

GOVERNMENT OF INDIA
MINISTRY OF RAILWAYS
RAILWAY BOARD

RB/ L&A No. 058 / 2005

No. 97/ LML/ 24/ 3

New Delhi, dt 16.11.2005

The General Managers(Engg),
All Zonal Railways,
Production Units.

The Directors General,
RDSO, Lucknow,
RSC, Vadodara.

The Director,
IRICEN, Pune.

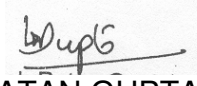
Sub: Granting of way leave facilities/easement rights - Policy regarding.

Ref: Board's policy circular of even No. dt. 27.11.2001, as amended by circulars of even No. dt.30.07.02, 03.10.02, 21.02.05, and 18.05.05.

Board have decided that the following sub para may be inserted below para 15 of the circular mentioned above:

“15-A. Way leave 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.”

2. These instructions will be effective from the date of issue.
3. This issues with the concurrence of the Finance Directorate of the Ministry of Railways.
4. Please acknowledge receipt.


(DESH RATAN GUPTA)
Director/Land & Amenities
Railway Board

No. 97/LML/24/3
Copy forwarded to:-

New Delhi, dt. 16.11.2005

**GOVERNMENT OF INDIA
MINISTRY OF RAILWAYS
RAILWAY BOARD**

RB/L&A/No. 44/2005

No.97/LML/24/3

New Delhi, 18.05.05.

The General Managers,
All Zonal Railways,
Production Units.

The Directors General,
RDSO, Lucknow,
RSC, Vadodara.

The Director,
IRICEN, Pune.

Sub:- Granting of way leave facilities/easement rights - policy

Ref:- Board's policy circular of even number dt: 27.11.2001.

The third sentence in para 12 of the circular under reference, reads as "While calculating the advance equivalent to 10 years annual charges, annual increase of 10% in land value would be assumed."

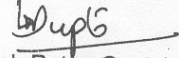
2. It has now been decided that the annual increase in land value may be assumed as 7% instead of 10%. Accordingly, the third sentence at para 12 of the circular dated 27.11.2001 (renumbered as para 11 vide Board's letter of even number dated 3.11.2002) should be read as "While calculating the advance equivalent to 10 years annual charges, annual increase of **7% (seven percent)** in land value would be assumed." The amended para 11 of the circular dated 27.11.01 would read as under:-

11. "Regarding facilities specified in paras 6.1(f), 6.II and 6.III, it has been decided that 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 Government Securities would be permissible. While calculating the advance equivalent to 10 years annual charges, annual increase of 7% (seven percent) in land value would be assumed. Adjustments needed because of variation vis-à-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".

3. These instructions will be effective from the date of issue of this letter. Decisions already taken by the Zonal Railways need not be revoked.

4. This issues with the concurrence of the Finance Directorate of the Ministry of Railways.

5. Please acknowledge receipt.



(Desh Ratan Gupta)
Director(Land & Amenities)
Railway Board

No.97/LML/24/3

New Delhi. 18 05.05

Copy forwarded to:-1.The FA&CAOs/All Indian Railways, Production Units
2.JD(Fin.),RDSO, Lucknow. 3.The Deputy Comptroller and Auditor General of
India (Railways), 224, Rail Bhawan, New Delhi.(with 35 spares).

for Financial Commissioner Railways
Copy to:-EDCE(P), EDCE(G), EDCE(B&S), Tele, F(X)1 Branch, Railway Board.

**GOVERNMENT OF INDIA
MINISTRY OF RAILWAYS
RAILWAY BOARD**

No. 97/LML/24/3

New Delhi, dt. 03.10.02

The General Managers/OSDs,
All Zonal Railways (including new Zones),
Production Units.

The Directors General,
RDSO, Lucknow,
RSC, Vadodara.

The Director,
IRICEN, Pune.

Sub: Granting of way leave facilities/easement rights - recovery of way leave charges from Department of Telecommunication/MTNL/BSNL/VSNL.
Ref: Board's policy circular of even number dated 27.11.2001, as amended by circular of even number dated 30.07.2002.

The circular letter of even number dt. 27.11.2001 is amended as under:

(i) The following should be **added** as Paragraph 6.IV:-

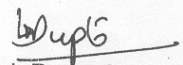
IV. Underground/overhead cables and alignments including track crossings in favour of Department of Telecommunications/Bharat Sanchar Nigam Limited/Mahanagar Telephone Nigam Limited/Videsh Sanchar Nigam Limited. This includes laying of Optic Fibre Cable(OFC).	6% of the market value of land per annum subject to a minimum of Rs.10,000/- per annum per crossing.
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(ii) **Paragraph 9** which reads as "Decision regarding waiver or imposition of way leave charges from the Bharat Sanchar Nigam Limited/MTNL for underground/overhead cables and alignments including track crossings, will be communicated separately", should be treated as **deleted**.

(iii) Paragraphs 10 to 22 may be renumbered as 9 to 21.

2. Accordingly, the decision contained in the policy circular No.92/Telecom/TC/3 dated 19.01.1994, gets superseded.

3. In case of OFC crossings, all the terms, conditions, and broad guidelines specified in Board's policy circular No.2001/LML/24/20, dated 18.10.2001 as amended in Board's policy circular No.2001/LML/24/20, dated 22.02.2002 would be applicable.
4. These instructions will be effective from the date of issue of this letter. Decisions taken earlier need not be revoked.
5. This issues with the concurrence of the Finance Directorate of the Ministry of Railways.
6. Please acknowledge receipt.


(DESH RATAN GUPTA)
Director(Land & Amenities)
Railway Board

No. 97/LML/24/3

New Delhi, dt.

03.10.02

Copy forwarded to:-

- 1.The FA&CAOs/All Indian Railways, Production Units
- 2.JD(Fin), RDSO, Lucknow
- 3.The DAI Railways, New Delhi (with 45 spares)

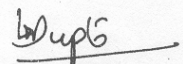
for Financial Commissioner Railways

No. 97/LML/24/3

New Delhi, dt.

03.10.02

Secretary, Dept. of Telecommunications, Sanchar Bhavan, 20, Ashoka Road, New Delhi-110001.


(DESH RATAN GUPTA)
Director(Land & Amenities)
Railway Board

Copy to: EDCE(P), EDCE(G), EDCE(B&S), OSD/RCIL, Dir. (Tele), and Tele, F(X)I Branches, Railway Board.

**GOVERNMENT OF INDIA
MINISTRY OF RAILWAYS
RAILWAY BOARD**

No. 97/LML/24/3

New Delhi, dt. 27.11.2001

The General Managers,
All Indian Railways & Production Units.

Sub: Granting of way leave facilities/easement rights - Policy regarding.

The policy regarding grant of way leave facilities/easement rights has been laid down in Board's letter of even number dt. 10.7.98 read with letters dt. 8.12.98 and 7.1.99. In pursuance of suggestions received from various Zonal Railways it has now been decided that in supersession of all the instructions issued earlier on the subject, the guidelines as laid down below should be followed in the matter of granting way leave facilities /easement rights on railway land.

2. Sections 16 and 17 of the Railways Act, 1989 enjoin upon the Railways to make and maintain specified works for the accommodation of the owners and occupiers of the lands adjoining the railway, for the purpose of making good any interruptions caused by the railway to the use of the lands through which the railway is made. Such works include crossings, passages, drains, water courses etc. Apart from these, requests are often received for provision of way leave/easement on railway land in the form of passage/access to private houses and establishments, underground pipelines for water supply and sewerage, electrical and telecommunication lines, etc. In many cases, these are unavoidable in view of the very nature and extent of the railway alignment.

3. Requests for granting way leave facilities /easement rights, therefore, need to be considered with due regard to the circumstances of each case. Some such illustrative circumstances include:-

- i) Non-availability of any other means of access to properties/houses;
- ii) Non-feasibility of provision of water supply, electricity, sewerages, etc. from any other direction.

4. By its very definition, way leave facility/easement right on railway land involves occasional or limited use of land by a party for a specified purpose like passage etc., without conferring upon the party 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.

5. In genuine and unavoidable cases, way leave facility/easement right may be allowed after execution of proper agreements. It may be noted that 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' and 'way leave charges'. 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 way leave facility 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 like underground pipelines, etc. put up by the party are liable to be removed/shifted by the party at its own cost.

6. The following rates may be levied for way leave facilities/easement rights on railway land:-

I. a) Passage/pathway on/across railway land (up to 1m. wide) for pedestrians, cyclists etc.	One time recovery of Rs. 6400/- (Way leave agreement for 35 years renewable for another 35 years)
b) Water pipeline xing for cultivation by individual farmers.	One time recovery of Rs. 12800/- (Way leave agreement for 35 years renewable for another 35 years)
c) Electric lines xing for individual houses shops, etc. (both underground and overhead).	-do-
d) Water/ sewage pipelines xings for individual upto 300 mm dia.	-do-
e) Electrical crossings by State Electricity Boards & Central Agencies.	-do-
f) In case of ROB/RUB which are undertaken on deposit terms and do not involve closure of level crossing-----for the portion of ROB/RUB lying over/below the Railway track as the case may be, and also new level crossings.	Rs. 6000/-p.a upto two lane road crossing two tracks and Rs. 12,000/- p.a in case the Bridge is wider than two lane and/or crossing more than two tracks.
II. a) Passage/road for vehicles, scooters etc. (i.e. between 1m. to 3m. wide) by individuals, housing societies, private firms, organisations etc.	6% of the market value of land p.a. subject to a minimum of Rs. 5000/- p.a.
b) Public roads by local bodies/State Govt./Govt. & Autonomous bodies, charitable/welfare organisations.	6% of the market value of land p.a. subject to a minimum of Rs. 10000/- p.a.
c) Underground water/sewage/effluent pipelines.	-do-
d) Underground/overhead electrical crossing other than covered under 1(c) above, and other than for Cable TV/OFC.	-do-

III. a) Open drains and overground water/sewage/oil/gas/effluents pipelines by private parties (including Public Sector Undertakings).	10% of the market value of land p.a. subject to a minimum of Rs. 20000/- p.a.
b) Underground Oil /gas/pipelines.	-do-
IV. Underground/overhead cables and alignments including track crossings in favour of Department of Telecommunications/Bharat Sanchar Nigam Limited/Mahanagar Telephone Nigam Limited/Videsh Sanchar Nigam Limited. This includes laying of Optic Fibre Cable(OFC).	6% of the market value of land per annum subject to a minimum of Rs.10,000/- per annum per crossing.

Note – (i) In cases of I(a) to (e), and II(a), the length of land involved normally should not exceed 50 m.

(ii) In case of OFC crossings, all the terms and conditions, and broad guidelines specified in Board's policy circular No.2001/LML/24/20, dated 18.10.2001 as amended from time to time, would be applicable.

7. Openings of any kind into Railway land/air space should not be permitted. This includes drops and sprouts from buildings, supports for buildings, wires, poles and other such needs of permanent nature.

8. Any proposal for passage/roads for width more than 3 m. should be treated under licensing as per extant circulars on the subject of licensing.

9. For calculating these charges, in the case of Electrical crossings, the width of land may be decided in consultation with Divisional Electrical Engineer locally.

10. In case of any crossing, minimum width of land is to be taken as 1m for the purpose of assessment of way leave charges.

11. Regarding facilities specified in Paras 6.I(f), 6.II and 6.III, it has been decided that 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.

12. In all the above cases of way leave facilities (except ROBs/RUBs, and underground pipelines), no construction (whether permanent, quasi permanent or temporary), other than a kuchcha or pucca road in cases the facility is expressly given for the same, is to be permitted on railway land. If any construction comes up subsequently, the

same should be immediately removed as soon as noticed, and the way leave facility discontinued with.

13. In view of the large number of cases involved, decision for granting way leave facilities may be taken by the D.R.M (without any further redelegation) in consultation with Divisional Associate Finance. Way leave facilities involving stretch of railway land more than 100 metres, can be permitted only by the General Manager in consultations with the FA&CAO.

14. (a) All way leave proposals should be processed by the Sr.DEN(Co-ord) at the Divisional level, and the Chief Engineer at the Headquarters level. Way leave facilities should not be granted as a matter of routine, but only after consideration of each case on merits based on a site inspection. Special care should be taken to see that the way leave facility does not in any way impinge on the safety and security of railway operations and railway property.

(b) Way leave permission in respect of open drainage and surface/overhead pipelines should be allowed only in unavoidable cases. In any case, fresh permission for this in favour of private parties should not be given. All efforts may also be made to have the existing open drainage and surface/overhead pipelines replaced by underground installations at the earliest.

15. In all cases of way leave facility granted, proper agreement should be executed. The agreement should provide for revision of way leave charges from time to time in all cases other than the facilities listed at paras 6.I (a) to (e).

16. Provisions of para 6.I (a) to (e) shall be applied prospectively i.e. for fresh cases. Cases already decided shall be continued with earlier provisions. However, one time recovery as per present guidelines can be applied in old cases too if the other party accords consent to the same. Fresh agreement needs to be executed in such cases.

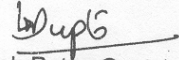
17. The calculation of annual increase should be on the basis of the actual way leave charge and not on the minimum charge specified in Paras from 6.I (f) to 6.III.

18. In case such proposals envisage crossing of track—in the form of road, pipelines etc., the extant rules and procedures relating to safety, provision of level crossings, pipeline crossings, etc. will govern and the provisions of this circular would be limited to the use of railway land only.

19. These instructions will be effective from the date of issue.

20. This issues with the concurrence of the Finance Directorate of the Ministry of Railways.

21. Hindi version will follow.



(DESH RATAN GUPTA)
Director/Land & Amenities
Railway Board

No. 97/LML/24/3

New Delhi, dt. 27.11.01

Copy forwarded to:-

1. The FA & CAO/All Indian Railways and Production Units.
2. The Director of Audit/All Indian Railways and Production Units.

For Financial Commissioner/Railways

F(X) I Brach, Railway Board