, shall be endorsed on the instrument purporting to effect the transaction which is so approved.

(2) No notification of such approval shall be so endorsed until the instrument shall have been duly stamped in accordance with the provisions of the Stamp Duty Ordinance.

Cap. 275.

(3) When such notification of approval shall have been endorsed on an instrument, all the provisions of this Ordinance relating to the person owning a railway, including the provisions of this section, shall, so far as applicable, apply to the person acquiring an interest in such railway under the instrument, and all bye-laws made under section 25 hereof with reference to the railways shall continue in force until altered or revoked.

Discontinu-
ance of
construction.

36. (1) If, at any time after a person has obtained a licence to construct, or permission to open, a railway, the construction or working of such railway shall be discontinued for three

months, such discontinuance not being occasioned by circumstances beyond his control, the licence or permission, as the case may be, and all rules made under section 25 hereof with reference to the railway, shall cease and determine, and no further construction or working shall be undertaken without a new licence, or permission, as the case may be. For the purpose of this section, want of funds shall not be deemed a circumstance beyond control.

(2) Any person contravening the provisions of this section shall be liable, on summary conviction before a Magistrate, to a penalty not exceeding fifty pounds, or to imprisonment, with or without hard labour, for a period not exceeding six months, and all plant, materials and things used in the commission of any offence under this section shall be liable to forfeiture.

(3) It shall be lawful for the Governor to notify the person who shall have discontinued the construction or working of a railway as aforesaid, that it is the intention of the Colonial Government to acquire and work such railway and, in such case, the amount to be paid by the Government therefor shall, in case of difference of opinion, be settled by petition to the Supreme Court.

Option for
Government
to acquire.

37. (1) If any person who has obtained a licence to construct a railway which has not been opened for traffic, or who is owner of a railway opened for traffic, desire to abandon such railway, or any part thereof, he shall give six months' notice, in writing, to the Governor of such his desire.

Abandon-
ment of
railway.

(2) An advertisement of such notice shall be published in the *Gazette*, at the expense of the person giving the same, warning all persons having any claims or demands against the person giving notice of abandonment by way of compensation, or otherwise, to transmit to him at his usual place of business in the Colony, the statement of such claims or demands, and a copy of such advertisement shall at the like expense be posted up for one month at the Court House of every Magistrate's Court in every district through which the railway passes, or was licensed to pass.

(3) At any time within three months after the receipt of such notice it shall be lawful for the Governor to notify the person giving such notice that it is the intention of the Colonial Government to acquire and work the railway, or part thereof, which it is desired to abandon, and in such case the amount to be paid by the Government therefor shall, in case of difference of opinion, be settled by petition to the Supreme Court.

Option for
Government
to acquire.

(4) At the expiration of six months after the receipt by the Governor of the notice of abandonment, all the powers of the person giving such notice with reference to the construction or working of the railway, or portion of railway, referred to in such notice, and all his interest in the land whereon such railway, or portion of railway, has been constructed, or would, but for the abandonment, have been constructed, shall cease and determine, and all rules made under section 25 hereof shall cease and determine, either wholly, or so far as relates to the portion of railway abandoned, as the case may be.

Application
of penal
provisions of
Cap. 134.

38. The provisions of sections 33 to 41 and 44 to 50 inclusive of the Railway Ordinance shall apply to like offences against a railway under this Ordinance.

Power to
make rules.

39. The Governor in Council shall have power to make rules for the following purposes—

(i) prescribing the form of application for a licence to construct a railway, and the nature and size of the plans and drawings to accompany such application;

(ii) preventing accidents and ensuring the safety of the general public and of persons working and using the railway;

(iii) regulating the taking of water for the purposes of any railway from any spring, stream, river, lagoon or other natural water supply;

(iv) preventing damage to lands adjoining the railway;

(v) the furnishing of periodical returns in connection with the working of railways;

(vi) generally for carrying out the provisions of this Ordinance,

and may fix a penalty, not exceeding fifty pounds, or imprisonment, with or without hard labour, for a period not exceeding six months, for the breach of any such rule.