

[AS PASSED BY THE SENATE]

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BILL

further to amend the Transfer of Railways Order, 1962

WHEREAS it is expedient further to amend the Transfer of Railways Order, 1962 (P.O. No. 33 of 1962), in the manner and for the purposes hereinafter appearing;

It is hereby enacted as follows:

1. Short title and commencement.— (1) This Act shall be called the Transfer of Railways (Amendment) Act, 2026.

(2) Except for section 5 which shall apply to any agreement signed immediately before the commencement of this Act, the remaining provisions shall come into force at once.

2. Amendment of Article 1, P.O. No. 33 of 1962.— In the Transfer of Railways Order, 1962 (P.O. No. 33 of 1962), hereinafter referred to as "the said Order", in Article 1, in clause (1), the words "Transfer of" shall be omitted.

3. Amendment of Article 2, P.O. No. 33 of 1962.— In the said Order, in Article 2,—

- (a) in clause (a), after the semicolon, at the end, the word "and" shall be added;
- (b) in clause (b), for the semicolon, at the end, a full stop shall be substituted; and
- (c) clause (c) shall be omitted.

4. Substitution of Article 3, P. O. No. 33 of 1962.— In the said Order, for Article 3, the following shall be substituted, namely:—

"3. Constitution of Railway Board - (1) For the guidance, supervision and management of the Railways in Pakistan there shall be a Railway Board consisting of a Chairperson and members as enlisted in clause (2).

(2) The Board shall consist of the following members, namely:—

- (a) the following shall be *ex officio* members, namely:—
 - (i) Secretary, Railways Division who shall be the Chairperson of the Board;

- (ii) Secretary, Finance Division or his nominee not below the scale of BPS-20;
 - (iii) Secretary, Planning and Development Division or his nominee not below the scale of BPS-20;
 - (iv) Senior General Manager, Pakistan Railways; and
 - (v) Chief Secretary of each Province or his nominee not below the scale of BPS-20; and
- (b) three independent members, including at least one female, to be appointed by the Prime Minister.

(3) A member, not being an ex officio member, shall hold office for a period of three years and shall be eligible for re-appointment for two further years on the recommendation of the Ministry of Railways.

(4) The terms and conditions of the independent members shall be such as the Prime Minister may from time to time determine.

(5) The Board may form its committees and may delegate such of its powers and functions to a committee as it may deem fit. The recommendations of a committee shall be placed before the Board for approval.

(6) There shall be a Secretary to the Board (BPS-21) who shall assist the Board in the discharge of its powers and functions.

(7) The Board may engage any expert from within railways or outside, for all or any of its meetings or meetings of its committees, against same fee and allowances as is fixed for members of the Board unless the engagement of an expert is for a consultancy demanding higher fee to be determined by the Board.”.

5. Amendment of Article 4, P.O. No. 33 of 1962.- In the said Order, in Article 4,-

- (a) in the marginal note, for the word “Boards”, the word “Board” shall be substituted;

(b) for clause (3), the following clause shall be substituted, namely:-

“(3) All actions taken by the Board in the discharge of its functions shall be expressed in writing and signed by the Secretary of the Board.”; and

(c) after clause (3), the following new clause shall be added, namely:-

“(4) The Board shall take decision on the construction of new railway lines or the modification, closing or dismantling of any railway line and shall coordinate on rail movements into and from ports:

Provided that the Board shall not alter the terms and conditions of any contract relating to the conveyance of defence traffic, alter the priority of movement in respect of defence traffic and close or dismantle any railway line or make any modifications in the defence lines except with the approval of Ministry of Defence.”.

6. Insertion of Article 4A, P.O. No. 33 of 1962.- In the said Order, after Article 4, the following new Article shall be inserted, namely:-

“4A. Track access and rail development.- (1) For the purposes of this Article, a ‘track access agreement’ means a track access agreement pursuant to which a party is granted, in consideration for track access charges, a right to access the Pakistan Railways network and infrastructure and to operate rolling-stock on the Pakistan Railways network, in accordance with the terms of such track access agreement as amended from time to time and a ‘rail development agreement’ means an agreement for the purposes of developing the railway infrastructure and network associated with it.

Explanation. - A party may enter into only track access agreement, or only a rail development agreement, or both of these through a single agreement of track access and rail development or separate agreements each for track access and rail development.

(2) Notwithstanding anything contained in the Railway Regulatory Authority Ordinance, 2002 (XCII of 2002), hereinafter referred to as 'Ordinance XCII of 2002',-

- (a) subject to sub-clauses (b) and (c), until the Railway Regulatory Authority is constituted under Ordinance XCII of 2002, the Board shall exercise overall regulatory oversight and ensure compliance of track access and rail development by parties, both local and foreign, for freight and passenger services;
- (b) Ordinance XCII of 2002 shall not apply to any track access and rail development agreement, including amendments thereto, executed under this Order, prior to or subsequent to the establishment of the Railway Regulatory Authority; and
- (c) the Railway Regulatory Authority, whenever constituted, shall have no jurisdiction to cancel, amend, or otherwise modify any such agreement or amendments thereto, approved and entered into before or after its establishment.

(3) Subject to clauses (4) and (5), the Board is authorized to approve track access and rail development agreements for the access to and use of Pakistan Railways network and infrastructure and Railways Division is authorized to enter into such track access and rail development agreements as approved by the Board.

(4) The Railways Division may enter into track access and rail development agreements with a party,-

- (a) pursuant to and in accordance with the Inter-Governmental Commercial Transactions law or under the International and Inter-Governmental commitments of the Federal Government; or
- (b) who is an investor that has invested in a qualified investment duly notified in the First Schedule to the Foreign Investment (Promotion and Protection) Act, 2022 (XXXV of 2022); or

- (c) who may be a Federal Government Division, Department or subordinate office or any company, corporation or statutory body fully owned, controlled or managed by Federal Government, or a Provincial Government or a Local Government through its respective Department, or any company, corporation or statutory body fully owned, controlled or managed by a Provincial Government; or
- (d) who may be approved by the Federal Government or notified under any other law for the time being in force; or
- (e) selected through a competitive bidding.

Explanation. - For removal of doubt, it is stated that public procurement laws shall apply only in respect of sub-clause (e) of this clause.

(5) The party executing the track access and rail development agreement shall be required to meet the qualification criterion approved and notified by the Board from time to time, and communicated to the party, prior to the entry into such track access and rail development agreement:

Provided that any party that meets the criteria of sub-clause (b) of clause (4) shall be deemed to meet the qualification criteria necessary for track access and rail development agreements.

(6) The track access and rail development agreements entered in pursuance to this Order shall be governed solely by the provisions of this Order and applicable rules and regulations made under to this Order.

(7) Track access shall be materialized by offering Pakistan Railways network and infrastructure to the parties for its efficient use, facilitating competition, revenue generation, improving safety, strategic planning and investments, through operations of freight and passenger train services with their own locomotives and rolling stock.

(8) Any amendment, or purported amendment, of a track access and rail development agreement shall be made with the consent of parties and shall not be effective unless that amendment has been approved by the Board.

(9) The charges, fee, revenue sharing, etc., from parties shall be approved by the Board and included in the relevant track access agreement.

(10) Pakistan Railways may provide train crew or other requisite personnel on mutually agreed terms and, if required, also offer maintenance facilities for locomotives and rolling stock.

(11) The Board shall approve the railway network and infrastructure usage plan (time-tabling) to be submitted by Pakistan Railways keeping due margins for maintenance and rehabilitation works.

(12) The Federal Government Inspector of Railways (FGIR) shall carry out periodic inspections of the railway network for ensuring safety of train operations.

(13) The Board shall sanction the use of any rolling stock on the railway network after ascertaining its suitability and conformance to the prescribed standards.

(14) The Board shall require the parties and Pakistan Railways to furnish periodically, but not later than one year, the operating and financial results and any other information that may be necessary.

(15) Pakistan Railways shall maintain detailed records of all track access requests, the allocations and capacity usage. An annual report shall be submitted to the Board detailing volume of track access requests and approvals, utilization of network capacity, track access charge revenues, performance matrix, and any incident of non-compliance.

(16) The Board shall oversee the implementation of track access and rail development agreements and investigate complaints and disputes regarding unfair treatment, capacity denial or discriminatory practices.

(17) Any dispute between the parties to a track access and rail development agreement shall be settled in accordance with the terms of the agreement.

(18) The Board, keeping in view the best International practices, may perform any other function or exercise any power that may be incidental or consequential to the performance of any of its functions or the exercise of any of its powers.

(19) The agreements which were signed under the Track Access (2005) and are still valid shall continue to be in force subject to fulfillment of conditions precedent and revision of clauses, rates, charges, fee, etc., as may be mutually agreed between the parties.

(20) The Federal Government may, in the national interest and by notification in the official Gazette, exempt any party or a project from all or any of the provisions of this Order or any other law governing the track access and rail development, for the time being in force.”.

7. Amendment of Article 6, P.O. No. 33 of 1962.- In the said Order, in Article 6,-

- (a) in clause (1), in sub-clause (a), after the semicolon, at the end, the word “and” shall be added;
- (b) sub-clause (b) shall be omitted; and
- (c) clause (3) shall be omitted.

8. Omission of Schedule, P.O. No. 33 of 1962.- In the said Order, the Schedule, at the end, shall be omitted.

STATEMENT OF OBJECTS AND REASONS

Certain amendments have been proposed in the Transfer of Railways Order, 1962 (P.O. No. 33 of 1962) through the Transfer of Railways (Amendment) Ordinance, 2025 (X of 2025), being laid as a Bill. The purpose of amendments is for creating an enabling environment for track access and rail development. Track access and rail development is very much essential for economic growth of the country through regional connectivity.

2. To lessen the burden on Federal Government, certain functions have been conferred upon Railway Board, including the function of creating or dismantling a railway line, in the aftermath of Mustafa Impex case cited as PLD 2016 SC 808.
3. The redundant provisions regarding eastern and western railways have been omitted.
4. The Bill seeks to achieve the aforesaid object.

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