



# Railways Clauses Consolidation (Scotland) Act 1845

1845 CHAPTER 33 8 and 9 Vict

## *Carriages and engines*

And with respect to the engines and carriages to be brought on the railway, be it enacted as follows:

107 ..... F1

### Textual Amendments

F1 S. 107 repealed by [Clean Air Act 1956 \(c. 52\), s. 35\(2\), Sch. 4](#)

**108 Engines to be approved by the company, and certificate of approval given. Unfit engines to be removed.**

No locomotive or other engine, or other description of moving power, shall at any time be brought upon or used on the railway unless the same have first been approved of by the company; and within fourteen days after notice given to the company by any party desirous of bringing any such engine on the railway the company shall cause their engineer or other agent to examine such engine, at any place within three miles distance from the railway, to be appointed by the owner thereof, and to report thereon to the company; and within seven days after such report, if such engine be proper to be used on the railway, the company shall give a certificate to the party requiring the same of their approval of such engine; and if at any time the engineer or other agent of the company report that any engine used upon the railway is out of repair, or unfit to be used upon the railway, the company may require the same to be taken off, or may forbid its use upon the railway until the same shall have been repaired to the satisfaction of the company, and upon the engine being so repaired the company shall give a certificate to the party requiring the same of their approval of such engine; and if any difference of opinion arise between the company and the owner of any

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such engine as to the fitness or unfitness thereof for the purpose of being used on the railway, such difference shall be settled by arbitration.

[<sup>F2</sup> Nothing in this section shall apply to the bringing or use of any rolling stock on track comprised in a network, the person having the management of which for the time being is the holder of a network licence; and in this section “rolling stock”, “track”, “network” and “holder of a network licence” shall be construed in accordance with Part I of the Railways Act 1993.]

#### Textual Amendments

**F2** Words in s. 108 inserted (1.4.1994) by S.I. 1994/857, art. 2, **Sch. para. 2**

### 109 Penalties on persons using improper engines.

If any person, whether the owner or other person having the care thereof, bring or use upon the railway any locomotive or other engine, or any moving power, without having first obtained such certificate of approval as aforesaid, or if, after notice given by the company to remove any such engine from the railway, such person do not forthwith remove the same, or if, after notice given by the company not to use any such engine upon the railway, such person do so use such engine, without having first repaired the same to the satisfaction of the company and obtained such certificate of approval, every such person shall in any of the cases aforesaid forfeit to the company a sum not exceeding [<sup>F3</sup>level 2 on the standard scale] ; and in any such case it shall be lawful for the company to remove such engine from the railway.

[<sup>F4</sup> Nothing in this section shall apply to the bringing or use of any rolling stock on track comprised in a network, the person having the management of which for the time being is the holder of a network licence; and in this section “rolling stock”, “track”, “network” and “holder of a network licence” shall be construed in accordance with Part I of the Railways Act 1993.]

#### Textual Amendments

**F3** Words substituted by virtue of [Criminal Procedure \(Scotland\) Act 1975 \(c. 21, SIF 39:1\)](#), **s. 289G**

**F4** Words in s. 109 inserted (1.4.1994) by S.I. 1994/857, art. 2, **Sch. para. 2**

### 110 Carriages to be constructed according to company’s regulations.

No carriage shall pass along or be upon the railway, (except in directly crossing the same, as herein or by the special Act authorized,) unless such carriage be at all times, so long as it shall be used or shall remain on the railway, of the construction and in the condition which the regulations of the company for the time being shall require; and if any dispute arise between the company and the owner of any such carriage as to the construction or condition thereof, in reference to the then existing regulations of the company, such dispute shall be settled by arbitration.

[<sup>F5</sup> Nothing in this section shall apply to the bringing or use of any rolling stock on track comprised in a network, the person having the management of which for the time being is the holder of a network licence; and in this section “rolling stock”, “track”, “network” and “holder of a network licence” shall be construed in accordance with Part I of the Railways Act 1993.]

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#### Textual Amendments

**F5** Words in s. 110 inserted (1.4.1994) by [S.I. 1994/857, art. 2, Sch. para. 2](#)

### 111 Regulations to apply also to company's carriages.

The regulations from time to time to be made by the company respecting the carriages to be used on the railway shall be drawn up in writing, and be authenticated by the common seal of the company, and shall be applicable alike to the carriages of the company and to the carriages of other companies or persons using the railway; and a copy of such regulations shall, on demand, be furnished by the secretary of the company to any person applying for the same.

[<sup>F6</sup>Nothing in this section shall apply to the bringing or use of any rolling stock on track comprised in a network, the person having the management of which for the time being is the holder of a network licence; and in this section “rolling stock”, “track”, “network” and “holder of a network licence” shall be construed in accordance with Part I of the Railways Act 1993.]

#### Textual Amendments

**F6** Words in s. 111 inserted (1.4.1994) by [S.I. 1994/857, art. 2, Sch. para. 2](#)

### 112 Penalty for using improper carriages.

If any carriage, not being of such construction or in such condition as the regulations of the company for the time being require, be made to pass or be upon any part of the railway, (except as aforesaid,) the owner thereof, or any person having for the time being the charge of such carriage, shall forfeit to the company a sum not exceeding [<sup>F7</sup>level 1 on the standard scale] for every such offence, and it shall be lawful for the company to remove any such carriage from the railway.

[<sup>F8</sup>Nothing in this section shall apply to the bringing or use of any rolling stock on track comprised in a network, the person having the management of which for the time being is the holder of a network licence; and in this section “rolling stock”, “track”, “network” and “holder of a network licence” shall be construed in accordance with Part I of the Railways Act 1993.]

#### Textual Amendments

**F7** Words substituted by virtue of [Criminal Procedure \(Scotland\) Act 1975 \(c. 21, SIF 39:1\), s. 289G](#)

**F8** Words in s. 112 inserted (1.4.1994) by [S.I. 1994/857, art. 2, Sch. para. 2](#)

### 113 Owner's name, &c. to be registered, and exhibited on carriages.

The respective owners of carriages using the railway shall cause to be entered with the secretary or other officer of the company appointed for that purpose the names and places of abode of the owners of such carriages respectively, and the numbers, weights, and gauges of their respective carriages; and such owners shall also, if so required by the company, cause the same particulars to be painted in legible characters

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on some conspicuous part of the outside of every such carriage, so as to be always open to view; and every such owner shall, whenever required by the company, permit his carriage to be weighed, measured, or gauged at the expence of the company.

[<sup>F9</sup>Nothing in this section shall apply to the bringing or use of any rolling stock on track comprised in a network, the person having the management of which for the time being is the holder of a network licence; and in this section “rolling stock”, “track”, “network” and “holder of a network licence” shall be construed in accordance with Part I of the Railways Act 1993.]

**Textual Amendments**  
**F9** Words in s. 113 inserted (1.4.1994) by [S.I. 1994/857](#), art. 2, [Sch. para. 2](#)

**114 On non-compliance carriage may be removed.**

If the owner of any carriage fail to comply with the requisitions contained in the preceding enactment, it shall be lawful for the company to refuse to allow such carriage to be brought upon the railway, or to remove the same therefrom, until such compliance.

**115 Carriages improperly loaded, or suffered to obstruct the way, may be unloaded or removed.**

If the loading of any carriage using the railway be such as to be liable to collision with other carriages properly loaded, or to be otherwise dangerous, or if the person having the care of any carriage or goods upon the railway suffer the same or any part thereof to remain on the railway so as to obstruct the passage or working thereof, it shall be lawful for the company to cause such carriage or goods to be unloaded and removed in any manner proper for preventing such collision or obstruction, and to detain such carriage or goods, or any part thereof, until the expences occasioned by such unloading, removal, or detention be paid.

**116 Company not to be liable for damage by unloading, &c.**

The company shall not be liable for any damage or loss occasioned by any such unloading, removal, or detention as aforesaid, except for damage wilfully or negligently done to any carriage or goods so unloaded, removed, or detained; nor shall they be liable for the safe custody of any such carriage or goods so detained, unless the same be wrongfully detained by them, and then only for so long a time as the same shall have been so wrongfully detained.

**117 Owners liable for damage by servants.**

The respective owners of engines and carriages passing or being upon the railway shall be answerable for any damage done by their engines or carriages, or by any of the servants or persons employed by them, to or upon the railway, or the machinery or works belonging thereto, or to or upon the property of any other person.

**118** ..... <sup>F10</sup>

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**Changes to legislation:** *There are currently no known outstanding effects for the Railways Clauses Consolidation (Scotland) Act 1845, Cross Heading: Carriages and engines. (See end of Document for details)*

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**Textual Amendments**

**F10** Ss. 118-129, 133 repealed by [Transport Act 1962 \(c. 46\)](#), s. 95(3), **Sch. 12 Pt. I**

**Changes to legislation:**

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