



# Railway and Canal Traffic (Amendment) Act (Northern Ireland) 1930<sup>F1</sup>

## <sup>F2</sup>1930 CHAPTER 10

An Act to amend section forty-five of the Railway and Canal Traffic Act, 1888, in its application to the abandonment of unnecessary canals in Northern Ireland, and for purposes connected therewith. [17th June 1930]

**F1** Functions transf., SRO (NI) 1963/29; 1964/205; 1972/111

**F2** Certain functions transf. by SR 1999/481

### **Modifications etc. (not altering text)**

**C1** [Act](#): transfer of functions (8.5.2016 for specified purposes) by [The Departments \(Transfer of Functions\) Order \(Northern Ireland\) 2016](#) (S.R. 2016/76), art. 1(2), [Sch. 3 Pt. 2](#) (with art. 9(2))

## **1 Amendment of s.45 of 1888 c.25, as to abandonment of unnecessary canals.**

Section forty-five of the Railway and Canal Traffic Act, 1888 (in this Act referred to as “the principal enactment”) shall, in its application to the abandonment of unnecessary canals in Northern Ireland, have effect subject to the following amendments:—

- (a) A warrant of abandonment shall not be granted unless the proprietors of the canal have given security, to such amount and in such manner as the Ministry of Commerce may require, for the making of compensation to all persons who may be determined under this Act to be entitled to compensation by reason of the abandonment of the canal;
- (b) An order of the Ministry of Commerce under sub-section (1) of the principal enactment (in this Act referred to as “an order of release”) may make provision for all or any of the following matters, in addition to the matters mentioned in the said sub-section:—
  - (i) For releasing the canal, or any land held by the proprietors thereof (whether in connection with the canal undertaking or not), from any statutory or other liability to forfeiture or reverter or other similar liability attaching thereto as against the proprietors in consequence of the abandonment of the canal;

*Status: Point in time view as at 08/05/2016.*

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- (ii) For vesting, with the consent of the proprietors and of the person, body or department in whom it is proposed to vest, the canal or any part thereof, or any land held by the proprietors in connection therewith, in such person, body of persons, or government department and upon such conditions, as may be specified in the order of release;
- (iii) For any other matters which may appear to the Ministry of Commerce to be necessary or proper for carrying the order of release into effect;
- (c) An order of release shall not be made unless the provisions of this Act as to the assessment of compensation have been complied with, and any compensation awarded under those provisions has been made to the persons entitled thereto or, if any such person dies, refuses to accept the compensation to which he is entitled, or cannot be ascertained, or any other like difficulty arises, has been paid or transferred to the Ministry of Commerce to be held on behalf of such person or his representatives in accordance with regulations to be made under sub-section (8) of the principal enactment.

*Para.(d) rep. by SLR (NI) 1953*

- (e) In the principal enactment and in this Act references to a canal, in the case of a canal which is not wholly situate in Northern Ireland, shall be construed as referring to so much of the canal as is so situate.

## **2 Effect of proceedings under the principal enactment.**

- (1) In the case of an unnecessary canal, a warrant of abandonment may be granted and an order of release may be made, and shall have full effect, under the principal enactment, notwithstanding any provision in any local or personal Act passed before the passing of this Act (whether before or after the commencement of the principal enactment).
- (2) Neither the application of the proprietors for a warrant under the principal enactment authorising the abandonment of an unnecessary canal, nor the issue of such warrant by the Ministry of Commerce, nor anything done in connection with the application for, or issue of, such warrant and before the making of an order of release, shall be deemed, for the purposes of any local or personal Act relating to such canal or to the proprietors thereof, to be the doing of an act or thing giving rise to the forfeiture by the proprietors, or the reverter, of the canal or any part thereof, or of any land held by the proprietors (whether in connection with the canal undertaking or not), or affecting the title of the proprietors to the same, or giving rise to any similar liability or consequence as against the proprietors.

## **3 Provisions as to compensation.**

Compensation shall be made, under and subject to the following provisions of this section, to all persons entitled to compensation by reason of the abandonment of an unnecessary canal under the authority of a warrant in pursuance of the principal enactment, that is to say:—

- (a) The amount of compensation payable to any such person shall in default of agreement be assessed by an arbitrator to be agreed upon by the parties, or in default of such agreement to be appointed by the Ministry of Commerce;
- (b) The expenses of the arbitration shall be defrayed by the proprietors of the canal, except so far as the Ministry of Commerce may otherwise direct;
- (c) The costs of the proprietors of the canal and the claimants in the arbitration other than an arbitration in which the arbitrator has entered upon his duties

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before the passing of this Act, shall be in the discretion of the arbitrator, who may direct to and by whom and in what manner those costs or any part thereof shall be paid, and the arbitrator may himself tax the amount of costs ordered to be paid, or may direct in what manner they are to be taxed;

- (d) The arbitrator shall have power, with the consent of the proprietors of the canal, and of any person entitled to compensation, to award that the payment of the whole or part of the compensation to which that person is entitled shall be discharged by the conveyance to him of any land held by the proprietors for the purposes of the canal;
- (e) The Ministry of Commerce may make regulations under sub-section (8) of the principal enactment for the purpose of giving effect to the provisions of this section.

#### **4 Transfer and vesting of land held in connection with an unnecessary canal.**

- (1) Where, by an order of release or by the award of an arbitrator under this Act, any land belonging to the proprietors of an unnecessary canal is directed to be vested in, or is awarded to, any person, body of persons or government department, all the estate and interest of the proprietors in such land shall, as from the certified date, be transferred to and vest by virtue of this Act in that person, body or department.

For the purposes of this section, the certified date shall be such date as may be specified in a certificate under the seal of the Ministry of Commerce, and the certificate shall be deemed to be part of the order of release or award, as the case may be.

- (2) A copy, certified under the seal of the Ministry of Commerce, of so much of an order of release or award as relates to any land transferred and vested as aforesaid, or the title to such land created by the order of release or award (if the same relates to land the ownership of which is registered under the Local Registration of Title (Ireland) Act, 1891 <sup>F3</sup>), shall forthwith upon production of such certified copy be registered in the proper office for the registration of deeds or titles, as the case requires.
- (3) No stamp duty shall be charged on an order of release, award of an arbitrator or certified copy made or issued in pursuance of this Act.

<b>F3</b> 1970 (c.18)
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#### **5 Provisions as to existing proceedings and awards.**

- (1) Any agreement made before the sixteenth day of April, nineteen hundred and thirty, in any legal proceedings in connection with a proposal to grant a warrant authorising the abandonment of an unnecessary canal under the principal enactment, and any regulations made, inquiry held or other proceedings taken by, or under the direction of, the Ministry of Commerce before the said day in connection with any such proposal, shall be deemed to have been duly made, held or taken under the authority of the principal enactment as amended by this Act.

Any award made by an arbitrator appointed before the said day under regulations of the Ministry of Commerce to determine compensation under paragraph (d) of sub-section (2) of the principal enactment, as originally enacted, shall have the like effect as if made under this Act.

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- (2) Where, in pursuance of an award to which sub-section (1) of this section applies, compensation is payable to any persons by the proprietors of an unnecessary canal by reason of the abandonment thereof, the order of release made in respect of the canal may provide, if the Ministry of Finance consents, that the whole or part of any sum payable by the said proprietors to that Ministry under a local or personal Act passed before the passing of this Act shall, instead of being paid to the Ministry of Finance, be applied in payment of compensation as aforesaid.

**6 Short title and construction.**

This Act may be cited as the Railway and Canal Traffic (Amendment) Act (Northern Ireland), 1930, and shall be construed as one with the Railway and Canal Traffic Act, 1888, as that Act applies in Northern Ireland.

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