

SUBCHAPTER B—REGULATIONS UNDER THE RAILROAD RETIREMENT ACT

PART 201—DEFINITIONS

AUTHORITY: Secs. 1, 10, 50 Stat. 307, as amended, 314, as amended; 45 U.S.C. 228a, 228j.

§ 201.1 Words and phrases.

For the purposes of the regulations in this chapter, except where the language or context indicates otherwise:

(a) *Act*. The term “act,” or “1937 act” means the Railroad Retirement Act of 1937 (50 Stat. 307; 45 U.S.C. chapter 9). The term “1935 act,” means the Railroad Retirement Act of 1935 (49 Stat. 967; 45 U.S.C. chapter 9).

(b) *Employer*. The term “employer” means an employer as defined in the act and part 202 of this chapter.

(c) *Employee*. The term “employee” means an employee as defined in the act and part 203 of this chapter.

(d) *Service*. The term “service” means service as defined in the act and part 220 of this chapter.

(e) *Compensation*. The term “compensation” means compensation as defined in the act and part 222 of this chapter.

(f) *Board*. The term “Board” means the Railroad Retirement Board.

(g) *Company*. The term “company” means a partnership, association, joint stock company, corporation, or institution.

(h) *United States*. The term “United States” where used in a geographical sense means the States and the District of Columbia.

(i) *Carrier*. The term “carrier” means an express company, sleeping-car company, or carrier by railroad, subject to part I of the Interstate Commerce Act (24 Stat. 379; 49 U.S.C. chapter 1).

(j) *Person*. The term “person” includes an individual, trust, estate, partnership, association, joint stock company, company, corporation, and institution.

(k) *General Committee*. The term “General Committee” as used in section 1 of the Railroad Retirement Act of 1937 (50 Stat. 307; 45 U.S.C., Sup., 228a) is construed to include any subor-

dinate unit of a national railway labor organization, defined as an employer in the 1937 act, regardless of the title or designation of such unit, which, under the constitution and bylaws of the organization of which it is a unit, is properly authorized to and does represent that organization on all of a particular railroad or on a substantial portion thereof (such as on that portion of a railroad under the jurisdiction of the general manager) in negotiating with the management of that railroad with respect to the wages and working conditions of the employees represented by such organization.

(l) *Local lodges and divisions; local lodge or division*. The term “local lodges and divisions” and the term “local lodge or division” as used in section 1(a) and 1(b), respectively, of the 1937 act, shall be construed to include any subordinate unit of a national railway labor organization defined as an “employer” under the 1937 act, which unit functions in the same manner as, or similar to “local lodges” as that term is ordinarily used, irrespective of the designation of such unit by its national organization.

[4 FR 1477, Apr. 7, 1939, as amended by Board Order 40-367, 5 FR 2717, Aug. 1, 1940; Board Order 59-190, 24 FR 9083, Nov. 7, 1959]

PART 202—EMPLOYERS UNDER THE ACT

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AUTHORITY: Secs. 1, 10, 50 Stat. 307, as amended, 314, as amended; 45 U.S.C. 228a, 228j, unless otherwise noted.

SOURCE: 4 FR 1478, Apr. 7, 1939, unless otherwise noted.

§ 202.1 Statutory provisions.

The term "employer" means any carrier (as defined in subsection 1(m) of this section), and any company which is directly or indirectly owned or controlled by one or more such carriers or under common control therewith, and which operates any equipment or facility or performs any service (except trucking service, casual service, and the casual operation of equipment or facilities) in connection with the transportation of passengers or property by railroad, or the receipt, delivery, elevation, transfer in transit, refrigeration or icing, storage, or handling of property transported by railroad, and any receiver, trustee, or other individual or body, judicial or otherwise, when in the possession of the property or operating all or any part of the business of any such employer: *Provided, however,* That the term "employer" shall not include any street, interurban, or suburban electric railway, unless such railway is operating as a part of a general steam-railroad system of transportation, but shall not exclude any part of the general steam-railroad system now or hereafter operated by any other motive power. The Interstate Commerce Commission is hereby authorized and directed upon request of the Board, or upon complaint of any party interested, to determine after hearing whether any line operated by electric power falls within the terms of this proviso. The term "employer" shall also include railroad associations, traffic associations, tariff bureaus, demurrage bureaus, weighing and inspection bureaus, collection agencies and other associations, bureaus, agencies, or organizations controlled and maintained wholly or principally by two or more employers as hereinbefore defined and engaged in the performance of services in connection with or incidental to railroad transportation; and railway labor organizations, national in scope, which have been or may be organized in accordance with the provisions of the Railway

Labor Act, as amended, and their State and National legislative committees and their general committees and their insurance departments and their local lodges and divisions, established pursuant to the constitution and by-laws of such organizations. (Sec. 1 (a), 50 Stat. 307; 45 U. S. C. 228a (a))

The term "employer" shall not include any company by reason of its being engaged in the mining of coal, the supplying of coal to an employer where delivery is not beyond the mine tippie, and the operation of equipment or facilities therefore, or in any of such activities. (54 Stat. 785; 45 U.S.C. 228a (a))

[4 FR 1478, Apr. 7, 1939, as amended by Board Order 41-526, 7 FR 96, Jan. 6, 1942]

§ 202.2 Company or person principally engaged in carrier business.

Any company or person principally engaged in carrier business is an employer.

§ 202.3 Company or person principally engaged in non-carrier business.

(a) With respect to any company or person principally engaged in business other than carrier business, but which, in addition to such principal business, engages in some carrier business, the Board will require submission of information pertaining to the history and all operations of such company or person with a view to determining whether some identifiable and separable enterprise conducted by the person or company is to be considered to be the employer. The determination will be made in the light of considerations such as the following:

(1) The primary purpose of the company or person on and since the date it was established;

(2) The functional dominance or subservience of its carrier business in relation to its non-carrier business;

(3) The amount of its carrier business and the ratio of such business to its entire business;

(4) Whether its carrier business is a separate and distinct enterprise.

(b) In the event that the employer is found to be an aggregate of persons or legal entities or less than the whole of a legal entity or a person operating in only one of several capacities, then the unit or units competent to assume legal obligations shall be responsible for the discharge of the duties of the employer.