



# Railway Fires Act 1905

1905 CHAPTER 11 5 Edw 7

An Act to give Compensation for Damage by Fires caused by Sparks or Cinders from Railway Engines. [4th August 1905]

**Modifications etc. (not altering text)**

- C1 Act restricted by [Railway Fires Act \(1905\) Amendment Act 1923 \(c. 27\), s. 2](#)  
C2 This Act is not necessarily in the form in which it has effect in Northern Ireland

**1 Liability of railway companies to make good damage to crops by their engines.**

- (1) When damage is caused to agricultural land or to agricultural crops, as in this Act defined, by fire arising from sparks or cinders emitted from any locomotive engine used on a railway, the fact that the engine was used under statutory powers shall not affect liability in an action for such damage.
- (2) Where any such damage has been caused through the use of an engine by one company on a railway worked by another company, either company shall be liable in such an action; but, if the action is brought against the company working the railway, that company shall be entitled to be indemnified in respect of their liability by the company by whom the engine was used.

[<sup>F1</sup>(2A) Any reference in subsection (2) above to a “company” includes a reference to any person—

- (a) who holds a network licence, station licence or light maintenance depot licence under Part I of the Railways Act 1993; or
- (b) who is exempt, by virtue of a licence exemption under section 7 of that Act, from the requirement to be authorised by licence under that Part to be the operator of a network, station or light maintenance depot.

(2B) A person such as is mentioned in subsection (2A) above shall be regarded for the purposes of subsection (2) above as working a railway which consists of the track (if any) comprised in any network, station or light maintenance depot of which he lawfully acts as the operator by virtue of the licence or licence exemption in question.]

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*Changes to legislation:* There are currently no known outstanding effects for the Railway Fires Act 1905. (See end of Document for details)

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- (3) This section shall not apply in the case of any action for damage unless the claim for damage in the action does not exceed [<sup>F2</sup>£3,000 or such greater sum as may for the time being be prescribed by order made by the Secretary of State].
- [<sup>F3</sup>(3A) An order under subsection (3) above shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (3B) In the application of subsection (3) above to Northern Ireland for the reference to the Secretary of State there shall be substituted a reference to the Department of the Environment for Northern Ireland and any order made by the Department under that subsection—
- (a) shall be made by statutory rule for the purposes of the Statutory Rules (Northern Ireland) Order 1979; and
  - (b) shall be subject to negative resolution as defined by section 41(6) of the Interpretation Act (Northern Ireland) 1954 as if it were a statutory instrument within the meaning of that Act.]

#### Textual Amendments

- F1** S. 1(2A)(2B) inserted (E.W.S.) (1.4.1994) by 1993 c. 43, ss. 150(1)(o), 152(1), **Sch. 12 para. 2(1)**; S.I. 1994/571, **art. 5**
- F2** Words substituted by **Transport Act 1981 (c. 56, SIF 126), s. 38(1)**
- F3** S. 1(3A)(3B) inserted by **Transport Act 1981 (c. 56, SIF 126), s. 38(1)**

## 2 Powers for extinction and prevention of fire.

- (1) A railway company may enter on any land and do all things reasonably necessary for the purpose of extinguishing or arresting the spread of any fire caused by sparks or cinders emitted from any locomotive engine.
- (2) A railway company may, for the purpose of preventing or diminishing the risk of fire in a plantation, wood, or orchard through sparks or cinders emitted from any locomotive engine, enter upon any part of the plantation, wood, or orchard, or on any land adjoining thereto, and cut down and clear away any undergrowth, and take any other precautions reasonably necessary for the purpose; but they shall not, without the consent of the owner of the plantation, wood, or orchard, cut down or injure any trees, bushes, or shrubs.
- (3) A railway company exercising powers under this section shall pay full compensation to any person injuriously affected by the exercise of those powers, including compensation in respect of loss of amenity, and any compensation so payable shall, in case of difference, be determined in England and Ireland by two justices in manner provided by section twenty-four of the <sup>M1</sup>Lands Clauses Consolidation Act 1845, and in Scotland by the sheriff in manner provided by section twenty-two of the <sup>M2</sup>Lands Clauses Consolidation (Scotland) Act 1845.

#### Modifications etc. (not altering text)

- C3** S. 2 extended by **Transport Act 1962 (c. 46), Sch. 2**
- C4** Reference to Ireland to be construed as exclusive of Republic of Ireland: S.R.& O. 1923/405 (Rev. V, p. 298; 1923, p. 400), art. 2

*Changes to legislation: There are currently no known outstanding effects for the Railway Fires Act 1905. (See end of Document for details)*

### Marginal Citations

- M1 1845 c. 18.
- M2 1845 c. 19.

3 ..... F4

### Textual Amendments

- F4 S. 3 repealed by [Railway Fires Act \(1905\) Amendment Act 1923 \(c. 27\), s. 3](#)

## 4 Definitions and application.

In this Act—

The expression “agricultural land” includes arable and meadow land and ground used for pastoral purposes or for market or nursery gardens, and plantations and woods and orchards, and also includes any fences on such land, but does not include any moorland or buildings;

The expression “agricultural crops” includes any crops on agricultural land, whether growing or severed, which are not led or stacked;

[<sup>F5</sup>[<sup>F6</sup>The expression “EEA State” means a member State, Norway, Iceland or Liechtenstein;]]

The expression “railway” includes any light railway and any tramway worked by steam power.

[<sup>F7</sup> The expression “railway company” includes a reference to a person who holds a European licence granted pursuant to a provision contained in any instrument made for the purpose of implementing Council Directive [1995/18/EC](#) dated 19th June 1995 on the licensing of railway undertakings, as amended by Directive [2001/13/EC](#) dated 26th February 2001 and Directive [2004/49/EC](#) dated 29th April 2004, both of the European Parliament and of the Council, or pursuant to any action taken by an EEA State for that purpose.]

[<sup>F8</sup>The expression “railway company” includes any person—

- (a) who holds a licence under Part I of the Railways Act 1993; <sup>F9</sup>...
- (b) who is exempt, by virtue of a licence exemption under section 7 of that Act, from the requirement to be authorised by licence under that Part to be the operator of a railway asset; <sup>F9</sup>...

<sup>F10</sup>[<sup>F11</sup>(c) [ who holds a railway undertaking licence granted pursuant to the Railway (Licensing of Railway Undertakings) Regulations 2005;]] [<sup>F12</sup>or]

<sup>F13</sup>(d) [ who holds a relevant European licence (within the meaning given by section 6(2) of the Railways Act 1993);]

The expressions “light maintenance depot”, “network”, “operator”, “railway asset”, “station” and “track” have the same meaning as they have in Part I of the Railways Act 1993.]

This Act shall apply to agricultural land under the management of [<sup>F14</sup>the Crown Estate Commissioners [<sup>F15</sup>, or to which section 90B(5) of the Scotland Act 1998 applies,]] and to agricultural crops thereon.

*Changes to legislation: There are currently no known outstanding effects for the Railway Fires Act 1905. (See end of Document for details)*

### Textual Amendments

- F5** Words in s. 4 inserted (E.W.S.) (28.11.2005) by [Railway \(Licensing of Railway Undertakings\) Regulations 2005 \(S.I. 2005/3050\)](#), reg. 1(1), **Sch. 1 para. 1(a)**; and inserted (N.I.) (3.1.2006) by [The Railways Infrastructure \(Access, Management and Licensing of Railway Undertakings\) Regulations \(Northern Ireland\) 2005 \(S.R. 2005/537\)](#), reg. 1(1), **Sch. 5 para. 1(a)**
- F6** Words in s. 4 omitted (E.W.S.) (31.12.2020) by [The Railway \(Licensing of Railway Undertakings\) \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/700\)](#), regs. 1(2), **20(a)**
- F7** Words in s. 4 inserted (N.I.) (3.1.2006) by [The Railways Infrastructure \(Access, Management and Licensing of Railway Undertakings\) Regulations \(Northern Ireland\) 2005 \(S.R. 2005/537\)](#), reg. 1(1), **Sch. 5 para. 1(b)**
- F8** Words in s. 4 inserted (E.W.S.) (1.4.1994) by 1993 c. 43, ss. 150(1)(o), 152(1), **Sch. 12 para. 2(2)**; S.I. 1994/571, **art. 5**
- F9** Word in s. 4 omitted (31.1.2022 at 11.00 p.m.) by virtue of [The Railway \(Licensing of Railway Undertakings\) \(Amendment\) Regulations 2021 \(S.I. 2021/1105\)](#), regs. 1(3), **8(a)**
- F10** Words in s. 4 added (E.W.S.) (28.11.2005) by [Railway \(Licensing of Railway Undertakings\) Regulations 2005 \(S.I. 2005/3050\)](#), reg. 1(1), **Sch. 1 para. 1(b)**; and
- F11** Words in s. 4 substituted (E.W.S.) (31.12.2020) by [The Railway \(Licensing of Railway Undertakings\) \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/700\)](#), regs. 1(2), **20(b)**
- F12** Word in s. 4 inserted (31.1.2022 at 11.00 p.m.) by [The Railway \(Licensing of Railway Undertakings\) \(Amendment\) Regulations 2021 \(S.I. 2021/1105\)](#), regs. 1(3), **8(b)**
- F13** Words in s. 4 inserted (31.1.2022 at 11.00 p.m.) by [The Railway \(Licensing of Railway Undertakings\) \(Amendment\) Regulations 2021 \(S.I. 2021/1105\)](#), regs. 1(3), **8(c)**
- F14** Words substituted by virtue of S.R. & O. 1924/1370 (Rev. V, p. 443; 1924, p. 228), [Crown Estate Act 1956 \(c. 73\)](#), **s. 1(1)(7)** and [Crown Estate Act 1961 \(c. 55\)](#), **s. 1**
- F15** Words in s. 4 inserted (1.4.2017) by [The Crown Estate Transfer Scheme 2017 \(S.I. 2017/524\)](#), art. 1(2), **Sch. 5 para. 5**

### Modifications etc. (not altering text)

- C5** S. 4 modified (31.12.2020) by [The Railway \(Licensing of Railway Undertakings\) \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/700\)](#), regs. 1(2), **41**; 2020 c. 1, Sch. 5 para. 1(1)

## 5 Short title.

This Act . . . <sup>F16</sup> may be cited as the Railway Fires Act 1905.

### Textual Amendments

- F16** Words repealed by [Statute Law Revision Act 1927 \(c. 42\)](#)

**Changes to legislation:**

There are currently no known outstanding effects for the Railway Fires Act 1905.