

GOVERNMENT OF INDIA
MINISTRY OF RAILWAYS
(RAILWAY BOARD)

RB/L&A/090/2009

No.2009/LML/24/42

New Delhi, dt. 29-9-2009

The General Managers,
All Indian Railways
& Production Units,

The Directors General,
RDSO, Lucknow,
RSC, Vadodara

The Director
IRICEN, Pune

Sub.: Permission to cross Railway land by Metro Railway Networks.

Ref: Railway Board's letter No. 97/LML/24/3 dated 27-11-2001, 03.10.2002, 21.02.2005, 18.05.2005 and 16-11-2005 on granting of way leave facility.

1. Policy regarding grant of way leave facility has been laid down vide Railway Board's letter No. 97/LML/24/3 dated 27-11-2001, 03.10.2002, 21.02.2005, 18.05.2005 and 16-11-2005. There is no specific guideline with regard to permission of crossing Railway Land including underground, on ground and above ground by Metro Railway Networks. In pursuance of suggestions received from certain Metro Railways, it has been decided that the guidelines as laid down below shall be followed in the matter for granting permission of crossing of Railway Land by Metro Railway Networks.
2. Permission to Metro Railway Networks to cross Railway Land may be accorded only if such crossing on railway land is inescapable, unavoidable and there is no other alternative and the proposal is technically suitable, feasible and durable from safety point of view. It shall be ensured that such permission to use of railway land by Metro Railway Network does not restrict Zonal Railways for their own operational expansion and usage for future growth. Further, railway land below existing station building and permanent structures shall not be given for crossing facility.
3. Permission to cross Railway Land by Metro Railway Networks may be allowed by General Managers (without any further delegation) of Zonal Railways in consultation with FA&CAOs after execution of proper agreements.
4. Crossing of railway land by metro railway network involves limited use of land by a metro railway for a specific purpose without conferring upon them any right of possession or occupation of the land and without in any way affecting the Railways title, possession, control and use of the land. It may be noted that in

case of permission to cross railway land, the land is not licensed, but only permission granted for a limited use which is to be specified in detail in the agreement. To avoid any misunderstanding on this score, the agreement should not use terms like 'Licence' and 'Licence fee', but only 'Permission to Cross' and 'Charges for Crossing Railway Land'. The agreement should also clearly stipulate that the Railway Administration retains full rights to enter upon, pass through or use the land, at any time, without any notice to the party. In the event of the "Permission to Cross Railway Land" being discontinued with, the Railway will neither be liable to pay any compensation or reimburse any amount to the party, nor to provide any alternative arrangement for access, etc. In such a case, any installations put up by the party are liable to be removed / shifted by the party at its own cost.

5. The following charges shall be recovered for permission to cross Railway Land:-

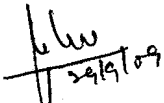
S N	Location	Track Alignment	Station
1	On Ground or Overhead	Charges equivalent to 99% of market value of land plus nominal charges of Rs.1000/- p.a. for 35 years extendable for further 35 years. All air/space rights shall remain with the Railways.	Charges equivalent to 99% of market value of land plus nominal charges of Rs.1000/- p.a. for 35 years extendable for further 35 years. All air/space rights shall remain with the Railways.
2	Underground	Charges for Crossing Railway Land shall be Rs. 50,000/- per annum for track crossing upto two tracks and Rs. 1,00,000/- for track crossings of more than two tracks for a block of 100 metre stretch of length of crossing or a part thereof. All air/space rights shall remain with the Railways.	<ol style="list-style-type: none"> 1. Where no metro exit or building or circulating area lie in the railway land, Charges for crossing shall be Rs.50,000/- per annum for track crossing upto two railway tracks and Rs. 1,00,000/- for crossings of more than two tracks for a block of 100 metre stretch of length of crossing or part thereof. 2. Where any exit or building or circulating area of the metro rail network lies in the railway land, permission of crossing shall be given on payment of 99% of market value of land plus nominal charges of Rs.1000/- p.a. for 35 years extendable for further 35 years. 3. All air/space rights shall remain with the Railways.

- Note – (i) As indicated above, charges for crossing railway track payable for underground structures shall be for a block of 100 metre stretch of length. If the length of crossing on railway land is more than 100m, additional charges per 100m stretch of length or a part thereof shall be levied. However, the minimum charges shall be Rs. 50,000/- for upto two track crossing and Rs. 1,00,000/- for more than two track crossings.
- (ii) Metro Railway Administration shall ensure that all the relevant codes, manuals and instructions are followed for the purpose of durability, safety and soundness of structures thereof.
- (iii) Railway shall consider their own action plan for future development of infrastructure while granting permission. Where any underground structure/alignment is envisaged for planning by railway, no crossing shall be allowed upto a depth of 30 metre (top of proposed metro structure) from natural ground level. Where there is no proposal by railway to undertake any underground infrastructural work in future, such depth shall be limited to 15 metre (top of proposed metro structure). While giving permission to cross railway land to metro railway network, zonal railways should also keep in view any extant instructions/guidelines issued in this regard.
- (iv) The market value of land shall be calculated in accordance with clause 5.0 of Railway Board's policy letter No. 2005/LML/18/8 dated 10.2.2005. However, if the land is intended to be used for any commercial development for purposes not exclusive for use of bonafide passengers, the commercial rate of land shall be applicable for calculation of market value of land.
6. Regarding above facilities for track crossing specified in item 2 for underground, these charges shall be payable in advance in block of 10 years. Discounting of future cash inflows at prevailing interest rates announced by RBI for Govt. Securities would be permissible. While calculating the advance equivalent to 10 years annual charges, annual increase of 7% in land value would be assumed. Adjustments needed because of variation vis-a-vis actual increase as per rates notified by local development authority or as obtained from District Collector, would be carried out at the time of payment of the installment of way leave charges for the next 10 years.
7. Such permission should be granted only after consideration on merits based on a site inspection. Special care should be taken to see that such permission does not in any way impinge on the safety and security of railway operations and adjoining railway property. Party shall submit the Indemnity bond before executing the agreement indemnifying railways against any loss/damage to

railway property or loss of life, direct or incidental occurring on any account related to the said permission.

8. In all such cases, proper agreement for permission to cross the railway land shall be executed in consultation with law officer / legal adviser. The agreement should provide for revision of charges from time to time in all cases wherever required. Indemnity bond shall form an integral part of the agreement.
9. Permission should be accorded only after ensuring that Railways financial interests are not affected in any manner, i.e. by way of loss of traffic, loss of revenue etc. by granting such permission. Suitable clause securing Railways financial interests may be provided in the agreement to be executed with the party, whenever necessary.
10. These instructions will be effective from the date of issue and shall be applicable for Metro Railway Networks owned by Central Government or State Government.
11. This issues with the concurrence of the Finance Directorate of the Ministry of Railways.

Please acknowledge receipt.

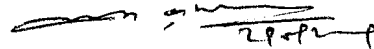

24/10/09

(J S LAKRA)

Director/Land & Amenities
Railway Board

Copy forwarded to:-

1. The FA & CAOs All Indian Railways and Production Units.
2. Dy. Controller and Auditor General of India (Railways), 224, Rail Bhavan, New Delhi
(with 45 spare copies).



For Financial Commissioner/Railways

F(X) I Branch, Railway Board
ED/WP, Railway Board.