Railway and Canal Traffic Act 1888

1888 CHAPTER 25

PART I

COURT AND PROCEDURE OF RAILWAY AND CANAL COMMISSIONERS

Jurisdiction

8 Jurisdiction of Railway Commissioners transferred to the Commission

There shall be transferred to and vested in the Commissioners all the jurisdiction and powers which at the commencement of this Act were vested in, or capable of being exercised by the Railway Commissioners, whether under the Regulation of Railways Act, 1873, or any other Act, or otherwise, and any reference to the Railway Commissioners in the Regulation of Railways Act, 1873, or in any other Act, or in any document, shall, from and after the commencement of this Act, be construed to refer to the Railway and Canal Commission established by this Act.

9 Jurisdiction of Commissioners under special Acts

Where any enactment in a special Act—

(a) contains provisions relating to traffic facilities, undue preference, or other matters mentioned in section two of the Railway and Canal Traffic Act, 1854, or

(b) requires a company to which this part of this Act applies to provide any station, road, or other similar work for public accommodation, or

(c) otherwise imposes on a company to which this part of this Act applies any obligation in favour of the public or any individual,

or where any Act contains provisions relating to private branch railways or private sidings, the Commissioners shall have the like jurisdiction to hear and determine a complaint of a contravention of the enactment as the Commissioners have to hear and determine a complaint of a contravention of section two of the Railway and Canal Traffic Act, 1854, as amended by subsequent Acts.

10 Jurisdiction over tolls and rates

Where any question or dispute arises, involving the legality of any toll, rate, or charge, or portion of a toll, rate, or charge, charged or sought to be charged for merchandize traffic by a company to which this part of this Act applies, the Commissioners shall have jurisdiction to hear and determine the same, and to enforce payment of such toll, rate, or charge, or so much thereof as the Commissioners decide to be legal.

11 Jurisdiction to order traffic facilities, notwithstanding agreements

Nothing in any agreement, whether made before or after the passing of this Act, which has not been confirmed by Act or by the Board of Trade, or by the Commissioners under the Regulation of Railways Act, 1873, or this Act, shall render a company to which this part of this Act applies unable to afford, or shall authorise such company to refuse, such reasonable facilities for traffic as may in the opinion of the Commissioners be required in the interests of the public, or shall prevent the Commissioners from making or enforcing any order with respect to such facilities.

12 Power to award damages

Where the Commissioners have jurisdiction to hear and determine any matter, they may, in addition to or in substitution for any other relief, award to any complaining party who is aggrieved such damages as they find hi in to have sustained; and such award of damages shall be in complete satisfaction of any claim for damages, including repayment of overcharges, which, but for this Act, such party would have had by reason of the matter of complaint.

Provided that such damages shall not be awarded unless complaint has been made to the Commissioners within one year from the discovery by the party aggrieved of the matter complained of.

The Commissioners may ascertain the amount of such damages either by trial before themselves, or by directing an inquiry to be taken before one or more of themselves or before some officer of their court.

13 No damages where rates published under certain conditions

In cases of complaint of undue preference no damages shall be awarded if the Commissioners shall find that the rates complained of have, for the period during which such rates have been in operation, been duly published in the rate books of the railway company kept at their stations in accordance with section fourteen of the Regulation of Railways Act, 1873, as amended by this Act, unless and until the party complaining shall have given written notice to the railway company requiring them to abstain from or remedy the matter of complaint, and the railway company shall have failed, within a reasonable time, to comply with such requirements in such a manner as the Commissioners shall think reasonable.

14 Orders on two or more companies

The Commissioners may order two or more companies to which this part of this Act applies to carry into effect an order of the Commissioners, and to make mutual arrangements for that purpose, and may further order the companies or, in case of difference, any of them, to submit to the Commissioners for approval a scheme for

carrying into effect the order, and when the Commissioners have finally approved the scheme, they may order each of the companies to do all that is necessary on the part and within the power of such company to carry into effect the scheme, and may determine the proportions in which the respective companies are to defray the expense of so doing, and may for the above purposes make, if they think fit, separate orders on any one or more of such

Provided that nothing in this section shall authorise the Commissioners to require two companies to do anything which they would not have jurisdiction to require to be done if such two companies were a single company.

15 Amendment of 36 & 37 Vict. c.48 s.8 as to references to arbitration under special Act

For the purposes of section eight of the Regulation of Railways Act, 1873, and any other enactment relating to the reference to the Railway Commission of any difference between companies which under the provisions of any general or special Act is required or authorised to be referred to arbitration; the provisions of any agreement confirmed or authorised by any such Act shall be deemed to be provisions of such Act.

16 Power to apportion expenses between railway company and applicants for works

(1) Where the Board of Trade or the Commissioners, in the exercise of any power given by any general or special Act, on application order a company to which this part of this Act applies, to provide a bridge, subway, or approach, or any work of a similar character, the Board of Trade or the Commissioners, as the case may be, may require as a condition of making the order that an agreement to pay the whole or a portion of the expenses of complying with the order shall be entered into by the applicants or some of them, or such other persons as the Board of Trade or Commissioners think fit, and any of the following local authorities, namely, any sanitary authority, highway board, surveyor of highways acting with the consent of the vestry of his parish, or any other authority having power to levy rates, shall have power, if such authority think fit, to enter into any such agreement as is sanctioned by the Board of Trade or Commissioners for the purpose of the order.

(2) In such case any question respecting the persons by whom or the proportions in which the expenses of complying with the order are to be defrayed may, on the application of any party to the application, or on a certificate of the Board of Trade, be determined by the Commissioners.

(3) In this section the expression "parish" shall have the same meaning as the same expression has in the Acts relating to highways ; and the expression " the consent of the vestry of his parish " shall, in any place where there is no vestry meeting, mean the consent of a meeting of inhabitants contributing to the highway rates, provided that the same notice shall have been given of such a meeting as would be required by law for the assembling of a meeting in vestry.