

Zambia

## Railways (Deviations) Act, 1931

### Chapter 456

Legislation as at 31 December 1996

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## Zambia

# Railways (Deviations) Act, 1931

## Chapter 456

Commenced on 24 April 1931

*[This is the version of this document at 31 December 1996.]*

*[22 of 1931; 24 of 1931; 5 of 1942; 20 of 1957; Government Notices 318 of 1964; 497 of 1964; Statutory Instrument 154 of 1965]*

**An Act to empower railway companies to make deviations; to make provision for the acquisition of land therefor; and to provide for matters incidental to or connected therewith.**

### 1. Short title

This Act may be cited as the Railways (Deviations) Act.

### 2. Interpretation

In this Act, unless the context otherwise requires—

"**deviation**" shall be deemed to include any junctions, sidings, stations and approaches, and any other works incident to a deviation;

"**line of railway**" means the course of the railway line one hundred yards in width between the terminal points as defined in or under the provisions of the law authorising the construction and completion of such railway;

"**railway company**" means any railway company empowered by law enacted prior or subsequent to the commencement of this Act to construct, equip, complete, maintain and work a line of railway.

### 3. Authority to make deviations in the line of railway

- (1) A railway company may from time to time, with the consent of the Minister, make deviations in the line of railway whether such deviations involve an alteration of either or both of the termini thereof.
- (2) Upon application for such consent as aforesaid, the railway company shall supply such plans, general plans and diagrams of the proposed deviation together with such further information in regard thereto as the Minister may require.
- (3) As soon as the consent of the Minister to the proposed deviation shall have been obtained, and subject to any conditions which such consent may contain, the railway company shall with respect to such deviation have the same rights and be subject to the same obligations (except as regards the payment of compensation for the taking of land) as are created and imposed in the law authorising the construction of the line of railway from which such deviation is to be made.
- (4) In regard to any proposed deviation there shall be published such notices or advertisements in such manner and by such persons as may be prescribed.

\*See section 89 of the Zambia Railways Act (Cap. 767 of the old edition) which empowers the Minister to amend, modify or repeal the provisions of this Act.

- (5) As soon as the Minister shall give his consent to any deviation, notification as to the land affected thereby shall be given to the Registrar of Lands and Deeds and shall be registered by him in such form and manner as may be prescribed.
- (6) Upon the construction and completion of any deviation authorised as aforesaid, the line of railway so deviated shall for all statutory purposes other than compensation for the taking of land be deemed to be the line of railway originally authorised by law, and the ownership of, and all rights of the railway company to, in or over, the portion of the original line of railway acquired under this or any other Act authorising the taking possession of land by a railway company, and in substitution for which any such deviation shall have been made, shall thereupon vest in the President.

*[As amended by No. 5 of 1942, G.N. No. 318 of 1964 and S.I. 154 of 1965]*

#### **4. Validation of deviation previously made**

Any deviation constructed prior to the commencement of this Act shall be deemed to have been constructed under this Act, and all the provisions of this Act, and any act or thing declared to be necessary to be done or performed thereunder, shall be deemed to have been fully done and performed, and the said deviation is hereby validated and confirmed in every respect in regard to all acts and things done or omitted up to the commencement of this Act, and thereafter the said deviation shall be subject to the provisions of this Act.

*[No. 24 of 1931]*

#### **5. Provisions as to the payment of compensation**

- (1) As often as any deviation has been authorised in accordance with the foregoing provisions of this Act, and the railway company is unable to agree with any person who claims to be entitled to compensation in respect of the ownership or occupation of any land taken by the railway company for any such deviation, the railway company and the person making such claim shall, within such time and in such manner as may be prescribed, notify the Commissioner of Lands of the fact of such disagreement. On receipt of such notification the Commissioner of Lands shall call upon the parties, within such time as may be prescribed, to proceed to arbitration as provided in section seven.
- (2) In assessing compensation in respect of any land taken under this Act, the arbitrator shall, unless in any case the Minister shall otherwise direct, act in accordance with the following rules:
  - (a) No allowance shall be made on account of the acquisition being compulsory.
  - (b) The value of the land shall be that amount which the land if sold in the open market by a willing seller might be expected to realise.
  - (c) Allowance shall be made for any improvements not included in the value of the land.
  - (d) Allowance may be made for any disturbance of the enjoyment of the whole of the land from which any portion has been taken, having regard to the purpose for which the land was being used at the date of the taking thereof by the railway company.
  - (e) Allowance may be made for any enhanced value of the remainder of the land by reason of the new railway construction.
- (3) Nothing in this Act shall be deemed to deprive any person of any right to compensation to which he may be entitled under section nineteen (12) or one hundred and eighteen of the <sup>\*</sup>(2) Mining Act, Chapter 91 of the 1957 Edition of the Laws.

\*The Mining Act referred to was first published as [Proclamation No. 5 of 1912](#).

*[As amended by No. 20 of 1957 and G.N. No. 318 of 1964]*

## 6. Dispute not to delay taking of land

As soon as the consent of the Minister has been given to any proposed deviation, it shall not be necessary for the railway company to await the settlement of any dispute as to compensation before taking the land included in such deviation.

*[As amended by G.N. No. 318 of 1964]*

## 7. Arbitration and appointment of arbitrator

Arbitrations under this Act shall be conducted in accordance with and be governed by the provisions of the Arbitration Act:

Provided that if the parties do not concur in the appointment of a sole arbitrator, the Minister shall appoint an official or other person as sole arbitrator.

*[Cap. 740]*

*[As amended by G.N. No. 318 of 1964]*

## 8. Provision when the owner is a person under disability

As often as any person interested or concerned in any arbitration under this Act shall be a person who is absent from Zambia or cannot after diligent inquiry be found in Zambia and who has no known agent or representative therein or shall be an infant, lunatic or person of unsound mind, the following provisions shall apply:

- (a) All notices required to be given to such infant or other person shall be given to the Registrar of the High Court (hereinafter referred to as the Registrar) on behalf of such person.
- (b) The Registrar shall have and exercise all the powers and do and perform all acts, matters and things which such person would if capable of acting in his own behalf have and exercise or be liable to do or perform, and the Registrar may at any time apply to the High Court or to a Judge thereof for directions in this behalf.
- (c) All moneys which shall in pursuance of any award be payable to any such person shall be paid to the Registrar to the account of such person and the Registrar shall receive and administer the same on behalf of such person.

\*The Mining Act referred to was first published as [Proclamation No. 5 of 1912](#).

- (d) If in any case any person of full age shall be entitled to a life or other limited interest in any land the subject of any such arbitration in which any person under disability or who is absent from Zambia or cannot after diligent inquiry be found in Zambia and who has no known agent or representative therein shall also be interested in remainder expectancy or otherwise, then the whole compensation as fixed by the award of an arbitrator shall be paid to the Registrar to the account of the person interested and the person who was entitled to the life or other limited interest shall be entitled for life or for the other limited interest to draw the interest payable upon the sum so paid in, subject however to any order in respect thereof which the High Court or a Judge thereof may upon the application of any person having an interest see fit to make.

## 9. Title to land taken

As soon as the consent of the Minister shall have been given to any proposed deviation, and subject to any conditions which such consent may contain, the ownership and possession of the land taken for such deviation shall vest in the railway company, and shall be held by them in all respects (save as to the payment of compensation therefor) as if such land had formed part of the original line prior to such deviation:

Provided that the reversionary interest in such land shall vest in the President.

*[As amended by G.N. No. 318 of 1964 and S.I. No. 154 of 1965]*

## 10. Regulations

The Minister may, by statutory instrument, make regulations—

- (a) for the publication of notices and advertisements of any proposed deviation;
- (b) for the filling and hearing of objections to any proposed deviation;
- (c) for the holding of an inquiry into any such objections;
- (d) prescribing the time within which any notice required by this Act shall be given or served or any claim to compensation may be made;
- (e) prescribing the fees and fixing the charges, costs and expenses for any act, matter or thing under this Act to be done or observed;
- (f) for the registration of deviations or any notification thereof; and
- (g) generally for the better carrying into effect of the purposes of this Act.

*[As amended by G.N. No. 318 of 1964]*