

Northern Ireland Act, 1947.

10 & 11 GEO. 6. CH. 37.

ARRANGEMENT OF SECTIONS.

Enlargement of legislative power of the Parliament of Northern Ireland.

Section.

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CHAPTER 37.

An Act to enlarge the legislative power of the Parliament of Northern Ireland in respect of certain matters and, in connection therewith, to remove doubts regarding the validity of certain laws made by that Parliament; to validate the Fire Services (Emergency Provisions) Act (Northern Ireland), 1942; to apply Part III of the Requisitioned Land and War Works Act, 1945, to Northern Ireland; to extend section two of the Northern Ireland (Miscellaneous Provisions) Act, 1945; and for purposes connected with the matters aforesaid.

[31st July 1947.]

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, in this present Parliament assembled, and by the authority of the same, as follows:—

Enlargement of legislative power of the Parliament of Northern Ireland.

- 1.—(1) This section applies to schemes for one or more of the following matters, namely, —
- (a) the use or development of water power for the purpose of generating electricity or for any other purpose;
 - (b) the storage or supply of water;
 - (c) the drainage or irrigation of land;
 - (d) the supply of electricity;
 - (e) the provision, maintenance, improvement, alteration or abandonment of highways, railways, inland waterways or bridges;

Power as regards certain schemes extending athwart land frontier.

being schemes extending as well to the portion of Ireland outside the jurisdiction of the Parliament of Northern Ireland as to the portion of Ireland within the jurisdiction of that Parliament but not further.

(2) Neither —

- (a) the general limitation imposed by section four of the Government of Ireland Act, 1920 (in this Act referred to as “the principal Act”), confining the legislative power of the Parliament of Northern Ireland to the making of laws in respect of matters exclusively relating to the portion of Ireland within their jurisdiction or some part thereof; nor
- (b) the specific limitations imposed by paragraphs (4) and (7) of that section precluding that Parliament from making laws in respect of relations with foreign states or relations with other parts of His Majesty’s dominions or in respect of trade with any place out of the part of Ireland within their jurisdiction,

shall apply to the making by that Parliament of laws with respect to schemes to which this section applies or for giving effect to arrangements or agreements entered into for the purposes of any such schemes; and section six of the principal Act (which precludes the Parliament of Northern Ireland from repealing or altering a provision of an Act passed by the Parliament of the United Kingdom after the appointed day and extending to the part of Ireland within the jurisdiction of the Parliament of Northern Ireland although the provision deals with a matter with respect to which that Parliament have power to make laws) shall not preclude the Parliament of Northern Ireland from effecting, as respects Northern Ireland, by a law made as aforesaid any requisite consequential repeal or alteration of a provision of an Act passed as aforesaid.

(3) Accordingly, the reference in subsection (8) of section eight of the principal Act (which section relates to the exercise of executive power in Northern Ireland) to matters with respect to which the Parliament of Northern Ireland have, under the provisions thereinbefore contained, no power to make laws, shall be construed as not including schemes to which this section applies.

2.—(1) No law made by the Parliament of Northern Ireland providing for the transfer, to an authority charged with the duty of providing or authorised to provide any public inland transport facilities or port facilities or charged with the duty of supplying or authorised to supply electricity or gas, of the property of persons carrying on public utility undertakings (being property held by them for the purposes of their undertakings) shall be void—

- (a) as regards the transfer of property of persons other than local authorities, on the ground that a provision of the law with respect to the amount to be paid thereunder in respect of the transfer or the manner in which or the time at which that amount is to be satisfied contravenes

the restriction imposed by section five of the principal Act on the making by the Parliament of Northern Ireland of a law so as to take any property without compensation ;

(b) as regards the transfer of property of local authorities, on the ground that the said restriction is contravened, if provision is made by the law—

(i) for recouping them sums required to be paid by them in respect of loans raised by them for the purposes of the undertakings in question (or, in the case of loans raised partly for those purposes and partly for other purposes, fractions of the sums required to be paid by them in respect thereof ascertained by reference to the proportions of the loans that were applied for the first-mentioned purposes) ; or

(ii) for the transfer to the authority of their debts and liabilities as former public utility undertakers.

(2) No law made by the Parliament of Northern Ireland providing for the transfer, without compensation, to an authority or person of property held by local authorities for the purposes of, or in connection with, any functions of theirs otherwise than as public utility undertakers shall be void on the ground that it contravenes the said restriction if the transfer is effected in conjunction with, or as a consequence of, the transfer to that authority or person of those functions.

(3) In relation to the Electricity (Supply) Act (Northern Ireland), 1931 (section thirty-two whereof provides for the transfer to the Electricity Board for Northern Ireland, upon the acquisition by them of the electricity undertaking of a local authority, of the debts and liabilities of the local authority as former undertakers) and to the Electricity (Emergency Supplies) Act (Northern Ireland), 1942 (paragraph 2 of Part II of the First Schedule whereto contains the like provisions as respects an acquisition by the Ministry of Commerce for Northern Ireland), subsection (1) of this section shall be deemed to have come into force immediately before the passing of those Acts respectively ; and in relation to the Public Health (Tuberculosis) Act (Northern Ireland), 1946 (section nine whereof provides for the transfer to the Northern Ireland Tuberculosis Authority of functions of councils under the Tuberculosis Prevention (Ireland) Acts, 1908 and 1913, and property of councils used for the purposes of or in connection with those functions) and to the Public Health and Local Government (Administrative Provisions) Act (Northern Ireland), 1946 (divers provisions whereof provide for the transfer of functions of local authorities and section twenty-eight whereof provides for the transfer of property of local authorities enjoyed

in connection with functions transferred), subsection (2) of this section shall be deemed to have come into force immediately before the passing of those Acts respectively.

(4) In this section—

- (a) the expression “local authority” means the council of a county, county borough, borough, urban or rural district, the board of guardians of a poor law union and the commissioners of a town, and includes a combination of local authorities; and
- (b) the expression “public utility undertaking” means a railway, light railway, tramway, road transport, water transport, canal, inland navigation, dock, harbour or pier undertaking and an undertaking for the supply of electricity or gas, and “public utility undertakers” shall be construed accordingly.

Power to provide for compulsory retirement of county court judges.

3. The Parliament of Northern Ireland shall not be precluded, by reason only of the requirement contained in section forty-eight of the principal Act that a judge of a county court or other court with a like jurisdiction in Northern Ireland appointed after the appointed day shall hold his office on the same tenure as that by which the office was held at the time of the passing of that Act, from making a law providing for the vacation of his office by such a judge at such age (not being less than seventy years) as may be specified by the law.

Power as regards provision of health services.
9 & 10 Geo. 6.
c. 81.
10 & 11 Geo. 6.
c. 27.

4.—(1) None of the limitations or restrictions imposed (whether by the principal Act or by any subsequent Act) on the power of the Parliament of Northern Ireland to make laws shall extend to prevent that Parliament from enacting a provision the purposes whereof are similar to the purposes of a provision of the National Health Service Act, 1946, the National Health Service (Scotland) Act, 1947, or any enactment passed after the passing of this Act amending either of those Acts.

(2) In so far as it relates to provisions the purposes whereof are the taking of property, this section shall have effect in addition to, and not in derogation of, the provisions of section two of this Act.

Power to adjust superannuation rights of Northern Irish civil servants to meet war circumstances.
9 & 10 Geo. 6.
c. 60.

5.—(1) None of the limitations imposed by section four of the principal Act on the power of the Parliament of Northern Ireland to make laws shall extend to prevent that Parliament from enacting—

- (a) provisions having the like effect in relation to the Northern Irish Superannuation Acts as have sections one and four of the Superannuation Act, 1946 (which respectively provide for the counting for superannuation purposes of the war service of persons who subsequently

enter the civil service of the State and authorise the modification of the Superannuation Acts for the purposes of meeting war circumstances) in relation to the Superannuation Acts ;

- (b) provisions with respect to the reckoning for the purposes of the Northern Irish Superannuation Acts of any period during which a person was absent from his usual employment whilst serving in the armed forces of the Crown, in the merchant navy or the mercantile marine, or in any of the women's services specified in the First Schedule to the Superannuation Act, 1946.

(2) In this section the expression " the Northern Irish Superannuation Acts " means the Superannuation Acts, 1834 to 1919, as they apply to the civil service established in connection with the Government of Northern Ireland or any department thereof and the Superannuation Acts (Northern Ireland), 1921 to 1938, and the expression " the Superannuation Acts " means the Superannuation Acts, 1834 to 1943, as they apply to the civil service of the State.

6.—(1) The general limitation imposed by section four of the principal Act confining the legislative power of the Parliament of Northern Ireland to the making of laws in respect of matters exclusively relating to the portion of Ireland within their jurisdiction or some part thereof shall not apply to the making by that Parliament of a law which—

Power as regards transport services.

- (a) provides for the transfer to an authority charged with the duty of providing any public inland transport facilities of property situate in Northern Ireland of persons carrying on a railway undertaking partly within and partly outside Northern Ireland ; or
- (b) confers on such an authority as aforesaid powers and duties of providing transport facilities outside Northern Ireland in connection with the provision of transport facilities within Northern Ireland.

(2) So much of any Act passed after the appointed day as relates to a railway undertaking wholly or partly in Northern Ireland shall, notwithstanding that that Act was so passed, be deemed, for the purposes of section six of the principal Act, to be a provision of an Act passed before that day.

7.—(1) The limitation imposed by paragraph (1) of section four of the principal Act precluding the Parliament of Northern Ireland from making laws in respect of the Crown or the property of the Crown (including foreshore vested in the Crown) shall not extend to prevent that Parliament from enacting, in relation to Northern Ireland, provisions with respect to the limitation

Power as regards limitation of actions by and against the Crown.

of actions by and against the Crown (including the extinguishment of the title of the Crown on the expiration of a period of limitation).

(2) In this section the expression "action" includes any proceedings in a court of law and also includes arbitration.

Cesser of
reservation of
registration of
deeds.

8.—(1) The registration of deeds shall cease to be a reserved matter for the purposes of the principal Act, and accordingly,—

- (a) paragraph (d) of subsection (2) of section nine of that Act (which specifies the registration of deeds as a reserved matter) shall cease to have effect ;
- (b) the public services in connection with the administration of the registration of deeds in Northern Ireland shall, by virtue of this section, be transferred from the Government of the United Kingdom to the Government of Northern Ireland and shall cease to be reserved services and shall become Irish services ;
- (c) the members of the staff of the Registry of Deeds for Northern Ireland shall become officers of the Government of Northern Ireland ; and
- (d) so much of any Act passed after the appointed day as relates to the registration of deeds in Northern Ireland or to the registration of other instruments or the doing of any other thing at the said Registry shall, notwithstanding that that Act was so passed, be deemed, for the purposes of section six of the principal Act, to be a provision of an Act passed before that day :

Provided that no person becoming an officer of the Government of Northern Ireland by virtue of this subsection shall be in a worse position as respects tenure of office, remuneration or superannuation rights than he would have been if he had not become an officer of the Government of Northern Ireland, and any question arising under the preceding provisions of this proviso shall, in default of agreement, be referred to and determined by the Civil Service Committee for Northern Ireland whose determination shall be final and conclusive.

(2) Section sixty-nine of the principal Act (which empowers His Majesty to make, by Order in Council, regulations as well for matters for which it seems to Him necessary or proper to make provision for giving full effect to any provisions of that Act or to any future transfer under or by virtue of that Act of a reserved service as for the other matters mentioned in that section), shall have effect as if references to the said provisions included references to this section and as if the reference to any such transfer included a reference to the transfer of services effected by this section, and an Order in Council made under the said section sixty-nine by virtue of this subsection may, to such

extent as it appears to His Majesty in Council to be requisite or expedient so to do in consequence of the enactment of this section, vary or revoke the Government of Ireland (Registration of Deeds in Northern Ireland) Order, 1923, or any other Irish Transfer Order.

(3) This section shall come into operation on such date as His Majesty may by Order in Council appoint.

9.—(1) The reservation, by section forty-seven of the principal Act, of matters relating to the Supreme Court shall cease to be treated as extending to the registration of title to land in Northern Ireland, and paragraph (14) of section four and subsection (8) of section eight of that Act shall have effect accordingly, and,—

Cesser of
reservation
of registration
of title to
land in
Northern
Ireland.

(a) the public services in connection with the administration of the registration of title to such land shall, by virtue of this section, be transferred from the Government of the United Kingdom to the Government of Northern Ireland and shall cease to be reserved services and shall become Irish services ;

(b) the Registrar of Titles in Northern Ireland and the officers and clerks attached to the central office shall cease to be officers of the Supreme Court and shall become officers of the Government of Northern Ireland ; and

(c) section thirty-two of the Northern Ireland Land Act, 1925 (which contains provisions with respect to the registration of the ownership of certain land in Northern Ireland), section nine of the Northern Ireland (Miscellaneous Provisions) Act, 1945 (which contains provisions with respect to charges on land in Northern Ireland), and so much of any other Act passed after the appointed day as relates to the registration of title to land in Northern Ireland shall, notwithstanding that those Acts were so passed, be deemed, for the purposes of section six of the principal Act, to be provisions of Acts passed before that day :

15 & 16 Geo. 5.
c. 34.
8 & 9 Geo. 6.
c. 12.

Provided that no person becoming an officer of the Government of Northern Ireland by virtue of this subsection shall be in a worse position as respects tenure of office, remuneration or superannuation rights than he would have been if he had not become an officer of the Government of Northern Ireland, and any question arising under the preceding provisions of this proviso shall, in default of agreement, be referred to and determined by the Civil Service Committee for Northern Ireland whose determination shall be final and conclusive.

(2) No law made by the Parliament of Northern Ireland shall be deemed to be made in contravention of the limitations imposed

by section four of the principal Act on the power of that Parliament to make laws by reason only—

- (a) that jurisdiction in a matter relating to the registration of title to land in Northern Ireland is thereby conferred on or withdrawn from the Supreme Court or the High Court or that, in connection with any such matter, a power to appoint officers is thereby conferred on a judge of the Supreme Court or rendered exercisable subject to the concurrence of such a judge ; or
- (b) that, in connection with provision thereby made for or in connection with the registration of title to such land, provision is made with respect to property of the Crown or for enforcing a right on behalf of the Crown.

(3) Section sixty-nine of the principal Act shall have effect as if references to the provisions of that Act included references to this section and as if the reference to any future transfer under or by virtue of that Act of a reserved service included a reference to the transfer of services effected by this section, and an Order in Council made under the said section sixty-nine by virtue of this subsection may, to such extent as it appears to His Majesty in Council to be requisite or expedient so to do in consequence of the enactment of this section, vary or revoke Part III of the Government of Ireland (Supreme Court Matters, etc.) Order, 1922 (which relates to local registration of title in Northern Ireland) or any other Irish Transfer Order.

25 & 26 Geo. 5.
c. 21.

(4) The provisions of the Northern Ireland Land Purchase (Winding Up) Act, 1935, specified in the first column of the First Schedule to this Act shall have effect subject to the amendments specified in relation to those provisions in the second column of that Schedule (being amendments consequential on the provisions of paragraph (b) of subsection (1) of this section).

(5) In this section—

- (a) references to the registration of title to land in Northern Ireland shall be construed as including references to the registration of estates and interests in, rights and easements over, and charges and burdens on such land and the discharge of matters registered or capable of being registered as affecting such land ;
- (b) the expression “ central office ” means the central office in the City of Belfast established under section four of the Local Registration of Title (Ireland) Act, 1891, for the purposes of the registers kept under that Act ; and
- (c) the expressions “ Supreme Court ” and “ High Court ” mean respectively the Supreme Court of Judicature of Northern Ireland and His Majesty’s High Court of Justice in Northern Ireland.

54 & 55 Vict.
c. 66.

(6) Paragraph (2) of Article 7 of the Government of Ireland (Supreme Court Matters, etc.) Order, 1922 (which defines the expression "Registrar of Titles in Northern Ireland" for the purposes of Part III of that Order) shall have effect with the omission of the words "of the Supreme Court of Judicature of Northern Ireland."

(7) This section shall come into operation on such day as His Majesty may by Order in Council appoint.

10.—(1) Any power of the Parliament of Northern Ireland by virtue of this or any other Act (including an Act passed after the passing of this Act) to repeal or alter a provision of an Act of the Parliament of the United Kingdom (whether passed before or after the appointed day) shall include power to repeal or alter any order, rule or regulation made in pursuance of that provision after that day. Power to repeal or alter certain subordinate legislation.

(2) This section shall be deemed to have had effect as from the first day of July, nineteen hundred and twenty-one.

11. The limitations and restrictions imposed by the principal laws shall be deemed never to have extended to prevent that Parliament from enacting the Fire Services (Emergency Provisions) Act (Northern Ireland), 1942 (which contains provisions similar to those of the Fire Services (Emergency Provisions) Act, 1941). Validation of Fire Services (Emergency Provisions) Act (Northern Ireland), 1942. 4 & 5 Geo. 6. c. 22.

Application of Part III of Requisitioned Land and War Works Act, 1945, to Northern Ireland.

12.—(1) Part III of the Requisitioned Land and War Works Act, 1945 (which provides for the stopping up and diversion of highways stopped up or diverted in the exercise of emergency powers and for the retention of railways, tramways, etc., on highways where the highways are not stopped up or diverted, subject, however, to the publication of proposals in that behalf and the reference thereof to the War Works Commission in certain cases) shall apply to Northern Ireland subject to the modifications set out in the Second Schedule to this Act, and accordingly,—

- (a) so much of subsection (2) of section sixty-one of that Act (which contains provisions with respect to the application of that Act to Northern Ireland) as provides that the said Part III shall not apply to Northern Ireland shall cease to have effect; and
- (b) in subsection (8) of that section, after the words "For any reference to the Minister of Agriculture and Fisheries" there shall be inserted the words "(other than the reference in Part III of this Act)".

(2) Any increase, by virtue of this section, in the sums which under the Requisitioned Land and War Works Act, 1945, are defrayed out of moneys provided by the Parliament of the United Kingdom shall be defrayed out of moneys so provided.

Amendment of s. 2 of Northern Ireland (Miscellaneous Provisions) Act, 1945.

Extension of power of Governor to effect consequential transfers of functions.

13. Subsection (1) of section two of the Northern Ireland (Miscellaneous Provisions) Act, 1945 (which empowers the Governor of Northern Ireland, upon the transfer, by or under an Act of the Parliament of Northern Ireland, of functions from one department of the Government of Northern Ireland or Minister of Northern Ireland to another such department or Minister, to effect, with the consent of the Secretary of State, a consequential transfer of functions conferred on the first-mentioned department or Minister by or under an Act of the Parliament of the United Kingdom) shall have effect—

- (a) with the substitution, for the words “ from a department of the Government of Northern Ireland or a Minister of Northern Ireland to another such department or Minister ”, of the words “ from one authority or person to another ”; and
- (b) with the substitution, for the words “ the first-mentioned department or Minister ” and the words “ the last-mentioned department or Minister ”, of the words “ the one ” and the words “ the other ”, respectively.

Supplementary.

Interpretation.

14.—(1) In this Act the expression “ the principal Act ” means the Government of Ireland Act, 1920, and the expressions “ public inland transport facilities ” and “ port facilities ” mean, in relation to a law made by the Parliament of Northern Ireland, such facilities as defined by that law; and expressions used in this Act to which meanings are assigned by the principal Act for the purposes thereof have those meanings for the purposes of this Act.

(2) References in this Act to the appointed day (except in the case of the reference thereto in section three of this Act) are references to the day appointed under the principal Act for the purposes of section six thereof (that is to say, the third day of May, nineteen hundred and twenty-one) and, in the said excepted case, the reference is one to the day so appointed for the purposes of the enactment mentioned in the said section three (that is to say, the twenty-second day of November, nineteen hundred and twenty-one).

(3) For the avoidance of doubt it is hereby declared that any reference to an authority in this Act (except in a provision

thereof where the context otherwise requires) or in section two of the Northern Ireland (Miscellaneous Provisions) Act, 1945, includes a reference to a department of the Government of Northern Ireland and to a Minister of Northern Ireland.

(4) References in this Act to any other enactment shall, unless the context otherwise requires, be construed as references to that enactment as amended by or under any subsequent enactment, including this Act.

15. This Act may be cited as the Northern Ireland Act, 1947. Short title.

SCHEDULES.

FIRST SCHEDULE.

AMENDMENTS OF THE NORTHERN IRELAND LAND PURCHASE (WINDING UP) ACT, 1935.

*Provision amended and
subject matter thereof.*

Amendment.

Section 9.

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| <p>Subsection (2) of section six (Power of Treasury to arrange for discharge of functions of the Land Purchase Commission, Northern Ireland, by certain Departments and persons).</p> | <p>After the words " or by the Land Purchase Trustee for Northern Ireland," there shall be inserted the words " or by the Registrar of Titles in Northern Ireland ".</p> |
| <p>Subsection (1) of section nine (Office of Land Purchase Trustee for Northern Ireland to be held by such officer of the Supreme Court as may be designated by the Lord Chief Justice of Northern Ireland).</p> | <p>After the words " Lord Chief Justice of Northern Ireland ", there shall be inserted the words " or, if the Lord Chief Justice so directs, by the Registrar of Titles in Northern Ireland ".</p> |
| <p>Subsection (2) of section nine (Salary of person designated to hold office of Land Purchase Trustee for Northern Ireland to be such as the Treasury may determine).</p> | <p>For the words " the person designated to hold the said office " there shall be substituted the words " any officer of the Supreme Court designated to hold the said office ".</p> |
| <p>Subsection (4) of section nine (Time devoted by the holder of the office of Land Purchase Trustee for Northern Ireland, or by any other officer of the Supreme Court, to the duties of that office to be deemed to be time devoted to the duties of his office in the Supreme Court).</p> | <p>For the words " by the holder of the said office, or by any other officer of the Supreme Court ", there shall be substituted the words " by any officer of the Supreme Court ".</p> |

SECOND SCHEDULE.

Section 12.

MODIFICATIONS OF PART III OF THE REQUISITIONED LAND AND WAR WORKS ACT, 1945, IN ITS APPLICATION TO NORTHERN IRELAND.

1. For references to the Minister of Transport there shall be substituted references to the Secretary of State.

2. In paragraph (b) of subsection (2) of section fifteen, for the words " repairable by the inhabitants at large " there shall be substituted the words " maintainable at the cost of a county or county district ".

3. In paragraph (c) of the said subsection (2), for the words "the Trunk Roads Act, 1936," there shall be substituted the words "any enactment of the Parliament of Northern Ireland (whether passed before or after the commencement of this Act) containing a provision corresponding to any provision of the Trunk Roads Acts, 1936 and 1946".

2ND SCH.
—cont.
1 Edw. 8 &
1 Geo. 6. c. 5.
9 & 10 Geo. 6.
c. 30.

4. In sub-paragraph (ii) of paragraph (f) of the said subsection (2), for the words "section one or section two of the Restriction of Ribbon Development Act, 1935," there shall be substituted the words "section two or section four of the Roads Improvement Act (Northern Ireland), 1928".

25 & 26 Geo. 5.
c. 47.

5. In subsection (1) of section sixteen, the reference to the making of provision by or under any Act (whether public general or local) shall be construed as including a reference to the making of provision by or under any such Act of the Parliament of Northern Ireland.

6. In subsection (1) of section seventeen, for the definition of local authority there shall be substituted the following definition:—

" 'local authority' means the council of a county, county borough, borough, urban district or rural district ".

7. Subsection (2) of section nineteen shall have effect as if for references to the High Court there were substituted references to His Majesty's High Court of Justice in Northern Ireland and as if at the end thereof there were added the following provision:—

" Provision may be made by rules of the Supreme Court of Judicature in Northern Ireland under section sixty-one of the Supreme Court of Judicature Act (Ireland), 1877, as amended by the Supreme Court of Judicature (Ireland) (No. 2) Act, 1897, for regulating the procedure and costs of applications under this subsection ".

40 & 41 Vict.
c. 57.
60 & 61 Vict.
c. 66.

8. In subsection (2) of section twenty-two, for the words "by the Minister of Agriculture and Fisheries" there shall be substituted the words "by the Secretary of State or the Ministry of Agriculture for Northern Ireland".

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