GOVERNMENT OF INDIA
MINISTRY OF RAILWAYS
RAILWAY BOARD

No.97/LML/24/3 New Delhi, 24.04.14

General Manager,
All Indian Railways, PUs,CORE,
Metro, Kolkata.

Director General, RDSO, Lucknow.

Director General, NAIR, Vadodara.

Chief Commissioner of Railway Safety,
16, Ashok Road, Lucknow.

Sub:- Indian Railway Engineering code - Para 1033.

Advance Correction slip No. 47 to the above mentioned para of the Railway Engineering Code (Revised Edition 2012) are sent herewith for information and guidance.

(Ramesh Kumar)
Director/Land and Amenities
Railway Board

DA: as above.

No.97/LML/24/3 New Delhi, 24.04.14

Copy together with one copy each of the correction slip no.47 is forwarded to:

1. The Principal Director of Audit, All Indian Railways.
2. The Deputy Comptroller & Auditor General of Indian Railways, Room No.224, Rail Bhawan, New Delhi.

DA: as above.

(Ramesh Kumar)
Director/Land and Amenities
Railway Board

Copy to:

i. All Board Members, Additional Members, Advisors and EDs.
ii. Code Revision Cell of Railway Board.
iii. Director, IRICEN, Pune.
iv. Director, IRIEEN, Nasik
v. Director, IRISET, Secunderabad.
vi. Director, IRIMEE, Jamalpur.
vii. Director, IRITM, Vill. Kanausi, Manik Nagar, Lucknow.
viii. All Directorates of Rly. Board.
ix. PCEs, CAOs, FA & CAOs of All Indian Railways and Chief Engineers for Production Units.
x. Accounts-III Branch Railway Board(with 10 spare copies).

Hindi version will follow.

MISCELLA-II

1033. WAY LEAVE FACILITIES/EASEMENT RIGHTS

1. Way leave facilities/easement rights on Railway land involve 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 Railway's title, possession, control and use of the land.

2. Sections 16 of the Railways Act, 1989 enjoins 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 telecommunications lines, etc. In many cases, these are unavoidable in view of the very nature and extent of the railway alignment.

3. Such requests for granting way leave/easement facilities have to be considered with due regard to the circumstances of each case. Some such circumstances may be:-

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

4. In genuine and unavoidable cases, way leave facility/easement right may be allowed after execution of proper agreements. However, the land is not licensed, but only permission is to be granted for a limited use which is to be specified in detail in 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 not 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.

5. The way leave facility/ easement right on railway land provided for these specific purposes should not be used to transverse and use Railway land along the track. Railways are advised to deal these cases in strict compliance to instructions contained above mentioned letter. In case of oblique crossing, unavoidable and bare minimum railway land parallel to the track should be used.

6. The following rates as revised from time to time may be levied for way leave/ 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.	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, organizations 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. <u>Optic Fibre Cable:</u> a) 6% of the market value of land per annum subject to a minimum of Rs.10,000/- per annum per crossing. b) For purpose of laying OFC along the length of bridge, 6% of market value of land in approaches, subject to a minimum of Rs.25,000/- per annum per bridge, would be charged. In addition, an amount of Rs.100 per metre for the length of cable under the bridge would also be recovered as bridge surcharge. c) For the purpose of laying OFC through ROBs, 6% of market value of land in approaches, subject to a minimum of Rs.10,000/- per annum per crossing through ROB would be charged.

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

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 to 6.IV, 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.

16. 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.

17. 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.

18. 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.II to 6.IV.

19. 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 para would be limited to the use of railway land only.

(Authority Board's letters No.97/LML/24/3 dated. 27.11.2001, 3.10.2002 18.05.2005, 16.11.2005, No.2001/LML/24/20 dated 16.08.2005 & No.2011/LML/24/44 dated 05.02.2013).