SUPPLIED FOR THE PUBLIC SERVICE



CHAPTER 8.

An Act to provide for the transfer, to a tribunal to be established for that purpose, of jurisdiction to determine appeals and references which under section thirty-two of the War Damage Act, 1943, may be made to a referee; and for purposes connected therewith.

[10th December 1945.]

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:—

Transfer of jurisdiction on appeal or reference to a referee under s. 32 of 6 & 7 Geo. 6. c. 21. 10 Edw. 7 and 1 Geo. 5. c. 8.

1. Any appeal from a determination of the War Damage Commission, or reference for the determination of a question, which apart from this Act would lie or could be made under section thirty-two of the War Damage Act, 1943, to one of the panel of referees appointed under Part I of the Finance (1909–10) Act, 1910, shall lie or be made instead to a tribunal consisting of a member or members of the panel constituted under Part I of the Schedule to this Act, being a member or members selected in accordance with the provisions of Part II of that Schedule; and the provisions of Parts III and IV respectively of that Schedule shall have effect in relation to appeals and references to a tribunal under this Act, and to pending appeals and references to one of the said panel of referees.

Short title and extent.

2.—(1) This Act may be cited as the War Damage (Valuation Appeals) Act, 1945.

(2) This Act shall not extend to Scotland.

(3) In the application of this Act to Northern Ireland, the reference to the Finance (1909–10) Act, 1910, shall be construed as a reference to that Act as it applies to Northern Ireland.

SCHEDULE.

PART I.

Constitution of Panel.

1. For the purposes of this Act there shall be constituted a panel consisting of a President and such number of other members as the Lord Chancellor may determine, to be appointed by the Lord Chancellor.

2. The President shall be a barrister-at-law of at least seven years' standing, and of the other members of the panel such number as the Lord Chancellor may determine shall be barristers-at-law of at least seven years' standing and the others shall be persons who have had experience in the valuation of land appointed after consultation with the president of the Chartered Surveyors Institution.

In this paragraph the references to a barrister-at-law shall be construed as references to one who is a member of the bar either of England or of Northern Ireland, whether or not he is a member of the bar of the other country also.

24 & 25 Geo. 5. c. 53.

3. For the purposes of paragraph (*c*) of section six of the County Courts Act, 1934 (which provides that a judge of county courts shall not, so long as he holds office as such, act as arbitrator or referee for any remuneration to himself), a judge of county courts appointed to be the President or a member of the panel shall not, by virtue of his being appointed or acting as such or in any other capacity under this Schedule and receiving remuneration thereunder, be deemed to act as mentioned in that paragraph.

4. In the case of temporary absence or inability to act of the President, the Lord Chancellor may appoint another member of the panel to act as deputy for the President, and a member so appointed shall, when so acting, have all the functions of the President.

5. The appointment of a member of the panel shall be for such term as may be determined by the Lord Chancellor, with the approval of the Treasury, before his appointment, and shall be subject to such conditions as may be so determined, and a person who ceases to hold office as a member of the panel shall be eligible for re-appointment thereto.

6. There shall be paid to the members of the panel such remuneration (if any), and such travelling and subsistence allowances, as the Lord Chancellor may, with the approval of the Treasury, determine.

7. The Lord Chancellor may appoint such officers and servants of the panel as he may, with the approval of the Treasury as to numbers and remuneration, determine.

8. The remuneration and allowances of members of the panel, the remuneration of officers and servants appointed as aforesaid, and such other expenses of the panel as the Treasury may determine, shall be defrayed out of moneys provided by Parliament.

PART II.

Constitution of Tribunals.

9. The member or members of the panel who is or are to be the tribunal for the purposes of any appeal or reference shall be selected as follows, that is to say,—

(*a*) the President may select a member or members to be the tribunal for a particular appeal or reference or for each of a group of appeals or references; or

(*b*) the President may select as respects a group of appeals or references members from amongst whom the tribunal for any appeal or reference in the group is to be selected, and in that case the tribunal for any appeal or reference in the group shall be such one or more of those members as is or are selected either by the President or, if he so directs, by one of those members appointed by the President to be their chairman.

10. Where the tribunal for any appeal or reference consists of two or more members of the panel—

(*a*) if the President is one of them he shall preside at the hearing, and, if he is not, one of them shall be nominated to preside at the hearing by the person by whom the members of whom the tribunal consists were selected;

(*b*) a decision of the tribunal shall be taken, in case of difference between the members of whom the tribunal consists, by the votes of the majority, and, in the case of an equality of votes, the person presiding at the hearing shall be entitled to a second or casting vote.

PART III.

Provisions as to appeals and references to a Tribunal.

11. The decision of the tribunal on an appeal or reference shall, subject as hereinafter provided, be final:

Provided that immediately after the determination by the tribunal of the appeal or reference, any party thereto, if dissatisfied with the determination as being erroneous in point of law, may declare his dissatisfaction to the tribunal and, having done so, may within such time as may be limited by rules of court, require the tribunal to state and sign a case for the opinion thereon of the High Court, or, where the party making the requirement so elects and the determination of the tribunal is on an appeal as to a value which has been determined by the War Damage Commission not to exceed five hundred pounds, or on a reference in relation to a value payment of an amount not exceeding that amount or in relation to a rentcharge of an amount not exceeding twenty-five pounds per annum, of the county court.

12. The Lord Chancellor shall make rules for regulating, subject to the provisions of this Schedule, appeals and references to a tribunal under this Act, and such rules shall in particular make provision—

(*a*) as to the time within which, and the manner in which, any such appeal or reference is to be made;

(*b*) for limiting the number of expert witnesses who may be heard at the instance of any party to one, except where the tribunal otherwise determines;

(*c*) for securing that, on an appeal or reference as to either of two amounts the difference between which it is material for any of the purposes of the War Damage Act, 1943, to ascertain, the tribunal shall determine the other of those amounts also; and

(*d*) as to the form in which any decision of the tribunal is to be given, and as to the amendment of any such decision in pursuance of any directions which, on appeal to any court, may be given by that court.

13.—(1) The tribunal may order that the costs of an appeal or reference incurred by any party shall be paid by any other party, and may tax or settle the amount of any costs to be paid under any such order or direct in what manner they are to be taxed, and any such order may be enforced as if it were an award on a submission within the meaning of the Arbitration Acts, 1889 to 1934.

(2) In its application to Northern Ireland this paragraph shall have effect with the substitution, for the words "submission within the meaning of the Arbitration Acts, 1889 to 1934", of the words "reference under an arbitration agreement within the meaning of the Arbitration Act (Northern Ireland), 1937".

14. The War Damage Commission shall be entitled to appear and be heard on any appeal to a tribunal under this Act.

PART IV.

Transitional provisions as to pending appeals and references to a referee.

15. This Act shall not apply to such an appeal or reference as is mentioned in section one of this Act if before the commencement of this Act the appeal or reference has been made to one of the panel of referees therein mentioned and at the commencement thereof the hearing of the appeal or reference has been begun.

16. The rules to be made under paragraph 12 of this Schedule shall provide for securing, so far as appears to the Lord Chancellor to be practicable, that, where such an appeal or reference has been made to one of the said panel of referees before the commencement of this Act but the hearing of the appeal or reference has not been begun at the commencement thereof, things done for the purposes of the appeal or reference to the referee shall be treated as if they had been done for the purposes of an appeal or reference to a tribunal under this Act.

Printed by Sir NORMAN GIBB SCORGIE, C.V.O., C.B.E.,
Controller of His Majesty's Stationery Office
and
King's Printer of Acts of Parliament

To be purchased directly from H.M. STATIONERY OFFICE at the following addresses:
York House, Kingsway, London, W.C.2; 13a Castle Street, Edinburgh 2;
39-41 King Street, Manchester 2; 1 St. Andrew's Crescent, Cardiff;
80 Chichester Street, Belfast;
or through any bookseller

Price 1*d.* net

(P. 3823)