



## CHAPTER xxxviii.

An Act to authorise the Torquay Tramways Company Limited to abandon their existing tramways and for other purposes. [18th July 1933.] A.D. 1933.

**W**HEREAS the Torquay Tramways Company Limited (in this Act referred to as "the Company") under the powers contained in the Torquay Tramways Act 1904 and the Torquay and Paignton Tramways Act 1909 have constructed and are now working a system of tramways in the borough of Torquay and the urban district of Paignton in the county of Devon :

And whereas the whole of the tramways authorised by the said Acts (except Tramways Nos. 3a 4 4a 5a 6a 8a 9 and 9a and parts of Tramways Nos. 3 5 and 7 authorised by the Torquay Tramways Act 1904) have been constructed and have been operated since their completion :

And whereas it is expedient that the Company be authorised to abandon their existing tramways upon commencing to run stage carriages on the routes of such tramways and that the provisions contained in this Act should be enacted :

And whereas the purposes of this Act cannot be effected without the authority of Parliament :

May it therefore please Your Majesty that it may be enacted and be it enacted by the King's most Excellent Majesty by and with the advice and consent of the Lords Spiritual and Temporal and Commons

[Ch. xxxviii.] *Torquay and Paignton Tramways (Abandonment) Act, 1933.* [23 & 24 GEO. 5.]

A.D. 1933. in this present Parliament assembled and by the authority of the same as follows :—

Short and collective titles.

1. This Act may be cited as the *Torquay and Paignton Tramways (Abandonment) Act 1933* and the *Torquay Tramways Act 1904* the *Torquay and Paignton Tramways Act 1909* and this Act may be cited together as the *Torquay Tramways Acts 1904 to 1933*.

Interpretation.

2. In this Act the several words and expressions to which meanings are assigned by the Acts wholly or partially incorporated herewith have the same respective meanings unless there be something in the subject or context repugnant to such construction. And in this Act unless the context otherwise requires—

“The Company” means the *Torquay Tramways Company Limited*;

“The existing Acts” means the *Torquay Tramways Act 1904* and the *Torquay and Paignton Tramways Act 1909*;

“The tramways” means the tramways constructed by the Company under the powers of the existing Acts;

“Tramway apparatus” includes all posts poles standards brackets cables conductors tubes mains transformers feeders wires and other apparatus and equipment for the purpose of working the tramways or used in connection therewith;

“Road authority” means with reference to any road or part of a road the authority company or person charged with or liable to contribute to the maintenance of such road or part of a road.

Abandonment of tramways.

3.—(1) The Company may at any time abandon and discontinue the whole or any part of any of the tramways after giving to the road authority not less than one month's previous notice of their intention to abandon such tramways :

Provided that the Company shall not abandon and discontinue the tramways until they are running and are willing to continue to run adequate and satisfactory services of stage carriages (as defined by

section 61 of the Road Traffic Act 1930) in substitution for services of tramcars on the tramways or have made arrangements for the running of such services by another company body or person on behalf of the Company. A.D. 1933.

(2) When the Company have in pursuance of the foregoing provisions of this section abandoned the whole or part of any of the tramways they may and if required by the road authority shall forthwith take up and remove the rails paving and paving setts of the tramway or part thereof so abandoned and the tramway apparatus :

Provided that the removal of any such rails paving paving setts and tramway apparatus shall (unless the road authority otherwise consent in writing) be carried out in sections each having a maximum length of one-half of a mile (the Company being at liberty to proceed simultaneously with any two or more sections not being contiguous sections) and that until the road included within any such sections shall have been restored under the provisions of subsection (3) of this section the removal of any such rails paving paving setts and tramway apparatus on any other section within one-half of a mile shall not be commenced.

(3) On the taking up and removal of any such rails paving paving setts or tramway apparatus the Company shall with all convenient speed and in all cases within six weeks (unless the road authority otherwise consent in writing) fill in the ground and make good the surface and to the reasonable satisfaction of the road authority restore the portion of road upon which such rails paving paving setts and tramway apparatus were laid or placed to as good a condition as that in which it was before the rails paving paving setts and tramway apparatus were laid or placed thereon and shall clear away all surplus paving or metalling material or rubbish occasioned by such work and they shall cause the place where the road is opened or broken up to be fenced and watched and to be properly lighted at night until such filling in making good restoration and clearing away as aforesaid has been completed or (in cases where the works necessary for the restoration are done by the road authority under the provisions

A.D. 1933. of the proviso to this subsection) until the removal of such rails paving paving setts and tramway apparatus has been completed:

Provided that the road authority (if they think fit) may within one month after the service upon them of the notice referred to in subsection (1) of this section give notice to the Company that they desire themselves to do the works necessary for the restoration of the road and the Company shall in lieu of carrying out the said works pay to the road authority in respect of the tramway or part thereof to be abandoned by the Company a sum equal to the cost which the Company would have incurred in restoring the portion of road so to be restored which the Company are at the date of the passing of this Act liable to maintain if the road authority had not exercised the option given to them by this proviso such sum to be paid in respect of any portion of road as and when the restoration thereof is completed.

(4) If any difference arises under subsection (3) of this section between the Company and a road authority as to whether any work is such as ought reasonably to satisfy the road authority or as to the amount of the payment to be made by the Company to the road authority the same shall be determined by an engineer to be appointed at the request of either party by the Minister of Transport and subject as aforesaid the provisions of the Arbitration Act 1889 shall apply to any such determination.

(5) As from the date on which the Company abandon the whole or any part of any of the tramways in pursuance of the foregoing provisions of this section they shall cease to be under any obligation to use the same or to run carriages thereon or to maintain or repair any part of the roadway in which the same is situate.

Agreements  
with road  
authorities.

4. The Company on the one hand and any road authority on the other hand may enter into and carry into effect agreements for and with respect to the removal or non-removal of the tramways to be abandoned and the rails paving paving setts and tramway apparatus and the reinstatement of the roadway in which any

such tramway rails paving paving setts and tramway apparatus is or are situate and for and with respect to any other of the purposes or provisions of the section of this Act of which the marginal note is "Abandonment of tramways." A.D. 1933.  
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5. For the protection of the mayor aldermen and burgesses of the borough of Torquay the urban district council of Paignton the Torquay and Paignton Gas Company and the Paignton Electric Light and Power Company Limited (each of whom are in this section referred to as "the protected body") the following provisions shall unless otherwise agreed in writing between the Company and the protected body apply and have effect notwithstanding any other provisions of this Act (that is to say):—

For protection of certain statutory undertakers.

(1) In this section—

"the operators" means the Company or any road authority exercising the powers of the section of this Act of which the marginal note is "Abandonment of tramways";

"protected apparatus" means all or any mains pipes valves syphons tubes meters fittings or other apparatus belonging to the protected body :

(2) The provisions of any existing enactment which at the date of the passing of this Act enures for the protection of the protected body in relation to the tramways shall continue in force and enure for the protection of the protected body in relation to the tramways until the date on which the taking up and removal of the same or the rails paving and paving setts thereof shall be commenced. As from the date of such commencement the said provisions shall as regards the tramways so taken up and removed cease to have effect :

(3) Section 30 of the Tramways Act 1870 shall extend and apply to—

(a) the taking up and removal of the rails paving and paving setts of the tramways and the tramway apparatus; and



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(b) the filling in of the ground and the making good and restoration of the portion of any road disturbed by such taking up and removal;

in all respects as if those works or operations were the laying down of a tramway and as if the operators were the promoters within the meaning of that section :

- (4) Where in pursuance of the said section 30 as applied by this section any notice under the said section 30 is given to the protected body the protected body may at any time within fourteen days after the receipt by them of that notice give notice to the operators that they desire themselves to carry out any lowering or other alteration of the position of any protected apparatus which may be agreed between the operators and the protected body or in default of agreement determined by arbitration in manner provided by the Tramways Act 1870 to be necessary by reason of the taking up or removal of the rails paving and paving setts of the tramways and the tramway apparatus and where any such notice is given the protected body shall forthwith commence execute and complete that lowering or alteration and any work reasonably necessary in connection therewith in such manner as may be agreed between the protected body and the operators or in default of agreement as may be determined as aforesaid :
- (5) Upon completion by the protected body of any such lowering or alteration or works as aforesaid the operators shall pay the protected body the expenses reasonably incurred by them in carrying out such lowering or alteration or works :
- (6) Where the protected body are also the operators the Company shall be substituted for the operators for the purposes of any agreement or arbitration which may be necessary under subsection (4) of this section and for the purposes of subsection (5) of this section :

- (7) Within one month after the payment by any road authority exercising the powers of the section of this Act of which the marginal note is "Abandonment of tramways" of the expenses referred to in subsection (5) of this section the Company shall pay to such road authority any reasonable expenses paid by them under that subsection but this subsection shall not be applicable in a case in which the protected body are also the operators : A.D. 1933.
- (8) If any difference arises under this section between the protected body and the operators or between a road authority and the Company the same shall be settled under and in pursuance of the provisions of section 33 of the Tramways Act 1870.

6. Without prejudice to the generality of any repeal effected by the foregoing provisions of this Act as from the date when any of the tramways are abandoned under the provisions of the section of this Act of which the marginal note is "Abandonment of tramways" the following sections of the existing Acts shall cease to apply to the tramways so abandoned and to the posts brackets and wires used for supplying motive power to the carriages used thereon and as from the date when all the tramways have been so abandoned the said sections of the existing Acts and any reference to those sections in the existing Acts shall be repealed (that is to say) :— Repeal.

The Torquay Tramways Act 1904—

- Section 8 (Penalty for not maintaining rails and roads);
- Section 17 (As to alteration of water mains &c.);
- Section 21 (Motive power);
- Section 22 (Special provisions as to use of electrical power);
- Section 28 (Byelaws);
- Section 29 (Amendment of Tramways Act 1870 as to byelaws by local authority);
- Section 54 (As to purchase of undertaking);

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Section 58 (For protection of corporation);

Section 60 (Regulations as to street traffic).

The Torquay and Paignton Tramways Act 1909—

Section 11 (Repair of part of road where tramway is laid);

Section 15 (Company may lop trees overhanging public highway);

Section 30 (Incorporation of section 54 of Act of 1904 and amendment of power of purchase of tramways of Company);

Section 31 (As to purchase by corporation of Tramway No. 2 by this Act authorised);

Section 34 (For protection of Great Western Railway Company);

Section 35 (For protection of corporation);

Section 36 (For protection of Paignton Urban District Council);

Section 37 (Supply of electrical energy for working tramways in Paignton district).

Copy of Act to be registered.

7.—(1) The Company shall forward to the Registrar of Companies a printed copy of this Act and it shall be recorded by him and if such copy is not forwarded within three months from the passing of this Act the Company shall incur a penalty not exceeding two pounds for every day after the expiration of those three months during which the copy is omitted to be forwarded and every director and manager of the Company who knowingly and wilfully authorises or permits such default shall incur the like penalty.

(2) There shall be paid to the registrar by the Company on such copy being registered the like fee as is for the time being payable under the Companies Act 1929 on registration of any document other than a memorandum of association or the abstract required to be delivered to the registrar by a receiver or manager or the statement required to be sent to the registrar by the liquidator in a winding up in England.



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*Paignton Tramways (Abandonment) Act, 1933.*

(3) Every penalty under this section shall be A.D. 1933.  
recovered summarily. —

8. All costs charges and expenses of and incident Costs of  
to the preparing for obtaining and passing of this Act Act.  
or otherwise in relation thereto shall be paid by the  
Company.

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