THE

PUBLIC GENERAL STATUTES

12 & 13 GEO. 6

CHAPTER 11

An Act to abolish the Railway and Canal Commission and make provision for the future exercise and performance of their functions; to amend and repeal certain enactments relating to their functions; and for purposes connected with the matters aforesaid.

[9th March 1949.]

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:—

Abolition of Railway and Canal Commission and general provisions as to transfer of their functions.

1.—(1) The Railway and Canal Commission (in this Act referred to as "the Commission") shall cease to exist, and the functions which immediately before the commencement of this Act were functions of the Commission shall—

(*a*) so far as they extend to England and Wales, be exercised and performed by the High Court; and

(*b*) so far as they extend to Scotland, be exercised or performed by the Court of Session;

and any reference to the Commission in any enactment relating to the functions aforesaid shall, in relation to those functions, be construed as references to the aforesaid courts:

Provided that this section shall not apply to functions of the Commission as respects which provision is made by any of the following sections of this Act.

(2) For the purposes of this section, the expression "enactment" includes any regulation, order or other instrument made under an Act of Parliament.

Functions of Commission under the Telegraph Acts.

2.—(1) For section four of the Telegraph Act, 1878, (which provides for the determination of differences relating to telegraphs on streets and public roads by a stipendiary magistrate or county court judge in England or Wales or Northern Ireland,

or by the sheriff in Scotland, subject to a right of appeal to the Commission) there shall be substituted the following section:—

"Differences generally to be determined by a county court or the sheriff, subject to appeal to High Court or Court of Session.

4. Where—

(*a*) any difference arises under this Act or the Telegraph Act, 1863, between the Postmaster General and any body or person having any power, jurisdiction or control over or relating to a street or public road, or having power under the last mentioned Act to give or withhold a consent to the placing of telegraphs and posts in, under, upon, along, over or across a street or public road; or

(*b*) any other difference arises under this Act, except a difference between the Postmaster General and any body or person having any right, power, jurisdiction or authority in, over, or relating to any estuary or branch of the sea or the shore or bed of any tidal water;

the difference shall be determined by a county court:

Provided that an appeal shall lie to the High Court from any determination under this section of a county court and any such appeal shall be by way of re-hearing before a single judge who shall be designated from time to time by the Lord Chief Justice.

(2) In the application of this section to Scotland, for references to the county court there shall be substituted references to the sheriff, for the reference to the High Court there shall be substituted a reference to the Court of Session, and for the reference to the Lord Chief Justice there shall be substituted a reference to the Lord President of the Court of Session.

(3) In the application of this section to Northern Ireland, for the first reference to a county court there shall be substituted a reference to the county court having jurisdiction within the district in which the difference has arisen; for the reference to the Lord Chief Justice there shall be substituted a reference to the Lord Chief Justice of Northern Ireland; and as respects any appeals to the High Court, provision may be made by rules of the Supreme Court under section sixty-one of the Supreme Court of Judicature Act (Ireland), 1877, as amended by the Supreme Court of Judicature

40 & 41 Vict. c. 57.

60 & 61 Vict. c. 66.

(Ireland) (No. 2) Act, 1897, for regulating the time within which appeals to the High Court may be made and the procedure and costs of such appeals."

(2) Section five of the Telegraph Act, 1878, except so far as it relates to differences between the Postmaster General and any body or person having any right, power, jurisdiction, or authority in, over or relating to any estuary, branch of the sea, or the shore or bed of any tidal water, shall cease to have effect, and accordingly shall be repealed to the extent specified in the third column of the Schedule to this Act.

(3) Any difference arising under the Telegraph (Construction) Act, 1911, shall be determined in the manner specified in section four of the Telegraph Act, 1878, as amended by this section. 1 & 2 Geo. 5. c. 39.

(4) Any reference in any other enactment to section four or section five of the Telegraph Act, 1878, shall be construed as a reference to that section as amended by this section.

(5) Section one of the Telegraph (Arbitration) Act, 1909 (which provides for the referring to the Commission of differences arising under the Telegraph Acts, 1863 to 1908) shall have effect as if references to the Commission were construed, as respects England and Wales and Northern Ireland, as references to the High Court and, as respects Scotland, as references to the Court of Session. 9 Edw. 7. c. 20.

Determination of questions under Defence of the Realm (Acquisition of Land) Act, 1916.

3.—(1) Any question arising under the Defence of the Realm (Acquisition of Land) Act, 1916, as to the compensation payable in respect of the use of land under section four of that Act shall be determined by an official arbitrator appointed under the Acquisition of Land (Assessment of Compensation) Act, 1919, such arbitrator to be selected in accordance with rules made by the Reference Committee under section one of the last mentioned Act; and section three, subsections (4) to (8) of section five, and section six of the last mentioned Act shall apply to proceedings for the determination of any such question, subject to the modification that for references to the acquiring authority there shall be substituted references to the authority from whom the compensation is claimed; and section eight of the said Act of 1916 (which provides for the determination of such questions by the Commission) shall cease to have effect. 6 & 7 Geo. 5. c. 63. 9 & 10 Geo. 5. c. 57.

(2) In the application of this section to Scotland, "arbitrator" means "arbiter" and, in the application of this section to Northern Ireland, for the reference to the Reference Committee there shall be substituted a reference to the Reference Committee for Northern Ireland and for the reference to the Acquisition of Land (Assessment of Compensation) Act, 1919, there shall be substituted a reference to that Act as amended by any Act of the Parliament of Northern Ireland.

Transfer of jurisdiction under certain enactments from Commission to Transport Tribunal for Northern Ireland.

10 & 11 Geo. 6. c. 49.

4.—(1) The jurisdiction of the Commission as respects Northern Ireland under any of the enactments set out in Part I of the Eleventh Schedule to the Transport Act, 1947, shall, so far as the said jurisdiction relates to matters with respect to which the Parliament of Northern Ireland has not power to make laws, be transferred to the Transport Tribunal for Northern Ireland established under the Transport Act, (Northern Ireland) 1948, and any reference in any enactment to the Commission shall, in relation to the jurisdiction transferred to the said Tribunal by this section, be construed as a reference to that Tribunal:

(2) The said Transport Tribunal for Northern Ireland shall, for the purpose of the exercise of the jurisdiction transferred to them by this section, have the like power to make general rules with respect to their practice and procedure and other matters as they have for the purpose of the exercise of their functions under the Transport Act (Northern Ireland), 1948.

Repeal of s. 1 of Metropolis Water Act, 1897.

60 & 61 Vict. c. 56.

2 Edw. 7. c. 41.

5. Section one of the Metropolis Water Act, 1897 (which, as amended by the Metropolis Water Act, 1902, enables water consumers and local authorities to take proceedings before the Commission against the Metropolitan Water Board in respect of any failure by the Board to perform their statutory duties) shall cease to have effect.

Supplementary provisions.

6.—(1) Any proceedings pending before the Commission immediately before the commencement of this Act shall be continued before the court or person before whom they would have had to have been commenced if this Act had been in force at the time at which they were commenced, and that court or person may give any necessary directions as to the manner in which any such proceedings are to be continued as aforesaid.

(2) Any proceedings pending before a police or stipendiary magistrate under section four of the Telegraph Act, 1878, immediately before the commencement of this Act shall be continued in England and Wales before a county court and in Northern Ireland before the county court having jurisdiction within the district within which the difference has arisen, and any such court may give any necessary directions as to the manner in which they are to be so continued; and, where a difference has been determined under that section before the commencement of this Act and has not been referred to the Commission and the time for so referring it has not expired, an appeal shall lie from that determination in like manner as if it had been made under the section substituted by this Act for the said section four.

(3) The records of the Commission and any other documents in the custody of the registrar of the Commission in his capacity

as such shall be dealt with in such manner as the Master of the Rolls may direct:

Provided that no such direction shall be made in the case of any document that relates to the jurisdiction of the Commission as respects Scotland except after consultation with the Keeper of the Records of Scotland or, in the case of any document that relates to the jurisdiction of the Commission as respects Northern Ireland, except after consultation with the Secretary of State.

Pensions for persons suffering loss of employment.

7. The Lord Chancellor may pay, out of moneys provided by Parliament, to or in respect of any person who suffers loss of employment in consequence of the abolition of the Commission and as to whom the Lord Chancellor, with the approval of the Treasury, determines that such provision should be made, such pension as he may so determine.

Short title, commencement and repeal.

8.—(1) This Act may be cited as the Railway and Canal Commission (Abolition) Act, 1949, and shall come into force on such day as His Majesty may by Order in Council appoint.

(2) The enactments mentioned in the Schedule to this Act are hereby repealed to the extent specified in the third column of that Schedule and any other enactment in so far as it applies any enactment so repealed shall cease to have effect.

SCHEDULE

Section 8.

ENACTMENTS REPEALED

Session and Chapter	Short Title	Extent of repeal
17 & 18 Vict. c. 31.	Railway and Canal Traffic Act, 1854.	In section three, from the words "and for that purpose" to the words "on the matter of such complaint"; the words, except so far as they extend to Northern Ireland, from "and in case of disobedience" to the words "Court of Session"; and the words from "and in any such proceeding" to the end of the section.
36 & 37 Vict. c. 48.	Regulation of Railways Act, 1873.	Section five; in section six, except so far as it extends to Northern Ireland, the words "except for the purpose of enforcing any decision or order of the Commissioners"; section twenty-six, except as aforesaid; section twenty-seven and sections thirty to thirty-two.

Session and Chapter	Short Title	Extent of repeal
41 & 42 Vict. c. 76.	Telegraph Act, 1878.	In section five, the words from the beginning of the section to "under this Act; and"; and the words from "In the event" to the end of the section.
51 & 52 Vict. c. 25.	Railway and Canal Traffic Act, 1888.	Sections two to five; in section twelve from the words "The Commissioners may ascertain" to the end of the section; sections seventeen and eighteen, except so far as they extend to Northern Ireland; sections nineteen to twenty-two, fifty and fifty-one.
52 & 53 Vict. c. 57.	Regulation of Railways Act, 1889.	In section two, the words from "and thereupon" to the end of the section.
56 & 57 Vict. c. 29.	Railway Regulation Act, 1893.	Subsection (5) of section one.
56 & 57 Vict. c. 38.	Conveyance of Mails Act, 1893.	Section four.
57 & 58 Vict. c. 54.	Railway and Canal Traffic Act, 1894.	Section two.
60 & 61 Vict. c. 56.	Metropolis Water Act, 1897.	Section one and section four.
63 & 64 Vict. c. 27.	Railway Employment (Prevention of Accidents) Act, 1900.	Section twelve.
4 Edw. 7. c. 19.	Railways (Private Sidings) Act, 1904.	Section three.
8 Edw. 7. c. 33.	Telegraph (Construction) Act, 1908.	Section six.
9 Edw. 7. c. 20.	Telegraph (Arbitration) Act, 1909.	Section two.
1 & 2 Geo. 5. c. 39.	Telegraph (Construction) Act, 1911.	Section three.
6 & 7 Geo. 5. c. 40.	Telegraph (Construction) Act, 1916.	In section three, the words "and section six"; and the words "and the determination of differences".
6 & 7 Geo. 5. c. 63.	Defence of the Realm (Acquisition of Land) Act, 1916.	Section eight.
9 & 10 Geo. 5. c. 100.	Electricity (Supply) Act, 1919.	In sub-paragraph (i) of paragraph (*c*) of subsection (2) of section twenty-two, the words "after an enquiry" and the words from "and any such enquiry" to the end of the sub-paragraph.
13 & 14 Geo. 5. c. 20.	Mines (Working Facilities and Support) Act, 1923.	Subsection (1) of section ten.

Session and Chapter	Short Title	Extent of repeal
15 & 16 Geo. 5. c. 91.	Mines (Working Facilities and Support) Act, 1925.	In section one, subsection (2) and in subsection (3) from the words " the Court of Session " to the words " 1925, and ".
16 & 17 Geo. 5. c. 28.	Mining Industry Act, 1926.	In section twenty-four, subsection (1) and in subsection (3) the reference to subsection (2) of section one of the Mines (Working Facilities and Support) Act, 1925, and the words from " but, subject to those provisions " to the end of the section.
19 & 20 Geo. 5. c. xvii.	Doncaster Area Drainage Act, 1929.	Subsection (3) of section eleven (except proviso (*a*)).

CHAPTER 12

An Act to amend the Pensions Appeal Tribunals Act, 1943. [9th March 1949.]

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 :—

Extension of Act to claims arising otherwise than out of war service. 6 & 7 Geo. 6. c. 39.

1.—(1) For the words " war service " wherever those words occur in section one of the Pensions Appeal Tribunals Act, 1943, as in force at the date of the passing of this Act, there shall be substituted the words " any relevant service ", and for the definition in section twelve of that Act of the expression " war service " there shall be substituted the following definition—

" ' relevant service ' in relation to any claim made under any such Royal Warrant, Order in Council or Order of His Majesty as is referred to in section one of this Act means any service which, under that Royal Warrant, Order in Council or Order, is relevant for the purposes of that claim."

(2) No appeal shall lie under the said section one from the rejection of a claim in connection with service before the third day of September, nineteen hundred and thirty-nine, and references in that Act to the claims referred to in the said section one shall not be deemed to include references to any such claim.