



Ministry of Transport Act 1919

1919 CHAPTER 50

8 Claims against and by the Minister in respect of exercise of powers

- (1) Where at the end of the period of possession by the Government of any undertaking or of any part or plant of an undertaking the value of the undertaking on a revenue-earning basis has been reduced or enhanced as compared with the value at the commencement of such period, or where during that period the income thereof has been reduced or enhanced, after taking into account in either case—
- (a) any capital expenditure by the owners of the undertaking on any works brought into use in the interval; and
 - (b) the natural growth of traffic on the undertaking,

then, if and so far as such reduction or enhancement is due to the exercise by the Minister during that period upon the undertaking in question of the powers under section three of this Act (including such powers as have been hitherto exercised by the Board of Trade as mentioned in paragraph (1)(a) of that section) the owners of the undertaking shall, unless such reduction or enhancement is otherwise provided for by the compensation mentioned in paragraph (1)(a) of that section, be entitled to be recouped, or liable to pay, the amount by which that value has been so reduced or enhanced, and if any question arises as to such amount or the liability to pay the same, or otherwise with respect to the financial relations between the Minister and any person affected by the exercise by the Minister of any of his powers under the said section, the question shall be determined by the Railway and Canal Commission having regard to all the circumstances of the case :

Provided that—

- (i) no claim in respect of any loss alleged to be due to any direction issued by the Minister shall be entertained if the direction was issued with the concurrence of the owners of the undertaking; and
- (ii) if, whilst an undertaking of which or of any part or plant of which possession has been taken remains in the possession of the Government, the State is authorised by Parliament to acquire the undertaking, nothing in this subsection restricting claims for enhancement attributable to the exercise by the Minister of such powers as aforesaid to cases where the value of the undertaking has been enhanced as compared with the value thereof at the commencement of

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the period of possession shall be held to affect, one way or the other, any question as to the principle on which the price to be paid on such acquisition is to be based.

- (2) Without prejudice to any other form of payment or satisfaction, the Treasury, on the recommendation of the Minister, may, as or as part of the consideration for exercising any powers of control under the said section, guarantee the payment of any dividends or interest on any stock or other securities issued by the owners of an undertaking up to such amount as may be agreed, or the payment of any working expenses of the undertaking, and any sums required to fulfil any such guarantee shall be paid out of moneys provided by Parliament.
- (3) Wherever the Minister has expended any sum in the capital improvement of any undertaking, the owners of the undertaking shall be liable to pay to the Minister the unexhausted value of such expenditure at the end of the before-mentioned period, if and so far as such expenditure is not covered by the payments to be made by the owners under the preceding provisions of this section, and that value shall, in default of agreement, be determined by the Railway and Canal Commission.
- (4) The owners of the undertaking may satisfy any payment due from them under this section by creating a charge in favour of the Treasury upon the undertaking to such amount and in such form and with such priority as may be agreed, or, in case of difference, may be settled by the Railway and Canal Commission, who shall have due regard to the rights and interests of all parties concerned, but the charge so created shall in no case take priority to any capital raised by loan or debenture stock issued by the owners of the undertaking.
- (5) Any claim by a railway company against the Government for compensation in respect of the exercise by the Board of Trade of any powers over or in respect of the undertaking in pursuance of section sixteen of the Regulation of the Forces Act, 1871, or with the consent of the railway company, or otherwise, may be determined by the Railway and Canal Commission in like manner as if it were a claim arising under this section, and the Minister was the person liable to satisfy the claim.
- (6) The Minister shall indemnify, and keep indemnified, the owners of any undertaking of which or of any part of which, or of any plant of which possession has been retained or taken, and the owners of any harbour, dock or pier undertaking, against all actions, claims, and demands made in respect of loss or injury alleged to be caused by the carrying out of any directions given by the Minister under section three of this Act, or, as the case may be, any requirements contained in any order made by the Minister under section four of this Act:

Provided that, where the loss or injury is due to the breach of any contractual obligation, the Minister shall not be liable under this provision unless before carrying out the directions the owners of the undertaking have given written notice to the Minister of the existence of the obligation.