



Railway and Canal Traffic Act 1888

1888 CHAPTER 25

PART IV

MISCELLANEOUS

47 Perpetuation of 36 & 37 Vict. c.48

So much of the Regulation of Railways Act, 1873, as limits the time during which that Act shall continue in force shall, save so far as it relates to the appointment of the Commission, be repealed, and the said Act, save as aforesaid, shall be perpetual.

48 Evidence on rating appeals

On any rating appeal, and before any court, where it may be material to show the receipts or profits of a railway company or canal company, or railway and canal company, it shall be lawful for the company to prove the same by written statements or returns verified by the affidavit or statutory declaration of the manager or other responsible officer, and any such statements or returns shall be prima facie evidence of the facts therein stated with respect to such receipts or profits: Provided that the person by whom any such affidavit or statutory declaration is made shall in every case, if required, attend to be cross-examined thereon.

49 Recovery and application of penalties

Every penalty recoverable on summary conviction under this Act may be prosecuted and recovered in the manner directed by the Summary Jurisdiction Acts before a court of summary jurisdiction.

50 Parties may appear in person or by counsel, &c

In any proceedings under this Act any party may appear before the Commissioners either by himself in person or by counsel or solicitor.

51 Parliamentary agents entitled to practise before Commissioners

Any person who shall be certified, by the Chairman of Committees of the House of Lords or the Speaker of the House of Commons to have practised for two years before the passing of this Act in promoting or opposing Bills in Parliament shall be entitled to practise in any proceedings under this Act as an attorney or agent before the Commissioners : Provided that every such person so practising as aforesaid shall, in respect of such practice and everything relating thereto, be subject to the jurisdiction and orders of the Commissioners, and further provided that no such person shall practise as aforesaid until his name shall have been entered in a roll to be made and kept, and which is hereby authorised to be made and kept, by the Commissioners.

52 Saving of powers conferred on Commissioners and Board of Trade

The powers and jurisdiction conferred by this Act on the Commissioners or Board of Trade shall be in addition to and not in substitution for any powers and jurisdiction vested in the Commissioners or Board of Trade by any statute.

53 Proceedings of Board of Trade

- (1) AH documents purporting to be rules, orders, or certificates made or issued by the Board of Trade, and to be sealed with the seal of the Board, or to be signed by a secretary or assistant secretary of the Board, or any person authorised in that behalf by the President of the Board, shall be received in evidence, and deemed to be such orders, rules, or certificates without further proof, unless the contrary is shown.
- (2) A certificate signed by the President of the Board of Trade that any order made, certificate issued, or act done, is the order, certificate, or act of the Board of Trade, shall be conclusive evidence of the fact so certified.

54 Expenses of local authorities

- (1) Where any local authority having power under this Act to make or oppose any complaint to the Commissioners, or the Board of Trade, or to enter into any agreement to pay the whole or a portion of the expenses of complying with an order of the Commissioners or the Board of Trade, or to make any application for the abandonment or acquisition of a canal under this Act, incur any expenses in or incidental to such complaint, opposition, agreement, or application, such expenses may be defrayed out of the rates or funds out of which the expenses incurred by such authority in the execution of their ordinary duties are defrayed, and if such authority is a rural sanitary authority in England, shall be defrayed as general expenses, unless the Local Government Board direct that they shall be defrayed as special expenses.
- (2) A local authority may enter into any contract involving the payment by themselves and their successors of any expenses authorised by this section to be defrayed.
- (3) Where any such local authority have no power to borrow money for the purpose of defraying any expenses authorised by this section, such authority, if other than a surveyor of highways, may, with the consent of the Board of Trade in the case of any harbour board or conservancy authority, and with the consent of the Local Government Board in the case of any other authority, borrow money in manner provided by the Local Loans Act, 1875, on the security of the rates or funds out of which the expenses are authorised to be defrayed, and the prescribed period for the loan shall be such period as the Board giving such consent may approve.

- (4) On the request of any board whose consent is required for such loan, the Board of Trade or Commissioners shall certify such particulars respecting the amount of the said expenses and the propriety of incurring the same and of borrowing for the payment thereof as may be requested by such board.
- (5) In Ireland, any authority borrowing in pursuance of this section may borrow in manner provided by the Public Health (Ireland) Act, 1878, in like manner as if the provisions of that Act with respect to borrowing were re-enacted in this section, and in terms made applicable thereto.

55 Definitions

In this Act, unless the context otherwise requires,—

Terms defined by the Regulation of Railways Act, 1873, have the meanings thereby assigned to them :

The term " conservancy authority " means any persons who are otherwise than for private profit intrusted with the duty or invested with the power of conserving, maintaining, or improving the navigation of any tidal or inland water or navigation:

The term " harbour board " means any persons who are otherwise than for private profit intrusted with the duty or invested with the power of constructing, improving, managing, regulating, and maintaining a harbour, whether natural or artificial, or any dock:

The term " Lord Chancellor " means the Lord High Chancellor of Great Britain :

The term " undue preference " includes an undue preference, or an undue or unreasonable prejudice or disadvantage, in any respect, in favour of or against any person or particular class of persons or any particular description of traffic :

The term " terminal charges " includes charges in respect of stations, sidings, wharves, depots, warehouses, cranes, and other similar matters, and of any services rendered thereat:

The term " merchandise " includes goods, cattle, live stock, and animals of all descriptions :

The term " trader " includes any person sending, receiving, or desiring to send merchandise by railway or canal:

The term " home, " in relation to merchandise, includes the United Kingdom, the Channel Islands, and the Isle of Man:

The term " rating appeal " means an appeal against any valuation list or against any poor rate or any other local rate :

The term " Summary Jurisdiction Acts " in Scotland means the Summary Procedure Act, 1864, the Summary Jurisdiction (Process) Act, 1881, and any Act or Acts amending the same ; and in Ireland, within the police district of Dublin metropolis, the Acts regulating the powers and duties of justices of the peace for such district, or of the police of such district, and elsewhere, the Petty Sessions (Ireland) Act, 1851, and any Act . amending the same :

The term " superior court" means, as regards England, the High Court of Justice, as regards Scotland, the Court of Session, and as regards Ireland, the High Court of Justice:

The term " superior court of appeal " means, as regards England, Her Majesty's Court of Appeal; as regards Scotland, the Court of Session in either

Status: This is the original version (as it was originally enacted).

division of the Inner House; and as regards Ireland, Her Majesty's Court of Appeal:

The term " rules of court " means, as regards Scotland, acts of sederunt.

In the application of this Act to Ireland, the expression " council of a borough," includes town or township commissioners, and any reference to justices in quarter sessions shall be construed to refer to a grand jury ; and any reference to the Local Government Board or to an urban or rural sanitary authority, shall be construed to refer to the Local Government Board for Ireland, and to an urban or rural sanitary authority in Ireland.

56 Commencement of Act

This Act shall come into operation on the first day of January one thousand eight hundred and eighty-nine, which day is in this Act referred to as the commencement of this Act: Provided that at any time after the passing of this Act any appointment and rules may be made, and other things done for the purpose of bringing this Act into operation at such commencement.

57 Pending business

Subject to general rules to be made under this Act, all proceedings which, at the commencement of this Act, under the Regulation of Railways Act, 1873, and Acts amending it, or under any other Acts, are pending before the Railway Commissioners, shall be transferred to the Railway and Canal Commission under this Act, and may thereupon be continued and concluded in all respects as if such proceedings had been originally instituted before that Commission.

58 Transfer of pending business from superior courts

Every action or proceeding which might have been brought before the Railway Commissioners if this Act had been in force at the time when such action or proceeding was begun, and is at the commencement of this Act pending before any superior court, may, upon the application of either party, be transferred by any judge of such superior court to the Railway and Canal Commissioners under this Act, and may thereupon be continued and concluded in all respects as if such action or proceeding had been originally instituted before that Commission : Provided that no such transfer, nor anything herein contained, shall vary or affect the rights or liabilities of any party to such action or proceeding.

59 Repeal and savings

- (1) The enactments mentioned in the schedule to this Act are hereby repealed to the extent therein specified.
- (2) The repeal effected by this Act shall not affect—
 - (a) Anything done or suffered before the commencement of this Act under any enactment repealed by this Act, or the expiration of any office which would otherwise have expired by virtue of any enactment repealed by this Act; nor
 - (b) Any right or privilege acquired, or duty imposed, or liability or disqualification incurred, under any enactment so repealed ; nor

- (c) Any fine, forfeiture, or other punishment incurred or to be incurred in respect of any offence committed or to be committed against any enactment so repealed ; nor
- (d) The institution or continuance of any proceeding or other remedy, whether under any enactment so repealed, or otherwise, for ascertaining or enforcing any such liability or disqualification, or enforcing or recovering any such fine, forfeiture, or punishment as aforesaid.