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CHAPTER 49.

An Act to provide for the establishment of a British Transport Commission concerned with transport and certain other related matters, to specify their powers and duties, to provide for the transfer to them of undertakings, parts of undertakings, property, rights, obligations and liabilities, to amend the law relating to transport, inland waterways, harbours and port facilities, to make certain consequential provision as to income tax, to make provision as to pensions and gratuities in the case of certain persons who become officers of the Minister of Transport, and for purposes connected with the matters aforesaid. [6th August 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:—

PART I.

THE BRITISH TRANSPORT COMMISSION.

The Commission.

1.—(1) For the purposes of this Act, there shall be a public authority to be called the British Transport Commission (in this Act referred to as " the Commission ").

(2) The Commission shall consist of a chairman and not less than four nor more than eight other members, all of whom shall be appointed by the Minister from among persons appearing to him to be persons who have had wide experience and shown capacity in transport, industrial, commercial or financial matters, in administration, or in the organisation of workers, and of whom the Chairman and not less than four other members shall be required to render whole-time service to the Commission.

PART I. —*cont.*

(3) Every member of the Commission shall hold and vacate his office in accordance with the terms of his appointment and shall, on ceasing to be a member, be eligible for re-appointment:

Provided that any member may at any time by notice in writing to the Minister resign his office.

(4) A person shall be disqualified for being appointed or being a member of the Commission so long as he is a member of the Commons House of Parliament.

(5) Before appointing a person to be a member of the Commission, the Minister shall satisfy himself that that person will have no such financial or other interest as is likely to affect prejudicially the discharge by him of his functions as a member of the Commission and the Minister shall also satisfy himself from time to time with respect to every member of the Commission that he has no such interest; and any person who is, or whom the Minister proposes to appoint to be, a member of the Commission shall, whenever requested by the Minister so to do, furnish to him such information as the Minister considers necessary for the performance by the Minister of his duties under this subsection.

(6) A member of the Commission who is in any way directly or indirectly interested in a contract made or proposed to be made by the Commission shall disclose the nature of his interest at a meeting of the Commission; and the disclosure shall be recorded in the minutes of the Commission, and the member shall not take any part in any deliberation or decision of the Commission with respect to that contract.

(7) The Commission—

(*a*) shall pay to the members thereof such salaries or fees, and such allowances, as the Minister may, with the approval of the Treasury, determine; and

(*b*) on the retirement or death of any of the members as to whom the Minister may, with the approval of the Treasury, determine that such provision should be made, shall pay to or in respect of them such pensions as he may so determine.

(8) The Minister shall, as soon as may be after the first appointment of any person as a member of the Commission, lay before each House of Parliament a statement of the salary or fees and of the allowances which the Commission are required to pay to that person under the last preceding subsection.

(9) The provisions of the First Schedule to this Act shall have effect with respect to the Commission.

PART I. —*cont.*

Powers of Commission.

2.—(1) Subject to the provisions of this Act, the Commission shall have power—

(*a*) to carry goods and passengers by rail, road and inland waterway, within Great Britain;

(*b*) to provide, within Great Britain, port facilities and facilities for traffic by inland waterway;

(*c*) to store goods within Great Britain, whether or not those goods have been or are to be carried by the Commission, so, however, that facilities for the storage of goods which have not been or are not to be carried by the Commission shall not be provided by the Commission except on premises where such facilities are provided for the storage of goods carried or to be carried by them;

(*d*) to consign goods on behalf of other persons from any place in Great Britain, or from any place to which the Commission have themselves carried the goods in question, to any other place, whether in Great Britain or elsewhere;

(*e*) in places within Great Britain where their passengers may require them, to provide both for their passengers and for other persons hotels, hostels, other living accommodation and places for refreshment; and

(*f*) to provide in Great Britain such other amenities and facilities for passengers and other persons making use of the services provided by them as it may appear to them requisite or expedient to provide:

Provided that the Commission shall not have power to carry passengers by road in a hackney carriage adapted to carry less than eight passengers and used in plying or standing for hire in a street.

(2) Subject to the provisions of this Act, the powers conferred by subsection (1) of this section include power—

(*a*) to construct, manufacture, purchase, maintain and repair anything required for the purpose of any of the activities of the Commission specified in that subsection;

(*b*) to do anything for the purpose of advancing the skill of persons employed by the Commission or the efficiency of the equipment of the Commission or of the manner in which that equipment is operated, including the provision by the Commission, and the assistance of the provision by others, of facilities for training, education and research;

(*c*) to buy land, or take land on lease or under any form of tenancy;

PART I. —*cont.*

(*d*) to provide houses hostels and other like accommodation for persons employed by the Commission;

(*e*) to do all other things which in the opinion of the Commission are necessary to facilitate the proper carrying on of the business of the Commission;

(*f*) to acquire by agreement (whether absolutely or for any period) the whole or any part of any undertaking of any other person, being an undertaking, or a part of an undertaking, the activities whereof are wholly or mainly such activities as are specified in the said subsection (1);

(*g*) to enter into and carry out agreements with any person for the carrying on by that person, whether as agent for the Commission or otherwise, of any of the activities specified in the said subsection (1), or for the provision by that person, whether as agent for the Commission or otherwise, of clearing house facilities in connection with the transport of goods;

(*h*) to enter into and carry out agreements with any person carrying on business as a carrier of passengers or goods outside Great Britain providing for the carriage of passengers or goods by or on behalf of the Commission and that other person under one contract or at a through charge or in the same vehicles or containers, whether belonging to the Commission or not;

(*i*) to lend money to, or give guarantees for the benefit of, any person carrying on or about to carry on any of the activities specified in the said subsection (1), to lend money to, or give guarantees for the benefit of, any body corporate which directly or indirectly controls another body corporate which is carrying on or about to carry on any such activities, and to acquire by agreement any securities of any body corporate which is carrying on or about to carry on or which directly or indirectly controls another body corporate which is carrying on or about to carry on any such activities;

(*j*) to make housing loans to persons employed by the Commission to assist them to acquire housing accommodation:

Provided that—

(i) the Commission shall not by virtue of this subsection engage in the building of ships, except lighters, barges or like vessels of a gross tonnage not exceeding one hundred and seventy-five tons;

PART I. *cont.*—

(ii) the Commission shall not, by virtue of this subsection, construct or manufacture anything required for the purposes of any such activities of the Commission as are specified in paragraphs (*e*) and (*f*) of subsection (1) of this section unless either the construction or manufacture is such as would normally be carried on by persons carrying on a business the principal objects of which were restricted to the activities in question or the construction or manufacture of similar things is carried on by the Commission in connection with any such activities as are specified in paragraphs (*a*), (*b*), (*c*) or (*d*) of the said subsection (1);

(iii) the Commission shall not, by virtue of this subsection, construct, manufacture, or otherwise produce anything which is not required for use for the purposes of their undertaking.

(3) Where, whether by agreement or otherwise, the Commission acquire the whole or any part of any undertaking of any other person, they may, subject to the provisions of this Act, carry on any activities, whether mentioned in subsection (1) of this section or not, which were theretofore carried on for the purposes of that undertaking or part of an undertaking or were authorised by any statutory provision to be carried on for the purposes thereof:

Provided that, notwithstanding anything in this subsection or in any subsequent provision of this Act, or in any scheme, order or regulations made under any such provision, the Commission shall not construct, manufacture or otherwise produce anything which is not required either for use for the purposes of their undertaking or for the fulfilment of a contract made, before the acquisition by the Commission of the undertaking or part of an undertaking, by the person theretofore carrying it on.

(4) Notwithstanding anything in the two last preceding subsections or in any subsequent provision of this Act, or in any scheme, order or regulation made under any such provision, the Commission—

(*a*) shall not manufacture in any one financial year of the Commission, otherwise than for purposes of experiment or research, chassis for road vehicles substantially in excess of the total of the number manufactured in a year, in the course of carrying on all undertakings or parts of undertakings acquired by the Commission before the end of the financial year in question, by the persons theretofore carrying them on, such total being arrived at by taking,

PART I. —*cont.*

in the case of each undertaking or part of an undertaking, the highest number manufactured in any one financial year of that undertaking out of the last three such years completed before the date of the acquisition of the undertaking or part of an undertaking by the Commission;

(*b*) shall not manufacture in any one financial year of the Commission, otherwise than for purposes of experiment or research, bodies for road vehicles in numbers exceeding—

(i) in the case of bodies for passenger vehicles, one fifth of the total number of such bodies estimated to be required to be manufactured for use for the purposes of the Commission's undertaking during that year, with the addition of the number of omnibus bodies authorised to be manufactured under section twenty-one of the London Passenger Transport Act, 1933; or

23 & 24 Geo 5. c. 14

(ii) in the case of bodies for other vehicles, one quarter of the total number of such bodies estimated to be required as aforesaid;

(*c*) shall not manufacture, otherwise than for the purposes of experiment or research, major components which are not required either—

(i) for a chassis to be manufactured by the Commission; or

(ii) as replacements in chassis which have been manufactured either by the Commission or by the person theretofore carrying on an undertaking or part of an undertaking acquired by the Commission;

(*d*) shall not purchase any road vehicle for the purpose of sale to another person;

(*e*) shall not trade in spare parts for or accessories to road vehicles, or in petrol or oil for road vehicles, except by way of carrying on any activities mentioned in the last preceding subsection which consist of such trading, and shall cease to carry on any such activities not later than on the expiration of three years from the date of the acquisition by the Commission of the undertaking or part of an undertaking concerned; and

(*f*) shall not engage in the maintenance or repair of road vehicles or spare parts for or accessories to road vehicles (other than vehicles, spare parts or accessories used by the Commission for the purposes of their undertaking), except by way of carrying on any

PART I —*cont.*

activities mentioned in the last preceding subsection which consist of such maintenance or repair, and shall cease to carry on any such activities not later than on the expiration of three years from the date of the acquisition by the Commission of the undertaking or part of an undertaking concerned:

Provided that, where any rights or liabilities under a contract made, before the date of the acquisition by the Commission of an undertaking or part of an undertaking, by the person theretofore carrying it on become, by virtue of the acquisition, rights or liabilities of the Commission—

(i) any chassis or body for a road vehicle manufactured by the Commission in pursuance of the contract shall be left out of account for the purposes of paragraph (*a*) or paragraph (*b*) of this subsection; and

(ii) nothing in paragraphs (*c*), (*d*), (*e*) or (*f*) of this subsection shall have effect so as to prevent the fulfilment of that contract by the Commission.

(5) For the purposes of the last preceding subsection—

" body," in relation to a vehicle in which the framework to which the major components are attached forms an integral whole with the body-structure, includes that framework;

" chassis " means—

(*a*) in relation to a vehicle in which the framework to which the major components are attached is distinct from the body-structure, that framework together with the complement of major components required in order to construct a road vehicle on that framework; or

(*b*) in relation to a vehicle in which the framework to which the major components are attached forms an integral whole with the body-structure, the complement of major components required in order to complete that body-structure, when new, as a road vehicle;

" major component " means the complete power unit, complete transmission system, complete suspension system, complete steering gear, complete braking system or complete axle of a vehicle;

" manufacture," in relation to the body of a road vehicle and in relation to the chassis of a road vehicle where the framework to which the major components are attached is distinct from the body-structure, includes the assembly of the parts of the body or, as the case

PART I. —*cont.*

may be, of the parts of the chassis, for the purpose of constructing a new body or, as the case may be, a new chassis.

(6) For the purposes of subsection (4) and of the provisos to subsections (2) and (3) of this section, where a body corporate is directly or indirectly controlled by the Commission, anything done by that body shall be deemed to be done by the Commission and the undertaking of the body shall be deemed to form part of the undertaking of the Commission.

(7) The Commission may dispose, whether absolutely or for a term of years, of any part of their undertaking or any property which in their opinion is not required by them for the discharge of their duties under this Act, including, without prejudice to the generality of the preceding words, any part of their undertaking which is carried on outside Great Britain and any property situated outside Great Britain.

(8) For the avoidance of doubt, it is hereby declared that the preceding provisions of this section relate only to the capacity of the Commission as a statutory corporation, and nothing in the said provisions shall be construed as authorising the disregard by the Commission of any enactment or rule of law.

(9) The provisions of this section (except where they expressly refer to any subsequent provision of this Act) shall not be construed as limiting any power of the Commission conferred by or under any subsequent provision of this Act.

General duty of the Commission.

3.—(1) It shall be the general duty of the Commission so to exercise their powers under this Act as to provide, or secure or promote the provision of, an efficient, adequate, economical and properly integrated system of public inland transport and port facilities within Great Britain for passengers and goods with due regard to safety of operation; and for that purpose it shall be the duty of the Commission to take such steps as they consider necessary for extending and improving the transport and port facilities within Great Britain in such manner as to provide most efficiently and conveniently for the needs of the public, agriculture, commerce and industry:

Provided that the references in this subsection to transport do not include references to transport by air.

(2) Where the Commission are for the time being providing regular goods transport services of different kinds available between the same points, it shall be their duty to allow any person desiring transport for his goods between those points freedom to choose such of the services so provided as he considers most suitable to his needs:

PART I. —*cont.*

Provided that nothing in this subsection shall be construed as—

(*a*) imposing on the Commission any obligation as to the provision or continued provision (either at all or to any particular extent) of any, or of any particular form of, goods transport service between any particular points; or

(*b*) preventing the Commission from making charges which differ according to the requirements made as respects the kinds of goods transport services which are to be used.

(3) Where the Commission intend to discontinue permanently the provision of any regular goods transport service by road between any particular points, they shall, before discontinuing that service, give not less than one month's notice of their intention, in such manner as appears to them best suited for bringing that intention to the notice of the persons who, in the opinion of the Commission, are likely to be directly affected by the discontinuance.

(4) All the business carried on by the Commission, whether or not arising from undertakings or parts of undertakings vested in them by or under any provision of this Act, shall form one undertaking, and the Commission shall so conduct that undertaking and, subject to the provisions of this Act, levy such fares, rates, tolls, dues and other charges, as to secure that the revenue of the Commission is not less than sufficient for making provision for the meeting of charges properly chargeable to revenue, taking one year with another.

(5) Nothing in this section shall be construed as imposing on the Commission, either directly or indirectly, any form of duty or liability enforceable by proceedings before any court or tribunal to which they would not otherwise be subject.

Powers of the Minister in relation to the Commission.

4.—(1) The Minister may, after consultation with the Commission, give to the Commission directions of a general character as to the exercise and performance by the Commission of their functions in relation to matters which appear to him to affect the national interest, and the Commission shall give effect to any such directions.

(2) In framing programmes of reorganisation or development involving substantial outlay on capital account, the Commission shall act on lines settled from time to time with the approval of the Minister.

(3) In the exercise and performance of their functions as to training, education and research, the Commission shall act on lines settled as aforesaid.

PART I. —*cont.*

(4) The Commission shall not, without the consent of the Minister, acquire by agreement (whether absolutely or for any period) the whole or any part of any undertaking if the activities of that undertaking or that part thereof, as the case may be, consist wholly or mainly in constructing, owning, operating or conserving any railway, harbour or inland waterway, or in operating tramcars or trolley vehicles.

(5) Without prejudice to the preceding provisions of this section, the Minister may, after consultation with the Commission, direct the Commission to discontinue any of their activities, dispose of any part of their undertaking, dispose of any securities held by them, call in any loan made by them or exercise any power they may possess to revoke any guarantee given by them, and the Commission shall give effect to any such directions:

Provided that the Minister shall not give any such direction unless he is satisfied that the carrying on of the activities or the retention of the part of the undertaking or the securities or the continuance of the loan or guarantee, as the case may be, is unnecessary for the proper discharge of the duties of the Commission under this Act.

(6) The Commission shall furnish the Minister with such returns, accounts and other information with respect to their property and activities as he may from time to time require.

(7) Without prejudice to the provisions of the last preceding subsection, the Commission shall, as soon as possible after the end of each financial year of the Commission, make to the Minister a report on the exercise and performance by them of their functions during that year and on their policy and programme, and the Minister shall lay a copy of every such report before each House of Parliament.

The report for any year shall set out any direction given by the Minister to the Commission during that year unless the Minister has notified to the Commission his opinion that it is against the interests of national security to do so and shall include a statement of the salaries or fees and of the emoluments of each of the members of the Commission during that year.

The Executives.

5.—(1) There shall be public authorities known as Executives to assist the Commission in the discharge of their functions in the manner specified in this section.

(2) The provisions of the Second Schedule to this Act shall have effect with respect to the membership of the Executives and otherwise in relation to them.

PART I. —*cont.*

(3) The number and names of the Executives shall be such as may from time to time be provided by order of the Minister after consultation with the Commission, but unless and until other provision is made by such an order there shall be Executives known respectively as the Railway Executive, the Docks and Inland Waterways Executive, the Road Transport Executive and the London Transport Executive and, as from the appointed day, an Executive known as the Hotels Executive.

(4) Each Executive shall, as agents for the Commission, exercise such functions of the Commission as are for the time being delegated to them by or under a scheme made by the Commission and approved by the Minister.

(5) Every scheme made and approved as aforesaid and every instrument issued thereunder effecting or revoking or varying any delegation of functions of the Commission shall be published in the London, Edinburgh and Belfast Gazettes:

Provided that the publication in the London, Edinburgh or Belfast Gazette of a notice stating that a scheme has been made and approved or that an instrument has been issued, and specifying the place where copies thereof may be purchased, shall be sufficient compliance with the provisions of this subsection as respects the publication of that scheme or instrument in that Gazette.

(6) Any delegation effected by or under such a scheme may be expressed by the scheme or by the relevant instrument issued thereunder to be subject to conditions and limitations, and, whether or not the relevant delegation is expressed to be subject to any conditions or limitations, every Executive shall, in the exercise of their functions, give effect to any directions which may from time to time be given to them by the Commission.

(7) Any such delegation may be so framed as to empower the Executive to perform any of the functions delegated to them through agents.

(8) No such delegation shall be so framed as to empower the Executive to borrow any money unless the borrowing is temporary, is for the purpose of carrying on the current business of the Executive and is authorised, either generally or specially, by the Commission.

(9) As respects matters for the time being falling within the scope of any such delegation, the following provisions shall have effect except as between the Executive and the Commission, that is to say—

(*a*) any rights, powers and liabilities of the Commission shall be treated as rights, powers and liabilities of the Executive, and the Executive only;

PART I. —*cont.*

(*b*) the Executive shall, to the exclusion of the Commission, be treated as the employer of any officers or servants of the Commission so long as they are by virtue of the delegation under the control of the Executive;

and references to the Commission in this Act or in any other statutory provision or in any contract or document shall be construed accordingly, and legal proceedings shall be brought by and against the Executive accordingly, to the exclusion of the Commission:

Provided that if any sum required by any judgment or order to be paid by an Executive is not paid by the Executive within fourteen days from the date on which execution becomes leviable to enforce the judgment or order, the Commission shall be liable to pay that sum and that judgment or order shall be enforceable against the Commission accordingly.

(10) In addition to the powers exercisable by an Executive by virtue of any such delegation, every Executive shall, except so far as the Commission may otherwise direct, have power, at the request of the Commission or of any other Executive, to do, as agent for the Commission or that other Executive, anything which the Commission or that other Executive have power to do.

(11) Where the effect of an order of the Minister under subsection (3) of this section is to abolish an Executive, or the effect of a scheme under subsection (4) of this section is that functions previously directly exercisable by the Commission are exercisable by an Executive or that functions previously exercisable by an Executive are exercisable by a different Executive or directly by the Commission, the order or scheme shall include such transitional provisions as to the parties by and against whom legal proceedings are to be instituted or continued, and such other transitional provisions, if any, as appear to the Minister, or to the Commission and the Minister, as the case may be, to be expedient.

Consultative Committees.

6.—(1) There shall be established in accordance with the provisions of this section a Central Transport Consultative Committee for Great Britain and, for such areas in Great Britain as are mentioned in subsection (3) of this section, either—

(*a*) a Transport Users Consultative Committee in respect of passenger traffic and a Transport Users Consultative Committee in respect of goods traffic; or

PART I. —*cont.*

(*b*) a Transport Users Consultative Committee in respect of both passenger and goods traffic.

(2) The Minister may at any time, after consultation with the Central Transport Consultative Committee, abolish any Transport Users Consultative Committee.

(3) The areas for which there are to be Transport Users Consultative Committees shall be such areas in Great Britain as the Minister may from time to time direct:

Provided that—

(*a*) there shall be no part of Great Britain which is not within the area of a Transport Users Consultative Committee; and

(*b*) whether or not there are a Transport Users Consultative Committee or Transport Users Consultative Committees for areas consisting of or including parts of Scotland and parts of Wales, there shall at all times be a Transport Users Consultative Committee in respect of both passenger and goods traffic for Scotland and a Transport Users Consultative Committee in respect of both passenger and goods traffic for Wales,

and the powers of the Minister under this and the last preceding subsection shall be exercised accordingly.

(4) Every such Committee as aforesaid shall consist of such number of persons appointed by the Minister as the Minister may from time to time determine, being—

(*a*) an independent chairman;

(*b*) members appointed, after consultation with such bodies representative of the interests concerned as the Minister thinks fit, to represent agriculture, commerce, industry, shipping, labour and local authorities; and

(*c*) members appointed from among persons nominated by the Commission:

Provided that—

(i) in the case of the Central Transport Consultative Committee, the persons nominated by the Commission shall include at least one member of the Commission;

(ii) members need not be appointed under paragraph (*b*) of this subsection to any Transport Users Consultative Committee to represent any of the interests

PART I. —*cont.*

mentioned in paragraph (*b*) of this subsection which in the opinion of the Minister need not be represented on that Committee; and

(iii) the Minister may, if he thinks fit, appoint to any such committee not more than two additional members.

(5) A person who is appointed a member of a Committee established under this section shall not by reason of his appointment be disqualified for being elected to, or for sitting or voting as a member of, the Commons House of Parliament.

(6) The members of any Committee established under this section shall hold and vacate their office in accordance with the terms of their respective appointments and shall, on ceasing to be members of the Committee, be eligible for re-appointment:

Provided that any member may at any time by notice in writing to the Minister resign his office.

(7) Every Committee appointed under this section shall consider and, where it appears to the Committee to be necessary, make recommendations in regard to any matter (including charges) affecting the services and facilities provided by the Commission which has been the subject of representations (other than representations which appear to the Committee to be frivolous) made to the Committee by users of those services or facilities, or which appears to be a matter to which consideration ought to be given, or which the Minister or Commission may refer to them for consideration; and every such Committee shall meet when convened by the chairman thereof, but in no case less frequently than twice a year, and, without prejudice to the discretion of the Chairman to call a meeting of the Committee whenever he thinks fit so to do, he shall call a meeting thereof when required so to do by any three members of the Committee.

(8) Minutes shall be kept of the proceedings of every such Committee and copies of the minutes and of the recommendations or conclusions of any such Committee shall—

(*a*) in the case of a Transport Users Consultative Committee, be sent to the Central Transport Consultative Committee and to the Commission;

(*b*) in the case of the Central Transport Consultative Committee, be sent to the Minister and to the Commission,

and where a copy of a recommendation of the Central Transport Consultative Committee is sent to the Minister, the Minister may give such directions to the Commission with respect to

PART I —*cont.*

the matters dealt with by the recommendation as he thinks fit, and the Commission shall give effect to any such directions.

(9) The Central Transport Consultative Committee shall make an annual report to the Minister, and the Minister shall lay a copy of that report before each House of Parliament.

(10) The Commission shall provide every such Committee with such officers and servants, and such office accommodation, as appear to the Commission to be requisite for the proper discharge of the Committee's functions or as may be directed by the Minister; and they may pay to the members of any such Committee allowances in respect of any loss of remunerative time in accordance with a scale approved by the Minister and the Treasury and such travelling allowances and such allowances in respect of their out-of-pocket expenses as the Commission may determine.

(11) The panels set up under section twenty-three of the Ministry of Transport Act, 1919, and the Transport Advisory Council set up under section forty-six of the Road and Rail Traffic Act, 1933, shall cease to exist.

9 & 10 Geo. 5. c. 50.
23 & 24 Geo. 5. c. 53.

Acquisition by Commission of undertakings by agreement.

7.—(1) Where the Commission have power under the preceding provisions of this Part of this Act to acquire an undertaking or part of an undertaking by agreement, the persons theretofore carrying on that undertaking may, notwithstanding anything to the contrary in any statutory provision or other instrument relating to their functions, make and carry out agreements with the Commission for the transfer to the Commission of the whole or any part of that undertaking.

(2) Where any such agreement is made, the Minister may make regulations for enabling the undertaking or part of an undertaking to be carried on by the Commission in lieu of the persons theretofore carrying it on, and any such regulations—

(*a*) may include provisions for transferring rights, powers, and liabilities to the Commission, and, where the said persons are a body corporate, for winding them up;

(*b*) may, to such extent as may be necessary for the purpose of enabling the undertaking or part of an undertaking to be carried on by the Commission in lieu of the said persons or for the purpose of enabling the said persons to be wound up, adapt, modify or repeal any statutory provision;

PART I. —*cont.*

(*c*) may, to such extent as may be necessary for the purpose of enabling the undertaking or part of an undertaking to be carried on by the Commission in lieu of the said persons, adapt or modify any contract or other instrument of or relating to the said persons or relating to the undertaking; and

(*d*) may make such transitional provision in connection with the transfer of the undertaking or part of an undertaking as the Minister may think necessary or expedient.

(3) Notwithstanding anything in subsection (2) of this section, where any statutory provision relating to the undertaking or the person theretofore carrying it on is expressed to be for the protection or for the benefit of a named person, the Minister shall not by any regulations made under the said subsection (2) repeal that statutory provision or so adapt or modify it as to lessen the protection or benefit afforded thereby unless the named person is a party to the agreement or consents to the making of the regulations, but the Minister may by order made without such consent do anything which he could do by regulations with such consent, and any such order shall be subject to special parliamentary procedure.

Compulsory purchase of land.

8. The Minister may authorise the Commission to purchase compulsorily any land which they require for any purpose connected with the discharge of their functions, and the Acquisition of Land (Authorisation Procedure) Act, 1946 (except section two thereof) shall apply as if the Commission were a local authority within the meaning of that Act and as if this Act had been in force immediately before the commencement of that Act.

9 & 10 Geo. 6. c. 49.

Power of Commission as to promoting and opposing Bills and orders.

9.—(1) The Commission may, with the consent of the Minister, promote Bills in Parliament and may oppose any Bill in Parliament.

(2) The power conferred by subsection (1) of this section shall be in lieu of any power to promote or oppose Bills which the Commission might otherwise possess under any of the provisions of this Act as successors to the persons carrying on any undertaking, but nothing in this section shall be construed as prejudicing any power exercisable by the Commission as such successors as aforesaid to apply for orders, and oppose applications for orders, including orders subject to special parliamentary procedure.

Commission not to be exempted from taxation, etc.

10. Nothing in this Act shall be deemed to exempt the Commission from liability for any tax, duty, rate, levy or other charge whatsoever, whether general or local.

Liability of Commission in actions, etc. 56 & 57 Vict. c. 61. 2 & 3 Geo. 6. c. 21.

11.—(1) The Public Authorities Protection Act, 1893, and section twenty-one of the Limitation Act, 1939, shall not apply to any action, prosecution or proceeding against the Commission or an Executive or for or in respect of any act, neglect or default done or committed by a servant or agent of the Commission or an Executive in his capacity as a servant or agent of theirs.

(2) In their application to any such action as aforesaid sections two and three of the Limitation Act, 1939 (which relate to the limitation of actions of contract and tort, and certain other actions) shall have effect with the substitution for references therein to six years of references to three years.

Part II.

Railways and Canals.

Acquisition of Railway and Canal Undertakings.

Vesting of undertakings.

12.—(1) Subject to the provisions of this Act, the whole of the undertakings of the bodies of persons specified in the Third Schedule to this Act, being the bodies who fall within the class described in the next succeeding section, shall, on the first day of January nineteen hundred and forty-eight (hereafter in this Part of this Act, and in the other provisions of this Act so far as they refer to the acquisition by the Commission of the said undertakings, referred to as " the date of transfer "), vest by virtue of this Act in the Commission.

(2) For the avoidance of doubt it is hereby declared that the transfer effected by this section extends to parts of the undertakings in question which are carried on outside Great Britain or are concerned with activities other than those specified in subsection (1) of section two of this Act, and the subsequent provisions of this Part of this Act shall be construed accordingly.

Bodies whose undertakings are to vest in Commission.

13.—(1) Subject to the provisions of subsection (2) of this section the class of bodies referred to in the last preceding section are the bodies which either—

(*a*) carry on any railway, canal or inland navigation undertaking the whole or any part of which is at the date of the passing of this Act under the control of the Minister by virtue of an order made under Regulation sixty-nine of the Defence (General) Regulations, 1939; or

(*b*) are the owners of any railway or canal forming, or forming part of, the subject matter of any such undertaking as aforesaid; or

PART II —*cont.*

(*c*) were at some time before the passing of this Act owners of any such railway or canal, and are, by virtue of some enactment, represented as respects that railway or canal by the body carrying on the corresponding undertaking, and do not themselves carry on any activity not connected with that railway or canal.

(2) Notwithstanding anything in subsection (1) of this section, the said class does not include any body which carries on a railway or canal undertaking or owns a railway or canal if the railways or canals which it owns or which are the subject matter of the undertaking or undertakings which it carries on are, taken as a whole, to a preponderant extent outside the United Kingdom or otherwise outside the scope of the Orders made under the said Regulation sixty-nine, so far as those Orders relate to the control of railway, canal or inland navigation undertakings, or any body which owns a railway or canal if the railways or canals which it owns are worked by another body and the annual sum payable under the working agreement is less than the total revenue of the first mentioned body derived from carrying on activities not connected with those railways or canals.

(3) It is hereby declared that the references in subsection (1) of this section to any canal or inland navigation undertaking the whole or any part of which is at the date of the passing of this Act under the control of the Minister by virtue of an order made under Regulation sixty-nine of the Defence (General) Regulations, 1939, do not include references to any undertaking which was under the control of the Minister by reason only that it was a canal carrier undertaking.

General effect of vesting of undertakings.

14.—(1) The provisions of this section shall, subject to the other provisions of this Act, have effect where, under the preceding provisions of this Part of this Act, the whole of the undertaking of any body is to vest in the Commission.

(2) Subject to the provisions of this section, all the property of the body immediately before the date of transfer shall vest in the Commission and, as from the date of transfer, the Commission shall, to the exclusion of the body, have all rights and be subject to all liabilities which the body had or to which the body were subject immediately before the date of transfer.

(3) Subject to the provisions of this section, every agreement to which the body were a party, whether in writing or not and whether or not of such nature that rights and liabilities thereunder could be assigned by the body, shall, unless its terms or subject matter make it impossible that it should

have effect as modified in the manner provided by this subsection, have effect as from the date of transfer as if—

(*a*) the Commission had been a party to the agreement; and

(*b*) for any reference (however worded and whether express or implied) to the body there were substituted, as respects anything falling to be done on or after the date of transfer, a reference to the Commission; and

(*c*) any reference (however worded and whether express or implied) to, or to any part of, or to any sum determined by reference to, any profits or receipts of the undertaking of the body, were, as respects profits or receipts arising on or after the date of transfer, a reference to, or to the corresponding part of, or to a sum similarly determined by reference to, an estimate of what those profits or receipts would have been but for the transfer; and

(*d*) any reference (however worded and whether express or implied) to the directors or any director of the body were, as respects anything falling to be done on or after the date of transfer, a reference to such person as the Commission may appoint; and

(*e*) any reference (however worded and whether express or implied) to any officer or any servant of the body were, as respects anything falling to be done on or after the date of transfer, a reference to such person as the Commission may appoint or, in default of appointment, to the officer or servant of the Commission who corresponds as nearly as may be to the first mentioned officer or servant; and

(*f*) in the case of an agreement for the rendering of personal services to the body, the services to which the agreement relates were, on and after the date of transfer, any reasonably comparable services under the Commission, to be selected by the Commission; and

(*g*) save as provided by the four last preceding paragraphs, any reference (however worded and whether express or implied) to the undertaking of the body were as respects the period beginning with the date of transfer a reference to so much of the undertaking of the Commission as corresponds to the undertaking of the body:

PART II. —*cont.*

Provided that any agreement to which the body were a party which cannot have effect as modified in the manner provided by this subsection by reason only that, if it were so modified, no person other than the Commission would have rights or liabilities thereunder shall cease to have effect as respects anything falling to be done on or after the date of transfer.

(4) The provisions of the last preceding subsection (except paragraphs (*a*) and (*f*) thereof) shall apply in relation to any statutory provision, any provision of any agreement to which the body were not a party, and any provision of any other document not being an agreement, as they apply in relation to an agreement to which the body were a party, and, in relation to any such statutory or other provision as aforesaid, the references in paragraphs (*b*), (*c*), (*d*), (*e*) and (*g*) of that subsection to the body, to any profits or receipts of the undertaking of the body, to any directors, officers or servants of the body, and to the undertaking of the body include references made by means of a general reference to a class of persons of which the body are one, without the body themselves being specifically referred to.

The statutory or other provisions to which this subsection applies include statutory or other provisions passed or made after the passing of this Act but before the date of transfer.

(5) Without prejudice to the generality of the preceding provisions of this section, where, by the operation of any of the said provisions, any right or liability becomes a right or liability of the Commission, the Commission and all other persons shall, as from the date of transfer, have the same rights, powers and remedies (and in particular the same rights and powers as to the taking or resisting of legal proceedings or the making or resisting of applications to any authority) for ascertaining, perfecting or enforcing that right or liability as they would have had if it had at all times been a right or liability of the Commission, and any legal proceedings or applications to any authority pending on the date of transfer by or against the body, in so far as they relate to any property, right or liability transferred to the Commission under this section, or to any agreement, statutory provision or document which has effect in accordance with subsection (3) or subsection (4) of this section, shall be continued by or against the Commission to the exclusion of the body.

(6) Notwithstanding anything in this section—

(*a*) there shall not, by reason of the vesting, be transferred to the Commission any right or liability of the body in respect of any security which is taken into account under the subsequent provisions of this

Part of this Act in assessing the compensation payable in the case of that or any other body;

(*b*) there shall not, by reason of the vesting, be transferred to the Commission any liability of the body in respect of any security of the body created, in pursuance of any enactment, as collateral security for a loan to the body or to another person;

(*c*) the Commission shall not, by reason of the vesting, have any rights or powers of the body as respects the borrowing of money or the raising of money by the issue of securities, and the provisions of subsections (3) and (4) of this section shall not apply to agreements, statutory provisions or documents relating to the borrowing of money by the body or the raising of money by the issue of securities of the body;

(*d*) the provisions of the said subsection (3) shall not apply to agreements for the rendering to the body of personal services as a director (other than a managing director):

Provided that paragraph (*a*) of this subsection shall not apply in relation to any right or liability which is declared by any provision of this Act to be a right or liability which passes to the Commission.

(7) Without prejudice to any other liability of the Commission in respect of a loan to the body or to any other person—

(*a*) any security of the body which has been created in pursuance of any enactment as collateral security for the loan shall be cancelled as from the date of transfer;

(*b*) any provision of any enactment or agreement requiring any security of the body to be created as collateral security for the loan shall cease to have effect as from the date of transfer; and

(*c*) any provision of any enactment or agreement with respect to the redemption of any security of the body outstanding at the date of transfer which was created in pursuance of any enactment as collateral security for the loan shall cease to have effect as from the date of transfer.

(8) Where any property or rights vest in or are transferred to the Commission under subsection (2) of this section or would so vest or be so transferred but for the fact that transfers thereof are governed otherwise than by the law of any part of the United Kingdom, the body shall comply with such directions as may be given to them by the Commission for the purpose of securing that the ownership of the property or, as the

PART II. —*cont.*

case may be, that the right, is effectively transferred to the Commission.

Disclaimer of agreements.

15.—(1) Where, under the preceding provisions of this Part of this Act, the whole of the undertaking of a body is to vest in the Commission, the body shall, as soon as may be after the passing of this Act and in any case not later than seven days after the date of transfer or such later date as the Commission may, either generally or in any particular case, allow, supply to the Commission particulars of all agreements of the body made or varied on or after the nineteenth day of November, nineteen hundred and forty-five, under which, by virtue of the preceding provisions of this Part of this Act, the Commission have or will or may have liabilities, except such agreements as the Commission may exclude, either generally or in any particular case, from the operation of this subsection.

(2) Where the making, or, as the case may be, the variation, of any agreement of the body which was made or varied as aforesaid was not reasonably necessary for the purposes of those of the activities of the body to which it relates, or was an act of unreasonable imprudence on the part of the body, the Commission may, by notice in writing to the parties to the agreement given—

(*a*) in the case of an agreement of which particulars are given under subsection (1) of this section, before the expiration of three months from the date when the particulars are so given;

(*b*) in the case of an agreement of which particulars ought to have been but have not been so given, before the expiration of three months from the date when the existence and full particulars of the agreement first become known to the Commission; and

(*c*) in the case of any other agreement, given before the expiration of three months from the date of transfer,

disclaim the agreement.

(3) Where notice of disclaimer is so given by the Commission with respect to any agreement—

(*a*) subsection (3) of the last preceding section shall be deemed never to have applied to the agreement, and subsection (2) thereof shall be deemed never to have applied to any rights or liabilities thereunder or arising by reason of the frustration thereof;

(*b*) the agreement shall be deemed to have been frustrated on the date of transfer and the parties thereto to have been for that reason discharged from the further performance thereof; and

(c) the like consequences shall follow as between the Commission and any party to the agreement who, before the giving of the notice of disclaimer, has, in pursuance of the agreement, supplied goods or rendered services to the Commission which the Commission have accepted, or to whom, before the giving of the notice of disclaimer, the Commission have, in pursuance of the agreement, supplied goods or rendered services which he has accepted, as would have followed if those goods or services had been supplied or rendered at the request of the Commission or of that party, as the case may be, apart from the agreement, and on terms that a reasonable payment would be made in respect thereof and any payments by or to the Commission before the giving of the notice of disclaimer shall be adjusted accordingly.

(4) For the purposes of paragraph (*c*) of the last preceding subsection, a person who permits another to use or enjoy any property shall be deemed to render a service to him.

(5) Nothing in this section applies to any agreement for, or contained in, a lease or other tenancy or any agreement made or varied, whether before or after the passing of this Act, with the previous consent or subsequent approval of the Minister, given in writing either generally or specially.

Compensation.

16.—(1) Compensation shall be paid by the Commission in respect of the vesting, in accordance with the preceding provisions of this Part of this Act, of undertakings in the Commission by reference to the values of the securities specified in the Fourth Schedule to this Act (being all the securities existing at the passing of this Act of all the bodies the whole of the undertakings of which vest in the Commission under the preceding provisions of this Part of this Act, other than securities which, by the terms of the issue thereof, must be redeemed before the date of transfer or securities created in pursuance of any enactment as collateral security for a loan to any such body or to any other person) and, save as aforesaid and subject to any other express provision contained in this Act, no compensation shall be payable to any person in respect of the vesting in the Commission of the undertaking of any of the bodies mentioned in the Third Schedule to this Act.

(2) Subject to the provisions of this subsection, the compensation so payable in the case of any of the said bodies shall be an amount equal to the aggregate value (computed in accordance with the provisions of the next succeeding section) of all the securities, if any, of that body existing immediately before the date of transfer, being securities set out in the said Fourth Schedule:

PART II. —*cont.*

Provided that where no person other than one or more of the bodies mentioned in the Third Schedule to this Act has any interest in the securities of a particular description set out in the said Fourth Schedule, those securities shall be left out of account.

(3) The compensation so payable shall be satisfied, in the manner provided by Part VI of this Act, by the issue in accordance with the provisions of the Fifth Schedule to this Act of British transport stock to the holders of the securities of the body in question:

Provided that where, immediately before the date of transfer, the holder was a body mentioned in the Third Schedule to this Act, the rights and liabilities of the body as such holder as aforesaid arising under this subsection or under the said Fifth Schedule shall pass to the Commission, and this subsection and the said Fifth Schedule shall, with the necessary modifications, have effect accordingly.

Valuation of securities for compensation purposes.

17.—(1) The values of the securities specified in the first column of Part I of the Fourth Schedule to this Act (being those of the securities specified in that Schedule for which quotations appeared in the Stock Exchange Official Daily List on all of the six dates specified hereafter in this subsection, other than securities guaranteed by the Treasury) shall be deemed for the purposes of the last preceding section to be the amounts specified in the second column of that Part of that Schedule in relation to those securities respectively (being amounts arrived at in accordance with the provisions of subsection (2) of this section).

The said dates are the first, fourth, fifth, sixth, seventh and eighth days of November, nineteen hundred and forty-six.

(2) The amount specified in the second column of Part I of the said Fourth Schedule in relation to any securities is the average of the mean of the quotations therefor appearing in the Stock Exchange Official Daily List on the dates mentioned in subsection (1) of this section, such addition, if any, being made to that average as is necessary to make it a complete multiple of one-sixteenth of a pound:

Provided that where—

(*a*) quotations for the securities appeared in the said list on any of the following dates (hereinafter referred to as " the alternative dates "), that is to say, the fifteenth day of February, the fifteenth day of March, the sixteenth day of April, the fifteenth day of May, the fifteenth day of June, and the sixteenth day of July, nineteen hundred and forty-five; and

(*b*) the average mentioned in the preceding provisions of this subsection is less than the average of the mean

of the quotations therefor appearing in the said list on all the alternative dates on which a quotation therefor so appeared,

the amount specified in the second column of Part I of the said Fourth Schedule is computed by reference to the average of the mean of the quotations therefor so appearing on the said alternative dates, instead of by reference to the first mentioned average.

Where any quotations in the said list are not expressed in terms of prices per one hundred pounds nominal value, the computations referred to in this subsection are made by reference to those quotations adjusted so as to be expressed in terms of such prices.

(3) The values of the securities specified in Part II of the said Fourth Schedule shall be such as may be determined, on the application of the Commission (which shall be made as soon as may be after the passing of this Act) by the arbitration tribunal established under Part VIII of this Act, after giving to the holders of the securities in question an opportunity of being heard:

Provided that—

(*a*) regard shall, as far as may be, be had by the said tribunal in estimating the value of any such securities to the values specified in Part I of the said Schedule in relation to the securities specified therein which are, as respect all matters affecting the value thereof, most nearly comparable to the first-mentioned securities;

(*b*) where all the securities of a particular description specified in the said Part II are held by local authorities and, whether before or after the passing of this Act, an agreement is made between all those authorities and the Minister determining the amount which is to be taken for the purposes of this section as the value of those securities, that amount shall be taken for those purposes to be the value thereof;

(*c*) the holder of any securities of a body may with the consent of the directors of the body appoint them to act as his representatives for the purpose of being heard in any proceedings with respect to those securities before the arbitration tribunal; and where such an appointment is made the arbitration tribunal shall hear the directors instead of that holder;

(*d*) the reasonable costs incurred by the directors as such representatives in connection with any proceedings before the arbitration tribunal under the provisions of this subsection shall be paid by the Commission.

PART II. —*cont.*

(4) The value of the securities specified in Part III of the said Fourth Schedule, being securities guaranteed by the Treasury, shall be deemed to be the nominal value of those securities.

(5) In this section—

the expression " the Stock Exchange Official Daily List " means the publication known as the Stock Exchange Daily List of Officially Quoted Securities which is published by and under the authority of the Council of the Stock Exchange, London;

the expression " quotation " has the same meaning as in the said list and, accordingly, does not include the statements of the business that was done;

the expression " the mean of the quotations " means the average of the two figures shown in the list on the date in question in respect of the security in question under the heading " Quotations ".

Suspension of dividend payments, etc.

18.—(1) Subject to the provisions of the four next succeeding sections, where, under the preceding provisions of this Part of this Act, the whole of the undertaking of a body is to vest in the Commission, no interest shall be paid or payable, no dividend shall be declared or paid, and no repayment or distribution of capital shall be made, after the passing of this Act on or in respect of any of the securities of that body:

Provided that nothing in this subsection shall prevent the payment—

(*a*) of any sum which had become due and payable before the passing of this Act, if the only reason why the payment was not made before the passing of this Act was either that there had not been sufficient time for the making of the payment or that it had not been possible to discover the person entitled thereto, or that the title to the payment had not been established or that a cheque or warrant issued for the purpose of effecting the payment had not been encashed;

(*b*) of any dividend duly declared before, but not payable till after, the passing of this Act; or

(*c*) of any dividend in respect of a period falling wholly or mainly before the date of the passing of this Act declared after the said date with the previous consent in writing of the Minister.

(2) Interest and annuities shall cease to accrue on any security of any such body as is mentioned in subsection (1) of this section immediately before the date of transfer, and no dividend shall be declared or paid for any period falling wholly or partly on or after the date of transfer:

Provided that nothing in this subsection shall be construed as affecting any of the provisions of Part II of the Fifth Schedule to this Act.

PART II —*cont.*

(3) If any interest is paid, or any dividend declared or paid, or any repayment or distribution of capital is made in contravention of this section by any body, all the directors of the body shall be jointly and severally liable to make good to the Commission any damage which the Commission suffer by reason of the declaration or payment:

Provided that a director shall not be liable under this subsection if he proves that the payment, declaration or distribution was made without his consent or connivance and that he exercised all such diligence to prevent contravention of this section as he ought to have exercised having regard to the nature of his functions as a director and in all the circumstances.

Exception as to certain interest and certain payments

19.—(1) Subsection (1) of the last preceding section shall not apply—

(*a*) to payments of interest on debentures, debenture stock, mortgages or loans;

(*b*) to payments of any perpetual annuity;

(*c*) to payments of interest on any securities of a body who are declared by any Act to be a public authority; or

(*d*) to payments, in respect of securities carrying a right to cumulative interest or cumulative dividends at a fixed rate, of interest or dividends at the same rate as was paid at the corresponding time in the year ending with the passing of this Act,

being in any case payments becoming due and payable after the passing of this Act, and shall not apply to the declaration of any dividend the payment whereof is permitted by virtue of paragraph (*d*) of this subsection.

(2) The said subsection (1) shall also not apply to any capital repayments in respect of debentures, debenture stock, mortgages or loans, if the repayments become due or payable after the passing of this Act and are the minimum repayments necessary to be made after the passing of this Act in order to satisfy the rights existing on the twenty-eighth day of November, nineteen hundred and forty-six, of the holders of the debentures, debenture stock, mortgages or loans.

(3) The said subsection (1) shall also not apply to payments of interest or dividend on any securities of a body if the payment becomes due and payable after the passing of this Act and either it is required by any guarantee by one body of the securities of another body (whether that body is still in existence or not) or it is made by one body wholly or partly out of moneys provided by another body in pursuance of a guarantee of interest or dividends on those securities, and the said subsection (1) shall also not apply to the declaration of any

PART II. —*cont.*

dividend the payment of which is permitted by this subsection.

(4) The payments which are permitted to be made by subsection (1) of this section or which would be permitted to be made thereby if they had become due and payable after the passing of this Act are in the four next succeeding sections referred to as " permitted interest and fixed rate payments " and any securities any payments in respect of which are permitted to be made by any of the preceding provisions of this section are in the two next succeeding sections referred to as " exempted securities ":

Provided that references to permitted interest and fixed rate payments made by any body shall not be construed as including payments made by that body in pursuance of any guarantee of the securities of another body.

Payments by Commission in respect of profits for period preceding date of transfer.

20.—(1) The provisions of this section shall have effect as respects any body the whole of whose undertaking is, under the preceding provisions of this Part of this Act, to vest in the Commission, being a body to whom a fixed annual sum is payable under Article 16 of the agreement made in pursuance of the Railways Agreement (Powers) Order, 1941, or under the corresponding provision of any agreement made in pursuance of the Canals Agreement (Powers) Order, 1944.

(2) As soon as possible after the date of transfer, there shall be ascertained and certified by an auditor appointed by the President for the time being of the Institute of Chartered Accountants in England and Wales—

(*a*) the total sum received by or payable to the body in respect of the period beginning with the first day of January, nineteen hundred and forty-six, and ending immediately before the date of transfer (in this Part of this Act referred to as " the final period ") on account of the said fixed annual sum;

(*b*) the net revenue of the body for the final period from any part of their undertaking which is an excluded undertaking within the meaning of the agreement;

(*c*) capital repayments made during the final period in respect of any securities of the body, being debentures, debenture stock, mortgages or loans, so far as those payments are made out of the total net revenue of the body for that period;

(*d*) so much of the total permitted interest and fixed rate payments made by the body before the date of transfer, computed without any deduction in respect of income tax, as is attributable to the final period;

(*e*) any permitted interest and fixed rate payments the liability for which passes to the Commission, computed without any deduction in respect of income tax; and

(*f*) so much of the total sum paid by the body before the date of transfer by way of dividends or interest on any securities other than exempted securities, computed without any deduction in respect of income tax, as is attributable to the final period:

Provided that where, under Article 3 or Article 4 of the agreement made in pursuance of the Railways Agreement (Powers) Order, 1941, or, as the case may be, under any Article of any agreement made under the Canals Agreement (Powers) Order, 1944, corresponding to Article 5, Article 6 or Article 7 of the form of agreement annexed thereto, any sum has been debited or credited in the net revenue accounts of the body for the final period, the auditor, in arriving at the amount referred to in paragraph (*a*) of this subsection shall add the amounts so debited to and subtract the amounts so credited from the total sum referred to in that paragraph.

(3) The auditor shall then proceed to ascertain and certify the amount by which the total of the amounts mentioned in paragraphs (*a*) and (*b*) of subsection (2) of this section exceeds the total of the amounts mentioned in paragraphs (*c*), (*d*), (*e*) and (*f*) thereof, and, subject to the subsequent provisions of this Part of this Act authorising deductions therefrom in certain cases, the Commission shall pay that amount to the body; and the Commission, if they think fit, may, before the certificate is given, make payments to the body on account.

(4) There shall be paid to the auditor out of moneys provided by Parliament such remuneration as the Minister may with the approval of the Treasury determine and the amount of that remuneration shall be repaid to the Minister by the Commission on demand.

(5) If, in the case of any body, provision was made by any enactment—

(*a*) for a reduction of the rate of interest payable in respect of any securities so as to secure that the rate should be a multiple of a particular fraction of one per cent.; and

(*b*) for the payment into a special fund of any amount applicable out of revenue for the payment of interest which is not wholly distributed as interest; and

(*c*) for the application of that fund, together with interest thereon, to the payment of interest in subsequent years,

the amount, if any, standing to the credit of that fund immediately before the commencement of the final period, together with any interest credited to the fund during the final period

PART II. —*cont.*

arising from the investments thereof, shall be ascertained and certified by the auditor and added by him to the total of the amounts mentioned in paragraphs (*a*) and (*b*) of subsection (2) of this section, and the other provisions of this section shall have effect accordingly.

(6) The preceding provisions of this section shall apply to any body the whole of whose undertaking is, under the preceding provisions of this Part of this Act, to vest in the Commission, being a body who operate a canal or inland navigation undertaking in respect of which no such agreement as is mentioned in subsection (1) of this section is in force, as they apply in relation to any such body as is specified in the said subsection (1), subject, however, to the following modifications—

(i) paragraph (*a*) of subsection (2) of this section shall be omitted;

(ii) for paragraph (*b*) of the said subsection (2) the following paragraph shall be substituted—

"(*b*) the total net revenue of the body for the final period, such deductions being made in computing that net revenue in respect of provision for obsolescence of assets and renewal of assets as may be just";

(iii) any reference to the total of the amounts certified under paragraphs (*a*) and (*b*) of the said subsection (2) shall be construed accordingly;

(iv) the expression "the total net revenue of the body" means the amount which would have been shown in the revenue accounts of the body for the final period as the net revenue of the whole of the undertaking of the body if such accounts had been—

(*a*) prepared in accordance with the form of Account No. 8 set out in the first Schedule to the Railway Companies (Accounts and Returns) Act, 1911 (as amended under section three of that Act), and such other of the forms set out in the said Schedule (as so amended) as are relevant for the purpose of preparing their accounts in accordance with that form; and

1 & 2 Geo. 5. c. 54.

(*b*) compiled in the manner determined, and approved by the Minister, in accordance with the provisions of subsection (1) of section seventy-seven of the Railways Act, 1921.

11 & 12 Geo. 5. c. 55.

(7) In addition to any sums payable under the preceding provisions of this section, the Commission shall pay—

(*a*) to the bodies specified in the next succeeding subsection the sums therein specified; and

PART II. —*cont*

(*b*) to any other body, being such a body as is specified in subsection (1) of this section, such sums, if any, as the Minister may direct, being sums which—

(i) could properly have been brought into account as net revenue (or as an appropriation in aid thereof) by the body in question in the final period if they had followed the same accounting practice as in the base period, or, where the base period is more than one year, in the last year of the base period, applicable to the body in question for the purposes of the relevant agreement mentioned in the said subsection (1), not being amounts appropriated from reserve; and

(ii) do not arise in respect of any ownership of, or interest in, any part of the body's undertaking which is an excluded undertaking within the meaning of the said agreement; and

(iii) are not required to be brought into account in the net revenue account of the body under and for the purposes of the said agreement.

(8) The payments which the Commission are by paragraph (*a*) of the last preceding subsection required to make are—

(*a*) to the Great Western Railway Company, the sum of five hundred and seventy-four thousand pounds;

(*b*) to the London and North Eastern Railway Company, the sum of one hundred and fifty thousand pounds;

(*c*) to the London Midland and Scottish Railway Company, the sum of seven hundred and ninety-nine thousand pounds;

(*d*) to the Southern Railway Company the sum of two hundred and twenty-seven thousand pounds;

(*e*) to the London Passenger Transport Board the sum of sixty-three thousand pounds.

Application of sums received from Commission under last preceding section.

21.—(1) Subject to the provisions of this section, the amounts paid by the Commission to a body under the last preceding section and any amounts received by the body in respect of any agreement disclaimed by the Commission (including the appropriate proportion of any amounts received by any joint committee or joint body from any person in respect of any agreement of that joint committee or joint body which is disclaimed by the Commission) shall be applied by the body (so far as those amounts will go) for the following purposes and in the following order of priority:—

(*a*) in paying any sums legally due from the body to any other person in respect of any agreement disclaimed by the Commission (including the appropriate proportion of any sums legally due from any joint committee or joint body to any person in respect of any

PART II. —*cont.*

agreement of that joint committee or joint body which is disclaimed by the Commission);

(*b*) in making (notwithstanding anything in any statutory or other provision relating to the dates on which and the periods for which payments of interest or other payments are to be made) the permitted interest and fixed rate payments which have accrued up to the date of transfer and have neither been paid nor become liabilities of the Commission;

(*c*) in paying such sums, if any, as may be authorised—

(i) where there is, or but for the payment would be, such a distribution as is mentioned in paragraph (*d*) of this subsection, by the body in general meeting; and

(ii) in any other case, by the Minister,

to be paid to any person as compensation for loss of office or employment under the body or in recognition of past services rendered to the body:

(*d*) in making such a distribution as is mentioned in subsection (2) of this section to the persons who immediately before the date of transfer were the holders of the securities, if any, of the body which are not exempted securities; and

(*e*) in repaying the balance, if any, to the Commission:

Provided that the body may enter into an agreement with the Commission to pay to the Commission a sum agreed between them in respect of such agreements disclaimed by the Commission as may be specified in the first mentioned agreement, and upon the payment of the sum so agreed the liability, if any, to pay the sums mentioned in paragraph (*a*) of this subsection in respect of the disclaimed agreements so specified shall become a liability of the Commission to the exclusion of the body.

(2) The distribution falling to be made under paragraph (*d*) of subsection (1) of this section shall be a distribution under which the holders of the securities therein referred to become entitled to the same gross amounts as they would have become entitled to if—

(*a*) the statutory or other provisions relating to the body had permitted payments of interest or dividend in respect of the securities for the final period;

(*b*) the body had had available for distribution the amount paid to them by the Commission under the last preceding section less the amounts applied in making the payments mentioned in paragraphs (*a*), (*b*) and

PART II. —*cont.*

(*c*) of, and the proviso to, subsection (1) of this section; and

(*e*) the body had applied the amount so available for distribution, or so much thereof as was required for the purpose, in making payments of interest or dividend for the final period to the holders of the securities in question, in the proper order of priority and according to their respective rights, due regard being had to any interest or dividends which have already been paid for any period falling wholly or partly within the final period or which become liabilities of the Commission and all necessary adjustments being made where the final period is not a period for which interest or a dividend would be payable under the statutory or other provisions relating to those securities:

Provided that the amounts which the holders would have become entitled to by way of interest or dividend for the final period in the event contemplated by paragraph (*c*) of this subsection shall be computed as if the amounts deducted in respect of income tax from the payments mentioned in paragraph (*b*) of subsection (1) of this section and from any payments made under paragraph (*d*) of the said subsection (1) in respect of any securities were not available for paying any other interest or dividend.

(3) Where the total amount of interest payable in respect of any exempted securities for the final period is less than it would have been but for some statutory or other provision which provides for a reduction of the rate of interest payable in respect of the securities so as to secure that the rate shall be a multiple of a particular fraction of one per cent.—

(*a*) paragraph (*d*) of subsection (1) of this section, and subsection (2) of this section, shall have effect in relation to the securities as if they were not exempted securities; and

(*b*) the amount distributed in respect of those securities under the said paragraph (*d*) shall be computed as if so much of that provision as requires such a reduction as aforesaid did not apply.

(4) The persons who receive any payment under a distribution made under paragraph (*d*) of subsection (1) of this section, shall, subject to the provisions of the next succeeding subsection, hold the payment in the same right and on the same trusts and subject to the same powers, privileges, charges and liabilities as those in, on, or subject to which any payment of interest or dividend in respect of the securities in question would have been held by them.

PART II. —*cont.*

(5) Any right to receive or benefit from a payment made under paragraph (*b*) or paragraph (*d*) of subsection (1) of this section which would, but for this subsection, have been a right of a body mentioned in the Third Schedule to this Act shall, together with any liability attaching to that right, pass to the Commission.

(6) Where a body are for any reason unable to effect payment of any sum falling to be paid by them under this section or where a receipt cannot effectively be given for any such sum, the body may pay that sum to the Commission and, on the said sum being so paid to the Commission, the liability of the body for the payment of that sum shall pass to the Commission.

Liability to pay interest, etc., passing to Commission.

22.—(1) Where any permitted interest and fixed rate payments for a period falling wholly before the date of transfer would, apart from the provisions of this Act, have fallen to be made by a body mentioned in the Third Schedule to this Act on or after the date of transfer, the liability to make those payments shall pass to the Commission:

Provided that—

(*a*) the liability of the Commission in respect of any such payments shall not exceed the sum which the body in question would have had available for the making of the payments if the undertaking thereof had not vested in the Commission;

(*b*) where, apart from the provisions of this Act, the persons to whom the payments were to be made would have been ascertained by reference to the state, at some time on or after the date of transfer, of the register or other record of the holders of the securities in question, those persons shall be ascertained by reference to the state of that register or other record immediately before the date of transfer.

(2) Where payments of interest or dividend on any securities of a body mentioned in the Third Schedule to this Act are guaranteed by another body mentioned in that Schedule, being a body to which the two last preceding sections apply, and the last payment of interest or dividend made before the date of transfer in respect of those securities was made in respect of a period ending before the date of transfer, the liability to pay interest or a dividend at the guaranteed rate (after deduction of income tax) in respect of the period beginning with the end of the period aforesaid and ending with the date of transfer shall pass to the Commission:

Provided that the sum for which the Commission becomes liable shall not exceed the sum which the body liable under

the guarantee would have been required and able to pay but for the provisions of the four last preceding sections.

(3) Where, before the date of transfer, there has become due from any body the whole of whose undertaking is vested in the Commission under the preceding provisions of this Part of this Act any payment by way of interest, dividend or annuity, or any payment by way of the redemption of any security, and, by reason only that it was not possible to discover the person entitled thereto, or that the title to the payment had not been established or that a cheque or warrant issued for the purpose of effecting the payment had not been encashed, that payment was not made before the date of transfer, the liability in respect of that payment shall pass to the Commission.

Income tax provisions as to payments under two last preceding sections.

23.—(1) The provisions of this section shall be construed as one with the Income Tax Acts.

(2) The gross amounts of any payments in a distribution made under paragraph (*d*) of subsection (1) of section twenty-one of this Act shall be deemed to be income for all the purposes of the Income Tax Acts, and the body making the payments shall deduct income tax therefrom at the standard rate for the year in which the payments become due.

(3) Any amounts deducted in respect of income tax from any payments made under paragraph (*b*) or paragraph (*d*) of the said subsection (1) shall, notwithstanding anything in the Income Tax Acts, be paid over to the Commission for their own use and benefit.

(4) The gross amount of any payment made by the Commission to the holders of any securities of a body mentioned in the Third Schedule to this Act in respect of interest or a dividend payment of which was guaranteed by another such body shall be deemed to be income for all the purposes of the Income Tax Acts.

(5) If—

(*a*) the gross amounts of the payments of any interest of money, annuity or other annual payment charged with tax under Schedule D made by a body mentioned in the Third Schedule to this Act in the years 1945-46, 1946-47, and 1947-48; plus

(*b*) the gross amounts of any other payments made by the body under paragraph (*b*) of subsection (1) of the said section twenty-one, not being payments of dividend; plus

(*c*) the gross amounts of any payments made by the body under paragraph (*d*) of subsection (1) of the said section twenty-one in respect of securities bearing interest; plus

PART II —*cont.*

(*d*) the gross amounts of any payments made by the Commission by virtue of the last preceding section, other than payments made by virtue only of subsection (3) thereof and other than such permitted interest and fixed rate payments as are payments of dividend,

together exceed—

(i) the total income of the body for the said years; plus

(ii) the total of the assessments made for the said years under Rule 21 of the General Rules in respect of payments made by the body,

the said Rule 21 shall have effect as if a payment of a gross amount equal to the excess had been made by the Commission, as if that payment were a payment of interest of money charged with tax under Schedule D not payable out of profits or gains brought into charge to tax and as if the Commission had deducted tax at the appropriate rates in making that payment.

In this subsection, the expression " the appropriate rates " means the rates which were applied in making deductions of income tax from the payments referred to in paragraphs (*b*), (*c*) and (*d*) of this subsection, the lowest rate being taken first and applied to an amount of the excess equal to the amount to which it was applied as aforesaid, and then so with the next lowest rate, and so on.

(6) Any reference in this section or in the said section twenty-one to the gross amount of any payment shall be construed as a reference to the amount of that payment before any deduction is made therefrom in respect of income tax.

Winding up of railway and canal undertakers.

24.—(1) Where any body the whole of whose undertaking is vested in the Commission under the preceding provisions of this Part of this Act have, in accordance with those provisions, collected and distributed any moneys receivable by them in respect of any agreement disclaimed by the Commission (including the appropriate proportion of any moneys received by any joint committee or joint body from any person in respect of any agreement of that joint committee or joint body which is disclaimed by the Commission) and distributed any moneys paid to them by the Commission and complied with any directions given to them by the Commission for the purpose of securing that the ownership of any property or any right is effectively transferred to the Commission and ascertained that the Commission do not desire to give to them any further such directions, the body shall notify the Board of Trade ; and if the Board of Trade are satisfied in the case of any such body (whether any such notice has been given by

(not) that the said moneys, if any, have been so dealt with, and that any directions given as aforesaid have been complied with and that the Commission do not desire to give any further such directions, the Board of Trade shall give a certificate that there is no reason for the continued existence of the body and shall cause the certificate to be published in the London Gazette, and upon the publication thereof the body shall be dissolved.

(2) During the period beginning with the date of transfer and ending with the dissolution of the body, the statutory provisions and other documents relating to any such body as aforesaid shall remain in force in relation thereto as if this Act had not passed so far as the powers conferred thereby are required for the remaining purposes of the body:

Provided that—

(i) it shall not be obligatory to fill any vacancy in the directors but the remaining directors may continue to exercise all the powers of the directors up to the time of the dissolution;

(ii) notwithstanding any statutory or other provision it shall not be obligatory for a general meeting of the proprietors of the body to be held during the said period;

(iii) the directors may convene any general meeting of the proprietors of the body and for that purpose the proprietors on the register of the holders of securities immediately before the date of transfer shall be deemed to be the proprietors of the body and to be the holders of securities of the body of the same amounts as those then shown in that register;

(iv) any director, auditor or member of an audit committee may continue to hold office or be elected or appointed thereto at any time during the said period notwithstanding (*a*) the expiration on or after the date of transfer of the term for which before that date he was elected or appointed and (*b*) that by reason of the vesting of the undertaking of the body in the Commission under the provisions of this Act he is not the holder of an amount of a security of the body which before the date of transfer he would have been required to hold for the purpose of qualifying him for that office.

(3) All expenses (including any rents, rates, taxes and other outgoings in respect of any offices) certified by an auditor appointed, after consultation with the Commission and the body concerned, by the Minister to have been properly incurred by any such body as aforesaid after the date of transfer shall be defrayed by the Commission, and the Commission shall make available to the body such facilities for the

PART II. —*cont.*

examination of and the making of extracts from or copies of books, accounts and documents surrendered to the Commission as the body may reasonably require, and the Commission shall make available to the body the services of such officers and servants, on such terms and conditions, and for such period, as may be agreed between the Commission and the body or failing agreement as may be determined by the Minister, and the remuneration of those officers and servants shall be defrayed by the Commission.

(4) The Commission shall pay to the directors of any such body as aforesaid such remuneration for any services rendered by the directors to the body after the date of transfer as may be agreed between the Commission and the directors or, failing agreement, as may be determined by the auditor mentioned in the last preceding subsection to be reasonable having regard to all the circumstances.

(5) Any appointment of a receiver, a manager or a receiver and manager in force in respect of the undertaking of any such body as aforesaid immediately before the date of transfer shall, by virtue of this Act, then cease to have effect.

Application of preceding provisions to local authorities.

25.—(1) Where a body specified in the Third Schedule to this Act are a local authority, the following provisions of this section shall have effect.

(2) Only the undertaking which was under the control of the Minister under Regulation sixty-nine of the Defence (General) Regulations, 1939, shall vest by virtue of this Act in the Commission, and the provisions of this Part of this Act relating to the effect of the vesting of undertakings and to the disclaimer of agreements shall have effect, and have effect only, in respect of property held or used by the authority for the purposes of that undertaking and rights, liabilities, agreements, statutory provisions, documents, legal proceedings and applications of, referring to, by and against the authority which either were wholly or mainly held or used or were acquired or incurred for the purposes of, or relate to, that undertaking.

(3) The Commission shall not, by virtue of any of the preceding provisions of this Part of this Act, come under any liability, or have any rights or powers, in respect of any securities of the local authority or any sinking fund established for the redemption of any such securities, but the Commission shall, as consideration for the vesting in them of the undertaking and (subject to the provisions of section one hundred and fourteen of this Act) in lieu of any other compensation in respect of the vesting make to the authority the payments mentioned in the next two succeeding subsections.

PART II. —cont.

(4) Where the authority have, by the issue of securities, raised money wholly or partly for the purposes of the undertaking or have advanced money for those purposes out of any consolidated loans fund or mortgage loans pool established by them or out of any other moneys held by them, and, in pursuance of the arrangements in force immediately before the date of transfer for the redemption of the loan and the payment of interest thereon or, as the case may be, for the repayment of the advance and the payment of interest thereon, any amounts would, but for the vesting of the undertaking in the Commission, have fallen, on or after the date of transfer, to be debited in the accounts of the undertaking, the Commission shall, subject to the provisions of this section, pay those amounts to the authority at the times at which, but for the vesting, those amounts would have fallen to be debited to the accounts of the undertaking.

(5) Where the authority have before the date of transfer made arrangements for the making of financial adjustments, as between the accounts of the undertaking and any other account kept by the authority, in respect of any other transaction or matter affecting both the undertaking and other activities of the authority, and in pursuance of those arrangements any amounts would, but for the vesting of the undertaking in the Commission, have fallen, on or after the date of transfer, to be debited or credited in the accounts of the undertaking and credited, or, as the case may be, debited to some other account of the authority, the Commission shall, subject to the provisions of this section, pay those amounts to the authority or be entitled to receive those amounts from the authority, as the case may be, at the times at which, but for the vesting, those amounts would have fallen to be debited or credited in the accounts of the undertaking:

Provided that this subsection shall not apply in relation to any apportionment of the establishment charges of the authority between the accounts of the undertaking and other accounts of the authority.

(6) The Commission and the authority may agree or the Minister of Health may, on the application of the Commission or the authority in default of such agreement, determine that, having regard to the circumstances in which any such arrangements were made and the circumstances arising under this Act, the last preceding subsection shall not apply to those arrangements or shall apply thereto with such modifications as to the payments to be made by the Commission or the authority as may be so agreed or determined, and the said subsection shall have effect subject to any such agreement or determination.

PART II. —*cont.*

Any other question arising under either of the two last preceding subsections as to the payments to be made thereunder shall, in default of agreement, be determined by the Minister of Health.

(7) Any payment made by the Commission or the authority under the preceding provisions of this section which would, but for the vesting of the undertaking in the Commission, have been debited or credited as a capital payment, shall be deemed to be a capital payment, and any other such payment shall be deemed to be an annual payment.

(8) Notwithstanding anything in any statutory provision, the authority shall not be entitled to any profit or be required to bear any loss arising in the carrying on by the Commission on or after the date of transfer of the part of the Commission's undertaking corresponding to the undertaking of the authority.

(9) So much of any of the preceding provisions of this Part of this Act or of any provision of the Fifth Schedule to this Act as operates in relation to securities of a body mentioned in the Third Schedule to this Act held by another such body or in relation to any interest in any securities of any such body belonging to another such body shall not apply in relation to securities held by the authority or, as the case may be, in relation to any interest belonging to the authority, unless the securities or, as the case may be, the interest were or was acquired by the authority in connection with the undertaking which vests in the Commission.

(10) Save as aforesaid, nothing in the preceding provisions of this Part of this Act shall apply in relation to the authority or the undertaking thereof.

Carrying on of undertakings till date of transfer

26.—(1) The orders in force at the passing of this Act under Regulation sixty-nine of the Defence (General) Regulations, 1939, shall, so far as they relate to the undertakings or portions of undertakings wholly owned by, leased to or operated by one or more of the bodies of persons specified in the Third Schedule to this Act, continue in force until the date of transfer and shall then cease to have effect.

(2) Until the date of transfer the bodies specified in the Third Schedule to this Act shall carry on the undertakings which are to vest in the Commission in the ordinary course of business and maintain them in as efficient a condition as theretofore, and shall not, without the previous consent in writing of the Minister given either generally or specially (which they shall apply for if it is necessary for the purposes aforesaid)—

(*a*) sell, dispose of, or let for a longer period than one year, any of their lands, or sell or dispose of any of their investments; or

(*b*) apply any of their depreciation, renewal or other funds otherwise than for the purposes for which those funds were used respectively up to the twenty-eighth day of November, nineteen hundred and forty-six; or

(*c*) enter into any contract of any kind extending beyond the period of one year; or

(*d*) borrow any money or issue any securities; or

(*e*) undertake any project involving the construction of new works if the estimated cost of carrying out the project exceeds, in the case of an amalgamated company or the London Passenger Transport Board, the sum of fifty thousand pounds, and, in any other case, the sum of five thousand pounds:

Provided that, in relation to any of the said bodies who are a local authority, the preceding provisions of this subsection shall apply only in relation to lands, investments and funds held, contracts made, money borrowed or raised or works undertaken for the purposes of the undertaking which vests in the Commission.

(3) If the Commission suffer damage by reason of any contravention by any body of the provisions of subsection (2) of this section, the amount of the damage shall, in the case of a body to which a sum is payable under the preceding provisions of this Part of this Act in respect of the final period, be deducted from the sum so payable, and, in the case of any other body, be paid by the body to the Commission:

Provided that where the body is a joint committee or joint body the members of which are, or are representatives of, bodies to which a sum is payable as aforesaid, the amount of the damage shall not be paid by the joint committee or the joint body but the appropriate proportions thereof shall be deducted from the sums so payable to the other bodies respectively.

Closing of accounts under control agreement

27.—(1) None of the pool accounts provided for by paragraph (1) of Article 17 of the agreement made under the Railways Agreement (Powers) Order, 1941, shall be made up and the provisional four-weekly settlements and payments made or to be made under paragraph (2) of that Article and any other provisional payments made before the date of transfer shall be final.

(2) Subsection (1) of this section shall, with the necessary adaptations, apply in relation to the net revenue account and provisional settlements and payments provided for by the

PART II. —*cont.*

provisions corresponding to the said Article 17 contained in the agreements made in pursuance of the Canals Agreement (Powers) Order, 1944, with certain of the bodies specified in the Third Schedule to this Act, as it applies in relation to the said pool accounts and the said provisional four-weekly settlements and payments:

Provided that this subsection shall not apply in relation to any agreement made with a local authority.

(3) As soon as may be after the date of transfer any Trust Funds set up under Article 19 of the agreement made under the Railways Agreement (Powers) Order, 1941, in respect of any of the bodies specified in the said Third Schedule shall be wound up and—

(*a*) any moneys which, but for the provisions of this subsection, would have fallen to be dealt with under Article 21 of that agreement shall, instead of being so dealt with, be paid to the Commission; and

(*b*) none of the provisions of Articles 21 and 22 thereof shall apply,

and, on compliance with the requirements of this subsection, the trustees shall be discharged from the trusts.

(4) As soon as may be after the date of transfer, any Arrears of Maintenance Account kept by the Minister in pursuance of any Article of an agreement with any of the bodies specified in the said Third Schedule made under the Canals Agreement (Powers) Order, 1944, being an Article corresponding to Article 15 of the form of agreement annexed to that Order, shall be closed and any credit balance remaining in the account shall, instead of being dealt with in the manner specified in the Article corresponding to Article 17 of the said form of agreement, be paid by the Minister to the Commission.

The Caledonian and Crinan Canals.

28. All property, rights, powers and liabilities held, enjoyed or incurred by the Minister as successor to the Commissioners of the Caledonian Canal shall, on the appointed day, become property, rights, powers and liabilities of the Commission.

Railway wagons.

Transfer to Commission of privately-owned railway wagons.

29. Where, immediately before the date of transfer, any privately owned railway wagon is under requisition by virtue of an exercise of the powers in that behalf conferred by Regulation 53 of the Defence (General) Regulations, 1939—

(*a*) the property in that wagon shall vest in the Commission on the date of transfer, free from any mortgage or other like incumbrance, and the requisition shall then cease; and

PART II. —*cont.*

(*b*) the Crown shall not be liable for any compensation under the Compensation (Defence) Act, 1939, or otherwise in respect of any damage to the wagon occurring during the period of requisition.

Compensation for acquisition of wagons

30.—(1) Where under the last preceding section the property in any wagon vests in the Commission, the Commission shall, subject to the provisions of the three next succeeding subsections, pay as compensation in respect thereof an amount determined, by reference to the type of wagon and the year in which the wagon was first built, in accordance with the table set out in the Sixth Schedule to this Act.

(2) Where—

(*a*) a wagon, not being a 21-ton hopper wagon, was built after the year nineteen hundred and forty-six; or

(*b*) a wagon, being a 21-ton hopper wagon, was built after the year nineteen hundred and forty-four; or

(*c*) the Minister is satisfied that a wagon is of a special type not mentioned in the said Sixth Schedule,

the amount payable as compensation in respect thereof shall be determined by the Minister, and in making his determination he shall have regard to the amount payable as compensation in accordance with the said Sixth Schedule in respect of a wagon of the type, and first built in the year, most nearly comparable to the type and year of building of the first mentioned wagon.

(3) Where a wagon, not being a 21-ton hopper wagon, has been built with specially high sides or with rails for the purpose of carrying coke, the amount payable as compensation in respect thereof shown in the said Sixth Schedule shall be increased by six per cent.

(4) Where it is established by the owner of a wagon that the wagon has been rebuilt, the amount payable as compensation in respect thereof shall be three-quarters of the amount which would have been so payable if the wagon had been first built in the year in which it was rebuilt.

(5) For the purposes of this section, a wagon shall be deemed to have been rebuilt if and only if it bears a plate attached thereto in pursuance of the regulations of the Railway Clearing House with respect to the repairing and rebuilding of wagons which indicates that it has been rebuilt in accordance with the relevant requirements of those regulations.

(6) No compensation, other than that payable under this section, shall be payable in respect of the vesting, under the last preceding section, of the property in any wagon in the Commission.

PART II. —*cont.* Recipient of compensation.

31.—(1) Subject to the provisions of this section, the compensation payable by the Commission in respect of a privately-owned wagon vesting in them on the date of transfer shall be paid to the person who, immediately before the date of transfer, was the owner of the wagon.

(2) Where, immediately before the date of transfer, the wagon was the subject of a hire purchase agreement, the hirer may, by notice given in such form and in such manner and within such time as may be prescribed, make a claim to have apportioned to him such part of the compensation payable to the owner as may be specified in his claim, and where such a notice is given the extent, if any, to which effect is given to the claim shall be such as may, in default of agreement between the owner and the hirer, be determined by the arbitration tribunal established under Part VIII of this Act.

(3) Where, immediately before the date of transfer, the wagon was the subject of any mortgage or other like incumbrance (other than a floating charge which will attach to the compensation), the compensation in respect of the wagon shall be paid to the incumbrancer:

Provided that—

(*a*) this subsection shall not apply to any mortgage or other like incumbrance unless it is registered as a bill of sale or is registered under Part III of the Companies Act, 1929, or the Commission obtains possession of the wagon from the incumbrancer;

19 & 20 Geo. 5 c. 23.

(*b*) if, at the time when the compensation is paid, the debt secured by a mortgage or other like incumbrance has been paid in full, the compensation shall be paid as if the wagon had not been subject to that mortgage or incumbrance;

(*c*) if the wagon was subject to two or more mortgages or other like incumbrances to which this subsection applies, the compensation shall, subject to the provisions of the last preceding paragraph of this proviso, be paid to the incumbrancer whose mortgage or other incumbrance has priority; and

(*d*) in any case, this subsection shall have effect, as regards any mortgage or other like incumbrance to which this subsection applies, subject to any agreement between the incumbrancer and the person to whom apart from that mortgage or other incumbrance the compensation would have fallen to be paid.

PART II. —*cont.*

(4) Where a payment is made to an incumbrancer under the last preceding subsection (whether satisfied by the issue of British transport stock or made in cash) the incumbrancer shall be liable to account as if the amount paid to him or the amount represented by the stock, as the case may be, had accrued to him as proceeds of sale of the wagon in question arising under a power of sale exercised by him immediately before the date of transfer; and the incumbrancer shall be under the like obligation to obtain the full amount of any payment falling to be made to him under the last preceding subsection as he would have been if he had been obtaining that amount by means of the exercise of such a power of sale.

Mode of satisfaction of compensation

32.—(1) The amount payable by way of compensation in respect of a wagon the property in which vests in the Commission on the date of transfer shall be satisfied in the manner provided by Part VI of this Act by the issue to the person entitled thereto of British transport stock:

Provided that where the total amount of the compensation payable by the Commission to any one person in respect of his interest in all wagons so vesting (including any compensation payable to him as an incumbrancer and any compensation payable to him under subsection (2) of the last preceding section) does not exceed two thousand pounds, he may, by notice in writing to the Commission given within the prescribed time, require that the Commission shall pay the said amount in cash and it shall be paid in cash accordingly.

(2) Where the compensation payable to any person in respect of a wagon is satisfied by the issue of British transport stock interest on which begins to accrue as from a date later than the date of transfer, the Commission shall pay to him interest on the amount of the compensation, at such rates as the Treasury may determine, from the date of transfer until the date on which the interest on the said stock begins to accrue.

(3) Where the compensation payable to any person in respect of a wagon is satisfied in cash, the Commission shall pay to him interest on the amount of the compensation, at such rates as the Treasury may determine, from the date of transfer until the date of payment.

(4) The Commission may from time to time make payments to any person on account of any interest which the Commission estimate will become payable to him under this section.

Restriction of use of privately-owned wagons on Commission's lines.

33.—(1) On and after the date of transfer, no privately-owned railway wagon shall be used on any of the railways in Great Britain owned or operated by the Commission and the provisions of this section shall have effect notwithstanding any statutory provision:

PART II. —*cont.*

Provided that—

(*a*) this subsection shall not apply to railway wagons of the classes mentioned in the Seventh Schedule to this Act;

(*b*) the Minister may by regulations exclude from the operation of this subsection wagons specially set apart for any traffic specified in the regulations, being traffic which in his opinion renders or is likely to render the wagons used therefor unsuitable for other traffic, and wagons of any class so specified, being wagons which, by reason of their construction or internal fittings, should, in his opinion, be treated as specially constructed wagons;

(*c*) the Commission may, if in the special circumstances of any particular case they think fit so to do, allow any privately-owned railway wagon to which this subsection applies to be used, for such period as they think fit to allow, on any of the said railways notwithstanding the provisions of this subsection.

(2) Where the property in the railway wagons of traders belonging to any class has vested in the Commission under this Part of this Act, the reasonable facilities which, under section two of the Railway and Canal Traffic Act, 1854, are to be afforded by the Commission shall include the provision of suitable railway wagons for the use of traders of that class.

17 & 18 Vict. c. 31.

Miscellaneous.

Valuation for rating. 20 & 21 Geo. 5. c. 24.

34.—(1) As respects the quinquennial period, as defined in the Railways (Valuation for Rating) Act, 1930, which begins in April, nineteen hundred and fifty-one, and every subsequent quinquennial period as so defined, the said Act shall, with such adaptations and modifications as may be specified by regulations to be made by the Minister of Health and the Secretary of State, acting jointly, apply in relation to the Commission as if they were a railway company to which that Act applied and as if the references in that Act to the undertaking of a railway company were, in relation to the Commission, references to the aggregate of the parts of the undertaking of the Commission which respectively represent—

(*a*) the undertakings of the amalgamated companies;

(*b*) the transport undertaking of the London Passenger Transport Board;

(*c*) the undertaking of any railway company to which that Act was applied before the date of transfer by a scheme submitted and approved in accordance with the provisions contained in the First Schedule to that Act; and

PART II —cont.

(*d*) any other undertaking specified in a scheme submitted and approved after the date of transfer in accordance with a scheme made under the provisions of the said First Schedule as modified by the said regulations.

(2) In paragraphs (*a*), (*c*) and (*d*) of subsection (1) of this section the expression "undertaking" has the meaning assigned to it by subsection (3) of section one of the Railways (Valuation for Rating) Act, 1930, and in paragraph (*b*) of the said subsection (1) the expression "transport undertaking" has the same meaning as in the London Passenger Transport (Valuation for Rating) Scheme, 1935.

(3) As respects the quinquennial period preceding that which begins in April, nineteen hundred and fifty-one, nothing in this section shall affect the operation, in relation to the parts of the undertaking of the Commission which respectively represent the undertakings mentioned in paragraphs (*a*) to (*c*) of subsection (1) of this section, of the Railways (Valuation for Rating) Act, 1930, as modified by the preceding provisions of this Part of this Act, and of the Railways (Valuation for Rating) Act, 1946, as so modified. 9 & 10 Geo. 5. c. 51.

Commission's powers as to inland waterways

35.—(1) The Commission may, by notice in writing published in the prescribed manner, direct that, after such date (not being less than three months from the date on which the notice is published) as may be specified in the notice, the whole or any specified part of any inland waterway in Great Britain which is vested in them, or which they have any right or duty to maintain, shall not be used for the carriage of goods for reward by any person except under and in accordance with the conditions of a licence granted by the Commission.

(2) Subject to the provisions of subsection (3) of this section, any such licence may be granted by the Commission for such period and subject to such conditions (including conditions as to the charges to be made for the carriage by the holder of the licence) as the Commission think fit and may at any time be revoked by the Commission:

Provided that the Commission shall not unless, in their opinion, it is expedient so to do with a view to securing the better use of the inland waterway in question in the national interest or the economical improvement, maintenance or management thereof, either—

(*a*) refuse or revoke a licence under this section or impose any conditions thereon; or

(*b*) without the consent of the applicant, grant any licence for a period of less than seven years.

PART II. —*cont.*

(3) If any person being the applicant for or the holder of any such licence is aggrieved by any determination of the Commission as respects the grant or revocation of the licence or the conditions to be attached thereto, he may appeal to the Transport Tribunal, and the tribunal shall make such order as to the grant or revocation of the licence or the conditions which are to be imposed thereon as they think just and proper in all the circumstances, and the Commission shall give effect to their order.

(4) If, while a direction is in force under this section with respect to an inland waterway, any person carries any goods on that inland waterway in any vessel in such circumstances that a licence is necessary under this section and he does so otherwise than under and in accordance with such a licence, he shall be liable on summary conviction to a fine not exceeding ten pounds, and, if the contravention in respect of which he is so convicted is continued after the conviction, he shall be guilty of a further offence and liable in respect thereof on summary conviction to a fine not exceeding ten pounds for each day on which the contravention is so continued.

(5) For the purposes of this section—

(*a*) the carriage of goods of a holding company by a subsidiary thereof, or the carriage of goods of such a subsidiary by another such subsidiary or by the holding company; or

(*b*) the delivery or collection by a person of goods sold or used in the course of a trade or business carried on by him; or

(*c*) the delivery or collection by a person of goods which have been, or are to be, subjected to a process or treatment in the course of a trade or business carried on by him,

shall not be deemed to be the carriage of goods for reward.

In this subsection, the expression "holding company" means a company which is the beneficial owner of not less than ninety per cent. of the issued share capital of another company, and the expression "subsidiary" in relation to a holding company, means a company not less than ninety per cent. of the issued share capital of which is in the beneficial ownership of the holding company.

Where a subsidiary (as hereinbefore defined) is the beneficial owner of any shares of another company, those shares shall be treated for the purposes of the foregoing definitions as if they were in the beneficial ownership of the holding company.

PART II —*cont.*

Right to require acquisition by Commission of canal carrier undertakings.

36.—(1) Where—

(*a*) a person who, on the twenty-eighth day of November nineteen hundred and forty-six, was carrying on a canal carrier undertaking on an inland waterway (hereinafter in this section referred to as " the appellant ") appeals to the Transport Tribunal under subsection (3) of the last preceding section from a determination of the Commission in relation to the use of that waterway; and

(*b*) the tribunal refuse, either in whole or in part, to do by their order what is asked for by the appellant on that appeal; and

(*c*) the tribunal are satisfied that their refusal will involve substantial interference with the carrying on by the appellant of some activity which he was carrying on before the said twenty-eighth day of November and which he has, up to the time of the determination which was the subject of the appeal, continued to carry on with only such intermissions, if any, as are incidental to the nature of the activity,

the tribunal may, on the application of the appellant, declare that the undertaking of the appellant, or some part thereof specified in the declaration, is to be transferred to the Commission.

(2) Where a declaration is made under the last preceding subsection and at the expiration of six months from the making thereof no agreement has been entered into between the appellant and the Commission for the acquisition by agreement by the Commission of the undertaking or of the part of the undertaking specified in the declaration, the appellant may apply to the Minister for an order giving effect to the transfer required by the declaration and the Minister shall make an order accordingly:

Provided that the Minister may permit such an application to be made before the expiration of the said six months if he is satisfied that there is no reasonable prospect of the transfer being effected by agreement.

(3) Any such order shall apply to the transfer, with such exceptions and subject to such modifications as may be specified in the order, the provisions of this Act relating to transfers of undertakings or parts of undertakings under Part III of this Act, including provisions as to compensation:

Provided that before making the order the Minister shall give the Commission and the appellant an opportunity of being heard before a person appointed by the Minister for the purpose, and shall consider the report of the person so appointed.

PART II. —*cont.*

(4) If the Commission and the appellant so agree, any such order may effect a transfer of a part only of the undertaking notwithstanding that the declaration related to the whole of the undertaking, or of the whole of the undertaking notwithstanding that the declaration related to part only thereof, or of a part of the undertaking not identical with the part of the undertaking specified in the declaration.

Abandonment of unnecessary canals.
51 & 52 Vict. c. 25.

37.—(1) Where the Commission make an application to the Minister under section forty-five of the Railway and Canal Traffic Act, 1888 (which relates to the abandonment of canals) in respect of any canal or part of a canal belonging to them, and the application is made on the ground that the canal or part of a canal is unnecessary for the purposes of public navigation, subsection (2) of that section shall not have effect, but a warrant of abandonment shall not be granted unless the Minister is satisfied—

(*a*) that the canal or part of a canal is unnecessary for the purposes of public navigation; and

(*b*) that such public and other notices of the application (including notices prescribing the time within which objection to the granting of the warrant may be made) have been given as the Minister may require.

(2) Where a warrant of abandonment has been granted on the application of the Commission on the ground that the canal or part of a canal is unnecessary for the purposes of public navigation, the Commission shall pay to any person who suffers damage by reason of the abandonment such compensation as may be fair, but save as aforesaid no compensation shall be payable in respect of the abandonment:

Provided that no compensation shall be payable as aforesaid to any person unless within the prescribed time from the publication of the notice referred to in paragraph (*b*) of subsection (1) of this section he has given to the Commission notice in writing of his desire to claim compensation, and the notice referred to in the said paragraph (*b*) shall contain such information as to the rights conferred by this subsection as the Minister may require.

(3) Any dispute as to whether any and if so what compensation is payable to any person under this section shall be determined by arbitration.

(4) The Minister may in any order in respect of a canal or part of a canal belonging to the Commission made under subsection (1) of the said section forty-five authorise the use of the abandoned canal or part of a canal, or of the site thereof, for purposes other than navigation.

PART II. —*cont.*

Schemes as to Railway Clearing Houses.

39.—(1) The Commission may prepare and submit to the Minister a scheme as to the property, rights, powers and liabilities of the Railway Clearing House and any such scheme may provide for all or any of the following matters, that is to say:

(*a*) for transferring all or any of the said property, rights, powers and liabilities to the Commission or to such other body as may be constituted or specified by the scheme;

(*b*) for dissolving or altering the constitution of the Railway Clearing House;

(*c*) for incorporating, with or without modifications, in relation to any body to whom any such transfer is made as is mentioned in paragraph (*a*) of this subsection, all or any of the provisions of this Act relating to borrowing or the issue of stock, including the provisions thereof relating to guarantees by the Treasury;

(*d*) for incorporating, with or without modifications, in relation to any such transfer as aforesaid any of the provisions of this Act relating to the transfer of undertakings or parts of undertakings to the Commission;

(*e*) for repealing or amending any previous scheme in force under this section;

(*f*) for making such other consequential or incidental provisions as appear necessary or expedient for the purposes of the scheme, including provisions for repealing or amending any statutory provision relating to the Railway Clearing House or the railway clearing system.

(2) A scheme under this section shall not take effect until embodied in an order made by the Minister in accordance with the provisions of the Eighth Schedule to this Act, and the date on which it takes effect shall be such date as may be specified in the order:

Provided that where an objection is made in accordance with the said Schedule to the making of the order and is not withdrawn before the making thereof, the order shall be subject to special parliamentary procedure.

(3) The Minister may direct the Commission to prepare and submit a scheme under this section and the Commission shall give effect to any such direction.

(4) Unless and until otherwise provided by a scheme under this section nothing in this Act shall have effect and no regulations shall be made under this Act which would have effect in such a way as to repeal, amend or affect the operation of the Railway Clearing Act, 1850, the Railway Clearing House Extension Act, 1874, the Railway Clearing Committee Incorporation Act, 1897, or the Railway Clearing House Scheme,

13 & 14 Vict. c. xxxiii.
37 Vict. c. xvi
60 & 61 Vict. c. cxvi.

PART II —*cont.*

1922 (which Acts and Scheme are together in this section referred to as " the Railway Clearing House Acts "), or prejudice the undertaking of the Railway Clearing House:

Provided that—

(*a*) the right possessed under the Railway Clearing House Acts by each of the bodies mentioned in Part I of the Third Schedule to this Act which is party to the clearing system to be represented on the body of delegates of the Railway Clearing House by a delegate or delegates appointed by the board of directors of such body shall after the date of transfer be exercisable by the Commission by the appointment of a delegate or delegates to the same number as such board of directors was entitled under the Railway Clearing House Acts immediately before the date of transfer to appoint;

(*b*) without prejudice to the power of appointment given to the Commission under the last preceding proviso each of the delegates duly appointed and in office immediately before the date of transfer as a representative of any of the said bodies shall continue in office until he resigns or the Commission appoint a new delegate to replace him; and

(*c*) as from the date of transfer the delegates, including the chairman of the body of delegates, shall be remunerated at a rate or rates to be determined by the Commission.

(5) If a scheme submitted to the Minister under this section for the dissolution of the Railway Clearing House is to take effect before the whole of the Railway Clearing House (Railway Freight Rebates Fund) Redeemable 2½ per cent. stock 1937-52 (issued in pursuance of powers conferred by section sixty-eight of and the Eleventh Schedule to the Local Government Act, 1929, and the Railway Freight Rebates Act, 1936, and in this section referred to as " the Rebates Stock ") has been purchased or redeemed and cancelled by the Railway Clearing House, such scheme shall provide that the principal of and the interest on any amount of the Rebates Stock outstanding immediately before the date of the coming into operation of such scheme shall as from that date become a liability of the Commission, and all sums payable by the Commission for interest or repayment of principal or into any sinking fund for repayment of principal in respect of the Rebates Stock shall be paid out of the revenue of the Commission and shall have the same priority as payment of rates over other payments thereout to the extent of any relief from rates provided for by any Act.

10 & 20 Geo. 5. c. 17.
1 Edw. 8 & 1 Geo. 6. c. 2.

PART III.

TRANSPORT OF GOODS BY ROAD.

Acquisition of certain undertakings by the Commission.

Certain road transport undertakings to be acquired by Commission.

39.—(1) Where the Commission are of opinion with respect to an undertaking the activities of which consist wholly or partly of the operation of any vehicles authorised to be used under any A licence or B licence—

(*a*) that the undertaking or any part thereof was carried on (whether by the same person or not) during the whole or any part of the year nineteen hundred and forty-six; and

(*b*) that the activities of the undertaking in that year, so far as they consisted of the carriage of goods in goods vehicles (being vehicles with respect to which a licence, of whatever class, was in force), consisted to a predominant extent of ordinary long distance carriage for hire or reward,

it shall be the duty of the Commission to give, in accordance with the subsequent provisions of this Part of this Act, a notice of acquisition with respect to the undertaking:

Provided that if the Commission, having due regard to their duties under subsection (1) of section three of this Act, are of the opinion that, by reason of the special character of an undertaking which fulfils the aforementioned conditions, or by reason of the goods carried or the locality served by that undertaking, it is expedient to make an exception in that case, the Commission may enter into an agreement with the person carrying on that undertaking that, subject to such conditions, if any, as may be specified in the agreement, a notice of acquisition shall not be given with respect thereto or, as the case may be, that, subject to such conditions, if any, as may be specified in the agreement, a notice of acquisition duly given shall be withdrawn; and where any such agreement is concluded, the Commission shall be released from their duty under this subsection to give a notice of acquisition with respect to that undertaking, but may, if they think fit, give such a notice in the event of any breach of the conditions specified in the agreement, and any notice of acquisition so given shall have effect as if no such agreement had been entered into.

(2) In this Part of this Act, the expression "ordinary long distance carriage" means, in relation to an undertaking, the

PART III. —*cont.*

carriage of goods by the person carrying on the undertaking for a distance of forty miles or upwards in one goods vehicle or a succession of goods vehicles, in such circumstances that the vehicle, or, as the case may be, one or more of the vehicles, is, at some time during the carriage, more than twenty-five miles from its operating centre:

Provided that the carriage of liquids carried in bulk in a tank permanently fixed to the vehicle, or in a tank not so fixed of which the capacity is not less than five hundred gallons, the carriage of goods of a special character which, under any statutory provision specifically relating thereto, may only be carried in a vehicle constructed or adapted so as to comply with the requirements of that provision and which are being so carried, ordinary furniture removals, the carriage of meat, the carriage of livestock, the carriage of felled timber in a vehicle specially constructed for the purposes of such carriage, any carriage effected wholly in vehicles specially constructed to carry abnormal indivisible loads and the carriage, in a vehicle in which no other goods are being carried for hire or reward, of apparatus or equipment ancillary to the operation, for the purposes of the carriage of such loads, of such a specially constructed vehicle shall not be treated as ordinary long distance carriage.

(3) The distance of forty miles mentioned in subsection (2) of this section shall, notwithstanding anything in section thirty-four of the Interpretation Act, 1889, be measured along the route actually taken by the vehicle or vehicles in question.

52 & 53 Vict. c. 63.

Notices of acquisition.

40.—(1) A notice of acquisition given by the Commission with respect to an undertaking shall be in writing and shall be served on the person carrying on the undertaking.

(2) If a person on whom a notice of acquisition has been served by the Commission with respect to an undertaking desires to contend that the undertaking is not one with respect to which the Commission are required or entitled to give a notice of acquisition under the last preceding section, he may by notice in writing served on the Commission require the Commission to withdraw their notice.

(3) Where the Commission receives such a notice as is referred to in subsection (2) of this section, they shall, if satisfied that the contention of the person carrying on the undertaking is correct, withdraw their notice, but in any other case the question whether or not the notice given by the Commission is to have effect shall, unless the owner of the undertaking withdraws his notice, be determined by the arbitration tribunal established under Part VIII of this Act.

PART III —*cont.*

(4) Where a person carrying on an undertaking with respect to which no notice of acquisition has been served by the Commission desires to contend that the undertaking is one with respect to which the Commission are required to give a notice of acquisition, he may by notice in writing served on the Commission require the Commission to serve a notice of acquisition in respect thereof and, if the Commission fail or refuse to serve such a notice, the question whether or not the Commission are to serve such a notice shall, unless the owner of the undertaking withdraws his notice, be determined by the arbitration tribunal established under Part VIII of this Act.

(5) A notice of acquisition, and any other notice given under this section, shall be served in the prescribed manner and within the prescribed time, and shall embody such particulars, if any, as to the grounds on which the notice is given, as may be prescribed.

Tests as to whether ordinary long distance carriage for hire or reward predominates.

41.—(1) For the purposes of any proceedings under the last preceding section before the arbitration tribunal established under Part VIII of this Act, the activities of an undertaking in the year nineteen hundred and forty-six, so far as they consisted in the carriage of goods in goods vehicles with respect to which A licences, B licences or C licences were in force, shall be deemed to have consisted to a predominant extent of ordinary long distance carriage for hire or reward if, and, save as is hereinafter provided in this subsection, only if, one or other of the following conditions was satisfied as respects the undertaking in that year, that is to say—

(*a*) the total weight of the goods which were the subject of ordinary long distance carriage for hire or reward in the said goods vehicles exceeded half the total weight of all the goods carried in those vehicles; or

(*b*) the receipts of the undertaking from ordinary long distance carriage for hire or reward exceeded half the total value to the undertaking of the services of the vehicles,

and the question whether the notice of acquisition to which the proceedings relate is to have effect, or, as the case may be, the question whether a notice of acquisition shall be served, shall be determined accordingly:

Provided that if the information available in any such proceedings is insufficient to enable the tribunal to conclude either that one or other of the said conditions was satisfied as aforesaid or that neither of the conditions was so satisfied, the tribunal shall determine that the activities of the undertaking

PART III. —*cont.*

in the said year, so far as they consisted of the carriage of goods in goods vehicles in respect of which licences were in force, consisted to a predominant extent of ordinary long distance carriage for hire and reward, if it appears to the tribunal, from the information available in those proceedings, that those activities ought, in all the circumstances, properly to be regarded as having consisted to a predominant extent of such carriage.

(2) Where, in the year nineteen hundred and forty-six, goods were carried for hire or reward and the carriage thereof was charged for by weight but with a provision that, in particular circumstances, the weight thereof should be taken to be a weight calculated by reference to the volume thereof, the weight of those goods shall, in those circumstances, be taken for the purposes of paragraph (*a*) of subsection (1) of this section to have been a weight similarly calculated.

(3) Where in the year nineteen hundred and forty-six goods were carried for hire or reward and the carriage thereof was charged for by volume ascertained by means of calibration marks on a vehicle, stamped with a stamp of verification under section twenty-nine of the Weights and Measures Act, 1878, the weight of the goods shall be calculated for the purposes of paragraph (*a*) of the said subsection (1) at such ratio to the volume ascertained as aforesaid as is customary in relation to those goods in the appropriate trade or industry.

41 & 42 Vict. c. 49.

(4) Where, in the year nineteen hundred and forty-six, goods were carried for hire or reward and the carriage thereof was charged for by volume, ascertained otherwise than by means of calibration marks on the vehicle, the weight of those goods shall be taken for the purposes of paragraph (*a*) of the said subsection (1) to have been one ton for every eighty cubic feet of the volume of the goods, and so proportionately for volumes which are not an exact multiple of eighty cubic feet.

(5) For the purposes of paragraph (*b*) of the said subsection (1), the total value to the undertaking of the services of the vehicles therein referred to shall be ascertained by adding together—

(*a*) the receipts of the undertaking in respect of carriage for hire or reward in those vehicles; and

(*b*) a sum in respect of goods carried therein otherwise than for hire or reward equal to the amount which it would have been reasonable for the person carrying on the undertaking to charge for the carriage thereof if he had been lawfully carrying them for hire or reward,

any carriage which could be effected without a licence being in force in respect of the vehicle being left out of account.

PART III. —*cont.*

Application of preceding provisions to controlled undertakings and vehicles hired by the Minister.

42.—(1) Where, by virtue of a Road Haulage Organisation control agreement, the whole or any part of an undertaking the activities of which consist wholly or partly of the operation of any vehicles authorised to be used under any A licence or B licence was under the control of the Minister during any part of the year nineteen hundred and forty-six—

(*a*) the person carrying on the undertaking may, if he thinks fit, require the Commission to serve a notice of acquisition with respect to the undertaking whether or not the conditions requisite under the preceding provisions of this Part of this Act, so far as they relate to the facts of the said year, are satisfied in relation to the undertaking, and the preceding provisions of this Part of this Act shall have effect in relation to any such requirement as if the said conditions were satisfied so far as they relate to the facts of that year; and

(*b*) if he does not duly require the Commission to serve a notice of acquisition, the question whether the said conditions are satisfied shall be determined as if the undertaking had first begun to be carried on at the date when the agreement ceased to have effect.

(2) Where, at any time during the year nineteen hundred and forty-six, any of the goods vehicles used for the purposes of an undertaking were under hire to the Minister under any agreement incorporating, with or without modifications, the General Conditions of Hire of Goods Road Motor Vehicles, then, in determining whether the activities of the undertaking, so far as they consisted of the carriage of goods in goods vehicles with respect to which licences were in force, consisted to a predominant extent in ordinary long distance carriage for hire or reward, the last preceding section shall have effect in relation to the undertaking subject to the following modifications, that is to say either—

(*a*) the undertaking shall be taken to have first begun to be carried on at the date when the agreements ceased to have effect; or

(*b*) if the person carrying on the undertaking elects that this paragraph shall apply, paragraph (*a*) of subsection (1) of the last preceding section shall not apply and, for the purposes of paragraph (*b*) thereof, all vehicles which were at any time under hire under any such agreement shall, as respects any period for which they were under hire under the agreement, be treated as if all the goods carried therein were carried by way of ordinary long distance carriage for hire or reward, and all sums

PART III —*cont.*

paid by the Minister under any such agreement shall be treated as receipts of the undertaking from ordinary long distance carriage for hire or reward.

(3) In this section—

the expression " a Road Haulage Organisation control agreement " means an agreement for the control of the whole or any part of an undertaking, incorporating, with or without modifications, the memorandum of financial arrangements dated the second day of February, nineteen hundred and forty-three, which was issued on behalf of the Minister for the purposes of the Road Haulage Organisation brought into being in that year; and

the expression " the General Conditions of Hire of Goods Road Motor Vehicles " means the document issued on behalf of the Minister in the month of April, nineteen hundred and forty-three, in connection with the said Road Haulage Organisation, entitled " The General Conditions of Hire of Goods Road Motor Vehicles (Long Distance Services) "

Application of preceding provisions to mergers, etc.

43.—(1) Where, on or after the twenty-eighth day of November, nineteen hundred and forty-six, an undertaking becomes, as the result of an acquisition or merger, part of another undertaking, and the conditions requisite under the preceding provisions of this Part of this Act for the giving of a notice of acquisition with respect to the first-mentioned undertaking are satisfied so far as they relate to the facts of the said year, the said conditions, so far as they relate to the said facts, shall be deemed to be satisfied with respect to the whole of the second mentioned undertaking and, in the case of subsequent acquisitions or mergers, with respect also to the whole of any other undertaking which indirectly represents the first mentioned undertaking:

Provided that where the first mentioned acquisition or merger took place before the end of the year nineteen hundred and forty-six, any reference in the preceding provisions of this Part of this Act to the year nineteen hundred and forty-six shall, in relation to the first mentioned undertaking, be treated as a reference to so much of that year as preceded the acquisition or merger.

(2) Where an undertaking which was being carried on immediately before the said twenty-eighth day of November directly or indirectly represented, as the result of an acquisition or merger or a series of acquisitions or mergers, other undertakings which were carried on in the said year, any reference in the preceding provisions of this Part of this Act to

PART III. —*cont.*

an undertaking shall, so far as they relate to the facts of the said year, be construed, as respects that undertaking, as a reference to that undertaking and all the other undertakings which it represented as aforesaid, taken together.

Date of transfer under notice of acquisition.

44.—(1) Every notice of acquisition shall specify a date (not being earlier than the prescribed time after the service of the notice) on which, subject to the provisions of this section, the transfer to be effected in pursuance of the notice is to take effect.

(2) Where under subsection (2) of section forty of this Act the person on whom a notice of acquisition is served duly requires the Commission to withdraw the notice, the date on which the said transfer is to have effect shall be the date specified in the notice of acquisition or a date one month after the question whether the notice of acquisition is to have effect has been determined, whether by withdrawal of the owner's notice or by proceedings before the arbitration tribunal established under Part VIII of this Act, whichever of those dates is the later.

(3) The Commission and the person carrying on the undertaking may by agreement substitute another date for the date fixed under the preceding provisions of this section.

(4) The date fixed under the preceding provisions of this section is in this Part of this Act, and in the other provisions of this Act relating to transfers under this Part of this Act of undertakings or parts of undertakings, referred to as "the date of transfer".

General effect of notice of acquisition.

45.—(1) Subject to the provisions of this Part of this Act relating to disclaimer and subject, as respects any particular property or any particular contracts, to any agreement to the contrary made between the Commission and the person carrying on the undertaking (in this Part of this Act referred to as "the transferor"), the provisions of this section shall, where a notice of acquisition is given with respect to an undertaking and is not withdrawn or determined by arbitration to be of no effect, have effect in relation to—

(*a*) property which immediately before the date of transfer was owned by the transferor and was held by him for the purposes of the undertaking; and

(*b*) contracts, whether in writing or not and whether or not of such a nature that the rights or liabilities thereunder could be assigned by the transferor, being contracts to which the transferor was a party and which were made for the purposes of the carrying on of the undertaking:

PART III. —*cont.*

Provided that where the operation of vehicles authorised to be used under A licences or B licences is only one of the activities of the undertaking, the said provisions shall have effect only in relation to property held wholly or partly for the purposes of that activity and in relation to contracts made wholly or partly for those purposes, and, without prejudice to the preceding provisions of this proviso, if the transferor gives notice to the Commission in such manner and within such time as may be prescribed that he desires that the provisions of this section shall not operate in relation to any specified property or contract, held or made partly for any purpose of the undertaking other than the purposes of that activity, the said provisions shall not have effect in relation thereto unless it is reasonably necessary for the purposes of the Commission that they should have effect.

The property and contracts in relation to which this section has effect are hereafter in this and the next succeeding section referred to respectively as " the relevant property " and " the relevant contracts ".

(2) Subject to the provisions of this section, all the relevant property shall, on the date of transfer, vest in the Commission free from any mortgage or other like incumbrance.

(3) Subject to the provisions of this section, every relevant contract shall, unless its terms or subject matter make it impossible that it should have effect as modified in the manner provided by this subsection, have effect as from the date of transfer as if—

(*a*) the Commission had been a party to the contract; and

(*b*) for any reference (however worded and whether express or implied) to the transferor there were substituted, as respects anything falling to be done on or after the date of transfer, a reference to the Commission; and

(*c*) any reference (however worded and whether express or implied) to, or to any part of, or to any sum determined by reference to, any profits or receipts of the undertaking were, as respects profits or receipts arising on or after the date of transfer, a reference to, or to the corresponding part of, or to a sum similarly determined by reference to, an estimate of what those profits or receipts would have been but for the transfer; and

(*d*) any reference (however worded and whether express or implied) to the directors or any of the directors of the transferor (being a body corporate) were, as respects anything falling to be done on or after the date of transfer, a reference to such person as the Commission may appoint; and

PART III —cont.

(*e*) any reference (however worded and whether express or implied) to any officer or any servant of the transferor were, as respects anything falling to be done on or after the date of transfer, a reference to such person as the Commission may appoint or, in default of appointment, to the officer or servant of the Commission who corresponds as nearly as may be to the first mentioned officer or servant; and

(*f*) in the case of a contract for the rendering of personal services to the transferor, the services to which the contract relates were, on and after the date of transfer, any reasonably comparable services under the Commission, to be selected by the Commission; and

(*g*) save as provided by the four last preceding paragraphs, any reference (however worded and whether express or implied) to the undertaking to which the notice of acquisition relates were as respects the period beginning with the date of transfer a reference to so much of the undertaking of the Commission as corresponds to that undertaking:

Provided that any relevant contract which cannot have effect as modified in the manner provided by this subsection by reason only that, if it were so modified, no person other than the Commission would have any rights or liabilities thereunder shall cease to have effect as respects anything falling to be done on or after the date of transfer.

(4) Where at the date of transfer legal proceedings are pending by or against the transferor in connection with any of the relevant property or any of the relevant contracts, the Commission, if the circumstances so require, may be added as a party to the proceedings or substituted for the transferor as a party to the proceedings.

(5) Nothing in this section shall operate to transfer any cash to the Commission, and nothing in this section shall affect any right or liability with respect to the borrowing of money by the transferor, any right or liability with respect to the raising of money by the transferor by the issue of securities, any right or liability under any contract for the rendering by any person of personal services as a director (other than a managing director, or a director whose functions are substantially those of an employee), any right to, or liability to pay, any debt which became due before, or was in respect of a consideration wholly executed before, the date of transfer, or any right or liability to any damages which accrued before the date of transfer.

(6) Any question which arises as to whether any property is relevant property or any contract a relevant contract for

PART III. —*cont.*

the purposes of this section shall, in default of agreement, be determined by the arbitration tribunal established under Part VIII of this Act.

Disclaimer of property and contracts.

46.—(1) Where notice of acquisition is given with respect to an undertaking, the transferor shall, as soon as may be after the giving of the notice and in any case not later than fourteen days after the date of transfer or such later date as the Commission may allow, supply to the Commission particulars of all the relevant property acquired on or after the nineteenth day of November, nineteen hundred and forty-five, and of all the relevant contracts entered into or varied on or after that date, except such property and contracts as the Commission may exclude, either generally or in any particular case, from the operation of this subsection.

(2) Where any relevant property was acquired or any relevant contract entered into or varied on or after the said nineteenth day of November, and the acquisition of the property or the making or variation of the contract, as the case may be, was not reasonably necessary for the purposes of the undertaking, or was an act of unreasonable imprudence on the part of the person carrying on the undertaking, the Commission may, by notice in writing, in the case of property, given to the transferor before the expiration of the period hereafter mentioned, and in the case of a contract, given to the parties to the contract before the expiration of the said period, disclaim the property or the contract.

The said period is—

(*a*) where particulars are given of the property or contract under subsection (1) of this section, three months from the date when the particulars are so given;

(*b*) where particulars ought to have been so given of the property or contract but have not been so given, three months from the date when the existence and full particulars of the property or the contract first become known to the Commission; and

(*c*) in any other case, three months from the date of transfer.

(3) Where notice is so given by the Commission with respect to any property, the provisions of the last preceding section shall have effect as if the property were not and had never been relevant property within the meaning thereof:

Provided that the giving of such a notice with respect to any property shall not affect any right exercised or falling to be exercised between the date of transfer and the date of the notice or any duty or liability falling to be performed or discharged during the said period.

(4) Where notice is so given by the Commission with respect to any contract— PART III —*cont.*

(*a*) subsection (3) of the last preceding section shall be deemed never to have applied to the contract; and

(*b*) the contract shall be deemed to have been frustrated on the date of transfer and the parties thereto to have been for that reason discharged from the further performance thereof; and

(*c*) the like consequences shall follow as between the Commission and any party to the contract who, before the giving of the notice, has, in pursuance of the contract, supplied goods or rendered services to the Commission which the Commission have accepted or to whom, before the giving of the notice, the Commission have, in pursuance of the contract, supplied goods or rendered services which he has accepted, as would have followed if those goods or services had been supplied or rendered at the request of the Commission or of that party, as the case may be, apart from the contract and on terms that a reasonable payment would be made in respect thereof, and any payments by or to the Commission before the giving of the notice shall be adjusted accordingly.

(5) For the purposes of paragraph (*c*) of the last preceding subsection, a person who permits another to use or enjoy any property shall be deemed to render a service to him.

(6) So much of this section as relates to contracts does not apply to any lease, agreement for a lease, or other contract constituting any interest in land, and where any such interest is disclaimed by virtue of so much of this section as relates to the disclaimer of property, the provisions of the last preceding section shall have effect as if the said lease, agreement or other contract were not and had never been a relevant contract within the meaning thereof, but without prejudice to the proviso to subsection (3) of this section.

47.—(1) In respect of any goods vehicle vesting in the Commission by virtue of a notice of acquisition, the Commission shall pay to the transferor compensation equal to the cost, as at the date of transfer, of replacing the vehicle by a new vehicle of a similar type, adjusted, however— Amount of compensation.

(*a*) in the case of a vehicle registered under the Roads Act, 1920, by deducting, where one or more complete years have elapsed between the date when the vehicle was so registered and the date of transfer, one-fifth of the said cost in respect of the first year and, in 10 & 11 Geo. 5. c. 72.

PART III. —*cont.*

respect of each subsequent year, one-fifth of the said cost as reduced by the total deduction falling to be made in respect of the previous years; or

(*b*) in the case of a trailer (other than a superimposed trailer) by deducting, where one or more complete years have elapsed between the date on which the vehicle was first put into use and the date of transfer, one-seventh of the said cost in respect of the first year and, in respect of each subsequent year, one-seventh of the said cost as reduced by the total deduction falling to be made in respect of the previous years; and

(*c*) in either case, if it is established that the physical condition of the vehicle is materially better or worse at the date of transfer than the normal physical condition at that date of a vehicle of the same type and age, by adding to or deducting from the said cost, as reduced by the deductions, if any, falling to be made under paragraph (*a*) or paragraph (*b*) of this subsection, such amount as fairly represents the difference.

(2) In respect of any property vesting in the Commission by virtue of notice of acquisition, other than a goods vehicle, the Commission shall pay to the transferor compensation equal to the amount which the property would fetch if sold in the open market, estimated as at the date of transfer and as if this Act had not passed.

(3) In respect of the total or partial cessation of business caused to the transferor by the operation of a notice of acquisition, the Commission shall pay to the transferor such sum, if any, as may be just, being a sum calculated by reference to the average net annual profit as defined in the Ninth Schedule to this Act, and being not less than twice nor more than five times the said average net annual profit.

In considering the proportion which the amount of the compensation is to bear to the average net annual profit as so defined, regard shall be had to the likelihood or otherwise that profits at the rate represented by the average net annual profit might, but for the operation of this Act, have been made after the date of transfer by carrying on the undertaking.

(4) Where—

(*a*) the activities of an undertaking with respect to which a notice of acquisition is given consist, immediately before the date of transfer, partly of the operation of vehicles authorised to be used under A licences or B licences and partly of other activities; and

PART III. —*cont.*

(*b*) the undertaking, so far as it consists of those other activities or any of them, is carried on on or after the date of transfer; and

(*c*) it appears that the proportion which the overhead expenses incurred in carrying on that undertaking bear to the total expenses incurred in carrying it on will be greater on or after the date of transfer than before that date by reason of the transfer to the Commission resulting from the notice of acquisition,

the Commission shall pay to the transferor such compensation in respect of severance as fairly represents the burden of that increase over the five years beginning with the date of transfer:

Provided that no increase in the said proportion shall be taken into account for the purposes of this subsection except in so far as it is shown by the transferor that the increase could not reasonably be avoided by him.

(5) Where a hire purchase agreement is a relevant contract within the meaning of the preceding provisions of this Part of this Act relating to the effect of notices of acquisition and the effect of the notice of acquisition is to vest the rights of the hirer in the Commission, the Commission shall pay to the transferor the same compensation as would have fallen to be paid if the property which is the subject of the agreement had vested in the Commission, less the amount remaining to be paid under the agreement before the hirer can become the owner of the property:

Provided that in calculating the compensation payable under this subsection—

(*a*) there shall be ascertained what sum out of the total amount paid or to be paid under the agreement represents the charge made by the owner of the property for the credit given under the agreement; and

(*b*) the said amount remaining to be paid shall for the purposes of this subsection be deemed to be reduced by so much of the sum ascertained under paragraph (*a*) of this proviso as bears to the whole of that sum the same proportion that the part of the period by the expiration of which payment of the total amount due under the agreement must be completed falling after the date of transfer bears to the whole of that period.

(6) There shall be deducted from the total amount of compensation payable in respect of an undertaking under the preceding provisions of this section—

(*a*) an amount equal to such part of any sums paid or payable by the Commission in or towards the discharge

PART III. —*cont.*

of any liability to which as the result of the transfer effected by the notice of acquisition they have become subject in respect of any property or under any contract as, on a just apportionment, is referable to matters occurring before the date of transfer;

(*b*) an amount equal to such part of any sums received by the transferor before the date of transfer as consideration for the supply of goods or the rendering of services as, on a just apportionment, is referable to goods to be supplied or services to be rendered by the Commission after the date of transfer,

and there shall be added to the total amount of compensation payable in respect of an undertaking under the preceding provisions of this section an amount equal to such part of any sums paid by the transferor before the date of transfer as consideration for the supply of goods or the rendering of services as, on a just apportionment, is referable to goods to be supplied or services to be rendered to the Commission after the date of the transfer:

Provided that no deduction or addition shall be made under this subsection if and in so far as the matter in respect of which the deduction or addition would fall to be made has affected the compensation payable under subsection (2) of this section in respect of any property.

For the purposes of this subsection, a person who permits another to use or enjoy any property shall be deemed to render a service to him.

(7) Where the Commission have duly disclaimed any property, there shall be added to or subtracted from the total amount of the compensation payable in respect of an undertaking under this section the amount by which the value of the use or enjoyment of the property by the Commission during the period beginning with the date of transfer and ending with the date of the disclaimer exceeds or falls short of such part of the total sums paid or payable by the Commission in or towards the discharge of any liability to which they have become subject in respect of the property, as, on a just apportionment, is referable to the period beginning with the date of transfer.

(8) Save as aforesaid, and subject to any other express provision contained in this Act, no compensation shall be payable in respect of the transfer effected by a notice of acquisition.

Date and mode of payment of compensation.

48.—(1) A provisional ascertainment of the total amount payable under the last preceding section with respect to an undertaking shall be made as soon as may be after the date of transfer, without regard to the possibility that the

Commission may, after the date of the completion of the provisional ascertainment, disclaim any property or contract not disclaimed by them before the completion of the provisional ascertainment, and the Commission shall pay the amount provisionally ascertained to be payable, less such sum, not exceeding one-tenth of that amount, as the Commission may think fit to retain pending the final ascertainment of the total net amount payable.

(2) Where the amount paid under the preceding subsection is found to be less or more than the net amount falling to be paid under the last preceding section, the deficiency or excess shall be made good by or to the Commission.

(3) The amounts payable in accordance with the preceding provisions of this section by the Commission shall be satisfied, in the manner provided for by Part VI of this Act, by the issue of British transport stock:

Provided that where the amount payable to a person on any date does not exceed twenty thousand pounds, the person to whom it is to be paid may, by notice in writing to the Commission given within the prescribed time, require that the Commission shall satisfy the said amount or, if the said amount exceeds two thousand pounds, two thousand pounds thereof by a payment in cash, and the said amount shall, either wholly or to that extent, be satisfied accordingly.

(4) In addition to any sum payable under the last preceding section, the Commission shall be liable to pay interest on the amount ultimately found due to be paid by way of compensation, at such rates as the Treasury may determine, from the date of the transfer until—

(*a*) in the case of an amount satisfied by the issue of British transport stock, the date as from which interest on that stock begins to accrue; and

(*b*) in any other case, the date of payment,

and the Commission may from time to time make payments on account of any interest which the Commission estimate will become payable under this subsection, and where any adjustment falls to be made for any overpayment or underpayment of compensation under the preceding provisions of this section, an adjustment shall also be made in respect of interest.

Compensation for property subject to incumbrances.

49.—(1) Where any property in respect of which compensation falls to be paid under the preceding provisions of this Part of this Act was, immediately before the date of transfer, subject to a mortgage or other like incumbrance (other than a floating charge which will attach to the compensation), so much of any payment of, or on account of, or

PART III —*cont.*

by way of interest on, any compensation payable in respect of the undertaking as is properly referable to that property shall be made to the incumbrancer:

Provided that—

(*a*) this subsection shall not apply to any mortgage or other like incumbrance unless it is registered as a bill of sale or is registered under Part III of the Companies Act, 1929, or is registered under the Land Registration Act, 1925, or the Land Charges Act, 1925, or is a mortgage by deposit of title deeds or the Commission obtains possession of the property from the incumbrancer;

15 & 16 Geo. 5. c. 21.

15 & 16 Geo. 5. c. 22.

(*b*) if, at the time when the payment is made, the debt secured by a mortgage or other like incumbrance has been paid in full, the payment shall be made as if the property had not been subject to the mortgage or incumbrance;

(*c*) if the property was subject to two or more mortgages or other like incumbrances to which this subsection applies, the payment shall, subject to the provisions of the last preceding paragraph of this proviso, be made to the incumbrancer whose mortgage or other incumbrance has priority; and

(*d*) in any case this subsection shall have effect, as regards any mortgage or other like incumbrance to which this subsection applies, subject to any agreement between the incumbrancer and the person to whom, apart from that mortgage or other incumbrance the payment would have fallen to be made.

(2) A payment made to an incumbrancer under subsection (1) of this section shall be treated for the purposes of subsection (3) of the last preceding section as a separate payment.

(3) Where a payment is made to an incumbrancer under subsection (1) of this section (whether satisfied by the issue of British transport stock or made in cash) the incumbrancer shall be liable to account as if the amount paid to him or the amount represented by the stock, as the case may be, had accrued to him as proceeds of sale of the property in question arising under a power of sale exercised by him immediately before the date of transfer; and the incumbrancer shall be under the like obligation to obtain the full amount of any payment falling to be made to him under the said subsection (1) as he would have been had he been obtaining that amount by means of the exercise of such a power of sale.

(4) Any deduction from the total amount of any compensation payable in respect of an undertaking which falls to be

made in respect of any sums paid by the Commission in or towards the discharge of any liability to which they have become subject or in respect of goods to be supplied or services to be rendered by the Commission or other similar matters shall, for the purpose of determining how much of any payment of, or on account of, compensation is to be treated for the purposes of this section as properly referable to any particular property, be dealt with as follows—

(*a*) if the liability was incurred in respect of any property, it shall first be applied in reducing the compensation in respect of that property;

(*b*) any balance, or, if the liability was not in respect of property, the whole thereof, shall be applied first in reducing the compensation for cessation of business, the compensation for severance, and any addition to compensation in respect of goods to be supplied or services to be rendered to the Commission after the date of transfer or other similar matters, and so far as it cannot be so applied, apportioned rateably over the remainder of the compensation payable.

Duty of transferor as to carrying on undertaking until transfer.

50.—(1) Where notice of acquisition has been given with respect to an undertaking, the transferor shall, until the date of transfer or the date on which the notice is withdrawn or otherwise ceases to have effect, carry on the undertaking in the ordinary course of business and maintain it in as efficient condition as it was in before the giving of the notice, and shall not without the previous consent in writing of the Commission given either generally or specially (which he shall apply for if it is necessary for the purposes aforesaid)—

(*a*) sell, dispose of or let or hire out for more than six months any land or vehicles held for the purposes of the undertaking; or

(*b*) enter into a contract for the purposes of the undertaking extending for more than twelve months; or

(*c*) undertake any new works estimated to cost more than five hundred pounds in all:

Provided that, where the activities of the undertaking in question consist partly of the operation of vehicles which are to vest in the Commission by virtue of the notice of acquisition and partly of other activities, this subsection shall not apply to transactions solely concerning such other activities.

(2) Where the Commission suffer damage by reason of any contravention by the transferor of the provisions of subsection (1) of this section, the amount of the damage shall be deducted from the compensation payable in respect of the undertaking.

PART III. —*cont.*

(3) Any deduction made under this section shall, for the purpose of determining how much of any payment of, or on account of, compensation is to be treated for the purposes of the last preceding section as properly referable to any particular property, be dealt with as follows—

(*a*) if the damage was a diminution of the value to the Commission of any property, the deduction shall first be applied in reducing the compensation in respect of that property;

(*b*) any balance of the deduction not so applied, or, if the damage was not such damage as aforesaid, the whole of the deduction, shall first be applied in reducing the compensation for cessation of business, the compensation for severance, and any addition to compensation in respect of goods to be supplied or services to be rendered to the Commission after the date of transfer, or other similar matters, and, so far as it cannot be so applied, shall be apportioned rateably over the remainder of the compensation payable.

Information, etc.

51.—(1) The licensing authority for any area shall, on demand by the Commission, supply to the Commission any such information, obtained by the authority or any predecessor of his in his office either as such or as a Regional Transport Commissioner acting on behalf of the Minister, with respect to the nature of the business carried on by a person carrying on any undertaking as the Commission may reasonably require for the purpose of ascertaining whether or not the undertaking is one with respect to which the Commission are bound under the preceding provisions of this Part of this Act to serve a notice of acquisition.

Where any information is supplied by the licensing authority to the Commission with respect to the nature of the business carried on by any person, a statement that that information has been so supplied, together with full particulars thereof, shall be sent at the same time by that authority to that person.

(2) It shall be the duty of any persons who are carrying on or who have carried on any undertaking the activities of which consist in whole or in part of the operation of vehicles covered by A licences or B licences to produce and permit extracts to be made from and copies to be taken of such books of account, records and other documents and to provide such information as the Commission may reasonably require for the purpose of ascertaining whether or not the undertaking is one with respect to which the Commission are bound under the said provisions to serve a notice of acquisition, or for the purpose

of ascertaining what compensation is payable under this Part of this Act in respect thereof.

(3) Where notice of acquisition has been given with respect to an undertaking, the person to whom it is given shall produce to the Commission and permit the Commission to make extracts from and take copies of such books of account, records and other documents, and shall supply to the Commission such information, as the Commission may reasonably require for the purpose of enabling them to take over easily and without interruption the business of the undertaking so far as it relates to the operation of the vehicles which will be affected by the notice, including, in particular, books of account, records or documents relating to, and information as to, the vehicles and other property which will be affected by the notice, the nature of the business carried on in connection with those vehicles and the persons employed in or in connection with that business:

Provided that a person shall not, by virtue of this subsection, be bound to produce or permit extracts to be made from or copies to be taken of any such books, records or documents or to give any such information until the expiration of the period prescribed for the giving by him of a notice requiring the withdrawal of the notice of acquisition, or, if within that period he has given such a notice, until it is determined that the notice of acquisition is to have effect.

(4) Where notice of acquisition is given with respect to an undertaking, the person to whom it is given shall preserve all books of account, records and other documents relating to the undertaking until they are handed over to the Commission or, if they are retained by him, until six months have elapsed after the date of transfer.

Restrictions on Carriage of Goods for Hire or Reward otherwise than by Commission.

Additional restrictions on carriage of goods for hire and reward.

52.—(1) On and after the appointed day, it shall be a condition of every A licence and every B licence that, except under and in accordance with a permit granted by the Commission, goods shall not be carried for hire or reward in any authorised vehicle if the vehicle, at any time while the goods are being so carried, is more than twenty-five miles from its operating centre, and the Road and Rail Traffic Act, 1933, shall have effect as if the said condition were included among the conditions specified in subsection (1) of section eight of that Act:

Provided that the said condition shall not apply where—

(*a*) the goods carried are liquids carried in bulk in a tank permanently fixed to the vehicle, or in a tank not so

PART III. —*cont.*

fixed of which the capacity is not less than five hundred gallons, or are goods of a special character which, under any statutory provision specifically relating thereto, may only be carried in a vehicle constructed or adapted so as to comply with the requirements of that provision and which are being so carried, or the carriage is an ordinary furniture removal, or the goods carried are meat or livestock; or

(*b*) the goods carried consist of felled timber which is being carried in a vehicle specially constructed for the purposes of such carriage; or

(*c*) the vehicle is a vehicle specially constructed to carry abnormal indivisible loads or the goods carried are apparatus or equipment ancillary to the operation, for the purposes of the carriage of such loads, of such a vehicle; or

(*d*) a notice of acquisition has been served with respect to the undertaking for the purposes of which the vehicle is being used and has not been withdrawn or declared to be of no effect, and, if that notice has effect, the vehicle will, by virtue of the notice, be transferred to the Commission.

(2) The Commission shall have full power in their discretion either to grant or to refuse any such permit as aforesaid, and any such permit may be granted by them for such period and subject to such conditions as they think fit, and they may at any time, by notice in writing to the holder of the permit, revoke, suspend or vary the permit:

Provided that the Commission shall, in exercising their discretion, take into consideration the needs of, and any special circumstances affecting, the locality in which is situated the operating centre of any vehicle to which the permit would relate.

(3) The provisions of this section shall have effect in relation to every A or B licence whether granted before or after the passing of this Act, and whether or not the condition provided for by this section is expressed in the licence.

(4) The preceding provisions of this section shall, in the case of a B licence, be without prejudice—

(*a*) to the power of the licensing authority to impose, under subsection (3) of section eight of the Road and Rail Traffic Act, 1933, conditions which provide for restrictions additional to those provided for by the condition specified in subsection (1) of this section; and

(*b*) to any condition imposed under the said power before the appointed day. PART III. —*cont.*

(5) It shall not be necessary for any such permit as aforesaid to be so framed as to apply only in relation to a particular licence, and more than one such permit as aforesaid may be granted to the same person.

Protection for certain existing undertakings with A or B licences.

53.—(1) The provisions of this and the two next succeeding sections shall have effect for the protection of persons (in this section referred to as "persons to whom this section applies") who, on the twenty-eighth day of November, nineteen hundred and forty-six, were carrying on undertakings the activities whereof consisted of or included the carrying of goods in goods vehicles for hire or reward and were in connection with those undertakings the holders of A licences or B licences:

Provided that where, by virtue of an agreement between the Commission and the person carrying on an undertaking, the Commission either do not give a notice of acquisition with respect to that undertaking which it would have been their duty to give but for the agreement, or withdraw a notice of acquisition given in accordance with their duty, the said provisions shall have effect subject to such modifications, if any, as may be specified in the agreement.

(2) If, before the expiration of the prescribed time after the appointed day, a person to whom this section applies duly applies to the Commission for a permit under the last preceding section, being a permit applying only to vehicles having a single specified operating centre, then, until the prescribed period has elapsed after the application has been dealt with by the Commission, the condition provided for by subsection (1) of that section shall not operate so as to prevent the doing of anything which could lawfully have been done if a permit had been granted in all respects in accordance with the application:

Provided that where before the expiration of the time prescribed as aforesaid a notice of acquisition is served with respect to the undertaking of a person to whom this section applies without any such application for a permit having previously been made by him, the said prescribed time shall, instead of beginning to run from the appointed day, begin to run from the date on which that person, in accordance with the provisions of this Part of this Act in that behalf, requires the Commission to withdraw the notice of acquisition.

More than one permit may be applied for by the same person under this subsection.

PART III —*cont.*

(3) Any permit granted on any such application (in this and the next succeeding section referred to as " an original permit ") shall be so framed as to apply in relation to all vehicles having the same operating centre which are authorised to be used under any A licences or B licences held by the person in question on the said twenty-eighth day of November, and shall be so framed as to continue in force, unless previously revoked or suspended under the subsequent provisions of this section, so long as any of those licences continue in force.

If such a licence as aforesaid expires or ceases to have effect and a new licence is granted in substitution therefor either—

(*a*) to the same person; or

(*b*) if the occasion of the substitution is such an assignment as is hereafter mentioned in this section, to the assignee,

the new licence and the old licence shall be treated for the purposes of this subsection as one and the same licence, and so on as respects any similar subsequent substitution.

(4) An original permit may be revoked or suspended by the licensing authority for the area in which the operating centre in question is situate if, on an application made to him by the Commission, he is satisfied that the holder of the permit has been guilty of a serious breach of any condition attached to the permit or to any licence of which he was the holder.

In any case where a permit is revoked or suspended under this subsection, the licensing authority shall, if requested by the holder of the permit, state in writing the grounds of the revocation or suspension.

(5) An original permit may also be revoked by the Commission—

(*a*) at the expiry of the period of one year from the date of the granting thereof, by notice in writing given by the Commission to the holder at least one month before that period expires; or

(*b*) if the permit is not revoked at the expiry of that period, then at the end of any triennium, by notice in writing given by the Commission to the holder at least six months before the end of that triennium.

In this subsection, the expression " triennium " means, in relation to a permit, a period of three years beginning one year after the date on which the permit was granted or beginning at the end of a previous triennium.

(6) Where the Commission give notice under the last preceding subsection of the revocation of an original permit, they shall state in the notice whether or not they are willing to

grant in lieu of that permit another permit complying with the requirements of subsection (3) of this section, and, if so, what will be the terms thereof.

A permit granted in accordance with any such statement is hereafter in this section, and in the next succeeding section, referred to as " a substituted permit ", and the provisions of this subsection and of subsections (3), (4) and (5) of this section shall apply in relation to it as they apply in relation to an original permit:

Provided that paragraph (*a*) of the said subsection (5) shall not apply to a substituted permit and the definition in that section of the expression " triennium " shall, in relation to a substituted permit, have effect as if for the words " beginning one year after the date " there were substituted the words " beginning with the date ".

(7) Where a person to whom this section applies assigns the whole or any part of his undertaking to another such person who is the holder of an original permit or a substituted permit, any original or substituted permit held by the assignor for the purposes of his undertaking or that part of his undertaking, as the case may be, may be assigned by him to the said other person, and, if it is so assigned, then, as from the date on which notice in writing of the assignment is given to the Commission,—

(*a*) the permit shall have effect as if any reference therein to the assignor were a reference to the assignee; and

(*b*) the provisions of this and the next succeeding section shall have effect in relation to the permit as if the undertaking or the assigned part thereof, as the case may be, had at all material times been carried on by the assignee.

Right to require notice of acquisition to be given.

54.—(1) If—

(*a*) the Commission—

(i) refuse to grant an original permit; or

(ii) impose on an original permit limitations or conditions other than those specified in the application for the permit; or

(iii) give notice under subsection (5) of the last preceding section of the revocation of an original permit or a substituted permit; and

(*b*) the effect of the refusal, the effect of the imposition of the limitations or conditions or, due regard being had to any substituted permit which the Commission are willing to grant, the effect of the revocation, will involve substantial interference with the carrying on by the applicant for or holder of the permit of

PART III. —*cont*

some activity which was, before the twenty-eighth day of November, nineteen hundred and forty-six, being carried on by him or by his predecessors in, or in any part of, his undertaking, and has, up to the time of the refusal, the imposition of limitations or conditions or the revocation, as the case may be, continued to be so carried on, with only such intermissions, if any, as are incidental to the nature of the activity,

he may, within the prescribed time, serve on the Commission a notice requiring the Commission to serve on him notice of acquisition with respect to his undertaking, and the Commission shall serve on him such a notice accordingly and, subject to the provisions of the next succeeding subsection, the like consequences shall ensue as if it were a notice served by them under the preceding provisions of this Part of this Act.

(2) A person who serves a notice on the Commission under the preceding subsection may, if he thinks fit, by his notice require that the Commission's notice of acquisition shall be limited in terms to such goods vehicles, being vehicles authorised to be used under A licences or B licences, as may be specified in his notice, to such hire purchase agreements, being agreements relating to goods vehicles authorised to be used under A licences or B licences, as may be so specified, and to such other property and contracts, being property and contracts directly relating to the operation of vehicles authorised to be used under A licences or B licences, as may be so specified; and where a notice of acquisition is so limited in pursuance of this subsection—

(*a*) the notice of acquisition shall not affect any other property or any other contracts; and

(*b*) the compensation payable in respect of cessation of business and severance shall, instead of being calculated in accordance with the preceding provisions of this Part of this Act, be calculated in accordance with the provisions of the next succeeding section.

(3) A notice served by a person on the Commission under subsection (1) of this section requiring that a notice of acquisition shall be limited to specified vehicles, hire purchase agreements, property or contracts shall not be invalid on the ground that the vehicles, agreements, property or contracts do not fall within the descriptions set out in subsection (2) of this section or are not relevant property or relevant contracts as defined for the purposes of the preceding provisions of this Part of this Act relating to the effects of notices of acquisition, and the Commission's notice of acquisition shall embody in

PART III —*cont.*

terms the limitations asked for, but where such a limitation is embodied in a notice of acquisition—

(*a*) the notice shall be ineffective in relation to any vehicles, agreements, property or contracts which do not fall within the said descriptions or are not relevant property or relevant contracts as so defined; and

(*b*) the fact that particular vehicles, agreements, property or contracts are mentioned in the limitation shall not prejudice any right of the Commission to disclaim any of them.

(4) Where a notice of acquisition has been served by the Commission in respect of an undertaking otherwise than in pursuance of this section, subsection (2) of this section shall not apply in relation to the person carrying on that undertaking unless that notice of acquisition has been withdrawn or declared to be of no effect.

(5) Any question as to whether the conditions specified in subsection (1) of this section are or are not satisfied, or as to the extent to which a notice of acquisition is ineffective by reason of the provisions of subsection (3) of this section, shall, in default of agreement, be determined by the arbitration tribunal established under Part VIII of this Act.

Measure of compensation for cessation of business and severance in certain cases.

53.—(1) Where a notice of acquisition served under subsection (1) of the last preceding section is limited in pursuance of subsection (2) of that section to specified goods vehicles, hire purchase agreements, property and contracts, the amount, if any, payable by way of compensation in respect of cessation of business and severance shall be ascertained in accordance with the subsequent provisions of this section.

(2) No compensation shall be payable in respect of cessation of business or severance unless the transferor satisfies the Commission, or, in case of dispute, the arbitration tribunal established under Part VIII of this Act, that one or more of the vehicles to which, or to hire purchase agreements relating to which, the notice of acquisition is limited were, during the twelve months immediately preceding the service of the notice of acquisition—

(*a*) used wholly or partly for the carriage of goods in such circumstances that a permit was necessary for the carriage, or that a permit would have been necessary if the appointed day for the purposes of section fifty-two of this Act had fallen before the beginning of the said twelve months (such carriage being hereafter in this section referred to as " long distance work "); and

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(*b*) customarily selected for use on the occasions during the said twelve months when vehicles were required for or in connection with long distance work.

A vehicle as to which the Commission or, as the case may be, the arbitration tribunal, are satisfied as aforesaid is hereafter in this section referred to as an " approved vehicle "

(3) The subsequent provisions of this section shall have effect in respect of each severally of such of the following classes of goods vehicles as include one or more approved vehicles (hereafter in this section severally referred to as " the relevant class ") that is to say—

(*a*) trailers, other than superimposed trailers; and

(*b*) other goods vehicles,

being in each case all goods vehicles of the relevant class, whether vehicles to which, or to hire purchase agreements relating to which, the notice of acquisition is limited or not, authorised to be used under A licences or B licences and operated by the transferor during the said twelve months.

(4) There shall be estimated to the satisfaction of the Commission or, in case of dispute, the arbitration tribunal,—

(*a*) how much of the total work done by all vehicles of the relevant class during the said twelve months was, on a just apportionment, referable to long distance work; and

(*b*) the minimum total carrying capacity in tons which would have been employed on the work so found referable, if one or more vehicles of the relevant class had been used exclusively for such work during the said twelve months.

(5) The Commission shall pay to the transferor by way of combined compensation in respect of the cessation of business caused to him by the operation of the notice of acquisition and in respect of severance a sum calculated at the rate of seventy pounds for each complete ton of either—

(*a*) the carrying capacity in tons or, as the case may be, the combined carrying capacity in tons of the approved vehicle or approved vehicles of the relevant class; or

(*b*) the minimum total carrying capacity in tons estimated in relation to the relevant class under paragraph (*b*) of the last preceding subsection,

whichever is the less.

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(6) For the purposes of paragraph (*a*) of the last preceding subsection, "carrying capacity", in relation to an approved vehicle, means—

(*a*) in the case of a trailer (other than a superimposed trailer), the gross permitted weight of the vehicle less the weight of the vehicle unladen; or

(*b*) in the case of any other vehicle, the gross permitted weight of the vehicle less the sum of the following weights, that is to say—

(i) the unladen weight of the vehicle, as defined in section twenty-six of the Road Traffic Act, 1930, and

(ii) the weight of any container which is normally carried on the vehicle but is not permanently fixed thereto, and

(iii) a weight of five hundred pounds:

Provided that a superimposed trailer and the vehicle that draws it shall, for the purpose of calculating the carrying capacity of approved vehicles, be deemed to be one vehicle.

(7) In the last preceding subsection, "gross permitted weight" means, in relation to any vehicle, the gross laden weight of the vehicle stated by the manufacturer as at the date when the vehicle was first sold by him:

Provided that—

(i) where the gross laden weight stated by the manufacturer is variable according to the size of the tyres with which the vehicle may be equipped, the gross permitted weight shall be determined by reference to the size of the tyres with which the vehicle is equipped at the date of transfer, so, however, as not in any case to exceed the maximum gross laden weight of that vehicle stated by the manufacturer;

(ii) where, subsequent to sale by the manufacturer, alterations have been made to a vehicle, and the transferor claims that by reason of the alterations the carrying capacity of the vehicle has been increased, the gross permitted weight shall be taken as such weight as the Commission and the transferor may agree, or, in default of agreement, such weight as may be determined by a certifying officer appointed under section sixty-nine of the Road Traffic Act, 1930, or such other person as may be designated by the Minister in that behalf, after consultation with the manufacturer of the vehicle or, where for any reason the manufacturer is not available, after consultation with a person appointed for

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the purpose by the Society of Motor Manufacturers and Traders;

(iii) where for any reason no statement by the manufacturer as to the gross laden weight of the vehicle has been or can be obtained, the gross permitted weight shall be taken as such weight as the Commission and the transferor may agree, or, in default of agreement, such weight as may be determined by a certifying officer appointed under section sixty-nine of the Road Traffic Act, 1930, or such other person as may be designated by the Minister in that behalf, after consultation with a person appointed for the purpose by the Society of Motor Manufacturers and Traders.

Miscellaneous.

Appeals from decisions of licensing authorities.

56.—(1) Any person who, being the holder of a permit granted by the Commission, is aggrieved by the revocation or suspension thereof by the licensing authority may, within the prescribed time and in the prescribed manner, appeal to the Transport Tribunal.

(2) The Commission, if they are aggrieved by the refusal of a licensing authority to revoke or suspend a permit granted by the Commission, may, within the prescribed time and in the prescribed manner, appeal to the Transport Tribunal.

(3) The provisions of subsections (10), (11), (13) and (14) of section fifteen of the Road and Rail Traffic Act, 1933, shall apply in relation to any appeal under this section as they apply in relation to the appeals mentioned in the said section fifteen.

(4) In relation to any appeal brought before the day which is the appointed day for the purposes of the provisions of Part V of this Act relating to the transfer to the Transport Tribunal of jurisdiction under the said section fifteen, the preceding provisions of this section shall have effect subject to the following modifications:—

(*a*) for the references in subsections (1) and (2) to the Transport Tribunal there shall be substituted references to the Tribunal mentioned in the said section fifteen; and

(*b*) subsection (3) shall not apply but the provisions of the said section fifteen and of any rules made thereunder, and the said provisions of Part V of this Act, shall apply in relation to the appeals as they apply in relation to the appeals mentioned in the said section fifteen.

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Licensing authorities to act under general direction of Minister. 20 & 21 Geo. 5 c. 13.

57.—(1) So much of subsection (1) of section sixty-three of the Road Traffic Act, 1930, as provides that licensing authorities for public service vehicles shall act under the general directions of the Minister, shall apply in relation to licensing authorities for goods vehicles as it applies in relation to the first-mentioned licensing authority.

(2) Where a direction has been given by the Minister to a licensing authority under any power of the Minister in that behalf, the Transport Tribunal shall not, on any appeal brought by virtue of the last preceding section, require the authority to do anything which would be inconsistent with the direction.

Meaning of "operating centre", in relation to vehicles covered by A or B licences.

58.—(1) Subject to the provisions of this section, in this Part of this Act, the expression "operating centre" means, in relation to a vehicle authorised to be used under an A licence or a B licence, the premises specified in the application for the licence as the permanent base or centre from which it is intended that the vehicle will normally be used for the purpose of carrying goods for hire or reward.

(2) Where, in the year nineteen hundred and forty-six, a vehicle was authorised to be used under a B licence, but subject to the condition that it should be used for the carriage of goods for hire or reward only in a district limited by reference to the distance of the boundaries thereof from a specified point, any reference to the operating centre of the vehicle, being a reference in relation to the facts of that year, shall be construed as a reference to that point.

(3) On an application after the passing of this Act for an A licence or a B licence, the applicant may, if he thinks fit, request the licensing authority to whom the application is made to specify a point in the area of the authority which is to be treated as the operating centre of the authorised vehicles, and where such a request is made, the licensing authority may, if he thinks fit, specify as the operating centre for all or any of the authorised vehicles any such point in his area as he thinks fit.

(4) Where an A licence or a B licence is in force at the passing of this Act, the holder of the licence may, within the prescribed time, make such a request as is specified in subsection (3) of this section to the licensing authority by whom the licence was granted, and that subsection shall, with the necessary modifications, apply accordingly.

(5) Where an A licence or a B licence was granted before the twenty-eighth day of November, nineteen hundred and forty-six, and, immediately before that date, the premises from which any vehicle, being an authorised vehicle, was in fact

PART III. —*cont.*

normally used for the purpose of carrying goods for hire or reward were different from the premises specified in the application for the licence, the holder of the licence may, within the prescribed time, give notice in writing in the prescribed form specifying the premises from which the vehicle was normally so used immediately before that date to the licensing authority within whose area the last-mentioned premises are situate and, if those premises are not situate within the area of the licensing authority by whom the licence was granted, to that licensing authority, and if the first-mentioned licensing authority is satisfied that the vehicle was normally so used from those premises immediately before that date, that authority shall notify the holder accordingly, and those premises shall, as from the date when that authority so notifies the holder, be taken to be the operating centre of the vehicle:

Provided that a notice given by the holder of a licence under this subsection may embody such a request to the first-mentioned licensing authority as is mentioned in subsection (3) of this section, and, where such a request is made, that licensing authority may, if he thinks fit, specify as the operating centre for the vehicle any such point in his area as he thinks fit.

(6) The Minister may by regulations make provision whereby the operating centre of a vehicle may, on the application of the holder of the licence, be changed, either temporarily or otherwise, during the currency of a licence under which it is authorised to be used.

Application of Road and Rail Traffic Act, 1933, to Commission.

59. Section one of the Road and Rail Traffic Act, 1933 (which prohibits the use of goods vehicles in certain cases without a licence) shall not apply to the Commission but, as respects the matters specified in paragraphs (*a*) to (*d*) of subsection (1) of section eight and in subsection (1) of section sixteen of that Act (which relate to the condition of vehicles, their speeds and loads, intervals for rest and the keeping of records), the Commission shall have the same duties and be subject to the same liabilities, including liabilities to penalties, as they would if the said section one applied and they were the holders of A licences or B licences with respect to all goods vehicles owned by them or in their possession, and the provisions of Part I of that Act shall have effect accordingly:

Provided that—

(*a*) subsection (3) of the said section sixteen (which provides for dispensations from observance of the regulations as to records and other matters shall not apply, but the Minister may dispense with the

observance by the Commission of any requirement of the regulations made under that section and may grant such a dispensation either generally or as respects any particular vehicles or as respects the use of vehicles for any particular purpose;

(*b*) subsection (4) of the said section sixteen (which relates to the preservation and production of records) shall have effect as if any reference therein to the licensing authority were a reference to the Minister.

Other amendments of Part I of Road and Rail Traffic Act, 1933.

60.—(1) For the avoidance of doubt, it is hereby declared that any breach of any condition or limitation imposed on any permit granted under this Part of this Act which has effect in relation to a licence is, for all the purposes of Part I of the Road and Rail Traffic Act, 1933 (and in particular the provisions thereof relating to the revocation and suspension of licences and the provisions relating to penalties) to be treated as a breach of the conditions of the licence.

(2) Where a vehicle specified in a licence is transferred to the Commission by virtue of a notice of acquisition under this Part of this Act, the Commission shall as soon as may be give notice to the licensing authority by whom the licence was granted, and, notwithstanding anything in the proviso to subsection (2) of section ten of the Road and Rail Traffic Act, 1933, the licensing authority shall not be bound to grant an application for a variation of that licence where the variation consists in the specification in the licence of another vehicle in substitution for a vehicle so transferred.

(3) While the provisions of section twelve of the Road and Rail Traffic Act, 1933 (which relate to holding and subsidiary companies) have effect in relation to, or in relation to any application for, a licence, they shall have effect also in relation to, and in relation to any application for, any permit granted or to be granted under this Part of this Act in so far as that permit has, or is to have, effect in relation to that licence.

(4) The provisions of sections eighteen and nineteen of the Road and Rail Traffic Act, 1933 (which confer powers and duties on examiners, police constables and certifying officers), and of sections thirty-four and thirty-five of that Act (which relate to forgery of licences and other similar matters, and to prosecutions and penalties for offences) shall have effect as if any regulations made under this Part of this Act were regulations made under that Act, as if any reference to a licence included a reference to a permit under this Part of this Act and as if any reference to a document, plate or mark by which a vehicle is to be identified as being an authorised vehicle

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included a reference to any document, plate or mark by which a vehicle is to be identified as being authorised to be used under such a permit or by which the area within which vehicles may be used for the carriage of goods for hire or reward is to be ascertainable.

(5) Section twenty-one of the said Act (which relates to the transfer and assignment of licences) shall, subject to any provision of this Part of this Act expressly authorising an assignment of a permit, apply in relation to permits under this Part of this Act as it applies in relation to licences.

(6) Without prejudice to any rights which the Commission or any other person would have apart from this subsection, the Commission may apply to the appropriate licensing authority for the revocation, variation or suspension of a licence on any ground on which the authority is by law authorised to revoke, vary or suspend that licence, and the authority shall consider the application.

Regulations

61. The Minister may make regulations for the purpose of carrying this Part of this Act into effect and in particular, but without prejudice to the generality of the preceding provision, may make regulations with respect to any of the following matters:—

(*a*) the forms to be used, and the particulars to be furnished, for any of the purposes of this Part of this Act;

(*b*) the procedure of application for, and the determination of questions in connection with, the grant, variation, suspension and revocation of permits under this Part of this Act;

(*c*) the issue of permits under this Part of this Act, and the issue of copies of permits under this Part of this Act in the case of permits lost or destroyed, including the fees which are to be charged in connection with the issue of such permits or copies;

(*d*) the means by which vehicles are to be identified, whether by plates, marks or otherwise, as being vehicles authorised to be used for the carriage of goods for hire or reward under any such permit and by which the area within which vehicles may be used for that purpose (whether under any such permit or not) is to be ascertainable, and

(*e*) the custody of such permits, the production, return and cancellation of such permits on expiration, suspension or revocation, and the custody, production and return of plates;

and different regulations may be made as respects different classes or descriptions of vehicles and as respects the same class or description of vehicles in different circumstances.

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Application of Part III to permits granted under Defence Regulations.

62. Where, in pursuance of an authority given under paragraph (2) of Regulation seventy-two of the Defence (General) Regulations, 1939, a vehicle is used without a licence for a purpose or in circumstances which apart from the authority would render it necessary that a licence should be in force with respect to the vehicle, the provisions of this Part of this Act shall have effect as if the authority were a licence of the same class as that which would have been necessary but for the giving of the authority and, in relation to a vehicle used under such an authority, references to the operating centre of a vehicle shall be construed as references to the premises which served, at the material time, as the permanent base or centre from which the vehicle was normally used for the purpose of carrying goods for hire or reward:

Provided that where, during the whole or any part of the year nineteen hundred and forty-six, a vehicle was authorised to be used under such an authority as aforesaid, but subject to the condition that it should be used for the carriage of goods for hire or reward only in a district limited by reference to the distance of the boundaries thereof from a specified point, any reference to the operating centre of the vehicle, being a reference in relation to the facts of that year, shall as respects the whole or that part of that year be construed as a reference to that point.

PART IV.

OTHER FORMS OF TRANSPORT AND PORT FACILITIES.

Passenger Road Transport.

Preparation and approval of area road transport schemes.

63.—(1) The Commission may, at any time, prepare and submit to the Minister a scheme as to the passenger road transport services serving such area as may be specified in the scheme, being a scheme devised for the purpose of promoting or facilitating the promotion of the co-ordination of the passenger transport services serving the area, whether by road or by rail, and the provision of adequate, suitable and efficient passenger road transport services to meet the needs of the area, and the Commission shall as soon as may be review the passenger road transport services operating in Great Britain with a view to determining the areas with respect to which schemes shall be prepared and submitted as aforesaid.

(2) The Commission, in considering what scheme to submit to the Minister with respect to any area, shall consider any representations which have been made to them by any local authority whose area or any part of whose area is within the area to which the scheme will relate, and, without prejudice to

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the preceding provisions of this subsection, before submitting a scheme to the Minister, the Commission shall consult every local authority whose area or any part of whose area is within the area to which the scheme relates, every joint committee, joint board, joint authority or other combined body which provides passenger road transport services within or partly within the area to which the scheme relates, being a committee, board, authority or body all the members of which are, or are representatives of, local authorities or the councils of county districts, and any other person providing passenger transport services who, in the opinion of the Commission, is likely to be affected by the scheme.

(3) A scheme under this section shall not take effect until embodied in an order made by the Minister in accordance with the provisions of the Eighth Schedule to this Act, and the date on which it takes effect shall be such date as may be specified in the order:

Provided that where objection is made in accordance with the said Schedule to the making of the order and is not withdrawn before the making thereof, the order shall be subject to special parliamentary procedure.

(4) The Minister may—

(*a*) specify an area, and

(*b*) direct the Commission to prepare and submit a scheme under this section with respect to the area so specified,

and the Commission shall give effect to any such directions.

Contents of area road transport schemes.

64.—(1) A scheme under the last preceding section may provide for all or any of the following matters, that is to say—

(*a*) for constituting or specifying the body or bodies who are to provide passenger road transport services operating within or partly within the area, and the body or bodies who are to administer or take part in administering the scheme;

(*b*) for the transfer on a date specified in the scheme to any such body as aforesaid of the whole or any part of any undertaking so specified, being an undertaking or part of an undertaking the activities of which consist wholly or partly of operating passenger road transport services within or partly within the area;

(*c*) for regulating the relations of the persons providing passenger transport services under the scheme (whether by road or by rail) within or partly within the area, and in particular for the pooling of receipts or expenses;

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(*d*) for specifying the passenger road transport services which are to be provided within or partly within the area and for prohibiting or restricting the provision within or partly within the area of passenger road transport services otherwise than under the scheme;

(*e*) for incorporating, with or without modifications, in relation to any such body as is mentioned in paragraph (*a*) of this subsection, all or any of the provisions of this Act relating to borrowing or the issue of stock, including the provisions thereof relating to guarantees by the Treasury;

(*f*) for incorporating, with or without modifications, in relation to any such body as is mentioned in paragraph (*a*) of this subsection, being a body who are to provide passenger road transport services operating wholly or partly within the area—

(i) any of the provisions of Part V of this Act or of any scheme or regulations made thereunder; or

(ii) any other statutory provisions relating to or affecting the charges to be made by the Commission or the terms and conditions applicable to the Commission, whether for or in relation to the provision of passenger road transport facilities or not; or

(iii) any of the provisions of the next succeeding section;

(*g*) for incorporating, with or without modifications, in relation to any such transfer as is mentioned in paragraph (*b*) of this subsection, any of the provisions of this Act relating to the transfer of undertakings or parts of undertakings to the Commission, including (subject to the provisions of Part II of the Eighth Schedule to this Act) provisions relating to compensation;

(*h*) for repealing or amending any previous scheme in force with respect to the area or any other area the whole or any part of which falls within the area; and

(*i*) for making such other consequential or incidental provision as appears necessary or expedient for the purposes of the scheme, including provision for repealing or amending any statutory provision of local application affecting any part of the area:

Provided that a scheme shall not provide for the transfer otherwise than by agreement of part only of an undertaking

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unless the part to be transferred includes the whole of so much of the undertaking as relates to the operation of passenger road transport services.

(2) The Commission may be the body specified, or one of the bodies specified, in a provision included in a scheme by virtue of paragraph (*a*) of subsection (1) of this section, and a part of the undertaking of the Commission may be the subject of a transfer under a provision included in a scheme by virtue of paragraph (*b*) of the said subsection (1).

(3) Where a provision included in a scheme by virtue of paragraph (*a*) of subsection (1) of this section constitutes or specifies some body or bodies other than the Commission to administer or take part in administering the scheme, provision shall also be made in the scheme to secure that at least one member of any such body shall be a person who has had not less than six years experience in local government within the area to which the scheme relates.

(4) The Minister shall not regard as satisfactory for the purposes of sub-paragraph (1) of paragraph 1 of the Eighth Schedule to this Act any scheme made under the last preceding section which includes provision for prohibiting or restricting the provision within or partly within the area to which the scheme relates of passenger road transport services otherwise than under the scheme, unless it includes also provision to secure—

(*a*) that compensation is payable where—

(i) any person was, at the date of the passing of this Act, carrying on an undertaking the activities of which consisted wholly or partly of operating passenger road transport services within or partly within the area to which the scheme relates; and

(ii) neither the whole nor any part of that undertaking is transferred to a body under the scheme; and

(iii) a prohibition or restriction contained in or imposed under the scheme will involve a substantial interference with the carrying on by that person of some transport activity which he, or his predecessor in, or in any part of, his undertaking was carrying on before the said date and which he has, up to the time when the scheme takes effect or, as the case may be, up to the time when the prohibition or restriction is imposed, continued to carry on with only such intermissions, if any, as are incidental to the nature of the activity; and

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(*b*) that the question whether any, and if so what, compensation is so payable is to be determined, in case of dispute by the arbitration tribunal established under Part VIII of this Act.

Passenger road transport services of the Commission.

65.—(1) Sections seventy-two to seventy-six of the Road Traffic Act, 1930 (which relate to road service licences) shall not apply to any passenger road transport service provided, whether under a scheme under the preceding provisions of this Part of this Act or otherwise, by the Commission or by any person acting as agent for the Commission, but neither the Commission nor any such person as aforesaid shall use any public service vehicle for the conveyance of passengers for hire or reward at separate fares except—

(*a*) on a route approved, as respects so much thereof as falls within any traffic area, by the licensing authority for public service vehicles for that area; and

(*b*) in accordance with such restrictions as may be imposed by that authority as to the class or description of vehicles which may be used on the route and as to the portions of the route on which, and the points at which, passengers may be taken up or set down:

Provided that the Commission may appeal to the Minister against the refusal of any such authority to give their approval to or against any restrictions imposed by them as to the matters aforesaid, and the decision of the Minister shall be final.

(2) The Commission shall, in respect of services of public service vehicles provided by them, perform such services with regard to the conveyance of mails as are prescribed by the Conveyance of Mails Act, 1893, in respect of a tramway to which that Act applies. 56 & 57 Vict. c. 38.

(3) Regulations made by the Minister may require copies of the timetable and faretable of any service provided by the Commission or by a person acting as agent for the Commission to be carried and to be available for inspection in accordance with the regulations on public service vehicles used on that service.

(4) The Commission may, if the highway authority consent, construct and maintain on any highway shelters or other buildings for the use of, and barriers for controlling the movements of, persons using the passenger road transport services provided by them, being shelters, buildings or barriers at stopping places of the vehicles of the Commission.

Harbours.

Schemes as to harbours.

66.—(1) The harbours to which this section applies (hereafter in this section referred to as "trade harbours") are all harbours in Great Britain which are, or form part of, or abut

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on, harbours not normally used only by pleasure steamers, yachts, fishing vessels and vessels not required to be registered under the Merchant Shipping Acts, 1894 to 1940:

Provided that this section shall not apply to any harbour which is or forms part of a dockyard port within the meaning of the Dockyard Ports Regulation Act, 1865.

28 & 29 Vict. c. 125.

(2) The Commission shall keep the trade harbours under review with a view to determining whether the powers conferred on them by this section should be exercised with respect to any trade harbour or group of trade harbours.

(3) The Commission may, with a view to securing the efficient and economical development, maintenance or management of any trade harbour or group of trade harbours, prepare, in consultation with the persons theretofore carrying on harbour undertakings in or in connection with the harbour or group of harbours and with such bodies or persons as the Commission may consider to be properly representative of shipping and traders actually using, and of workers actually employed in, the harbour or group of harbours, and submit to the Minister a scheme providing for all or any of the following matters, that is to say—

(*a*) for constituting or specifying the body or bodies who are to provide port facilities under the scheme in or in connection with the harbour or group of harbours, and the body or bodies who are to administer, or take part in administering, the scheme;

(*b*) for the transfer to any such body as aforesaid of any harbour undertaking carried on in or in connection with the harbour or group of harbours;

(*c*) for regulating the relations of persons carrying on harbour undertakings in or in connection with the harbour or group of harbours, and, in particular, for the pooling by those persons of receipts or expenses;

(*d*) for specifying the port facilities which are to be provided by any such body as is mentioned in paragraph (*a*) of this subsection in or in connection with the harbour or group of harbours;

(*e*) for prohibiting or restricting the construction, improvement or extension of any dock in the harbour or group of harbours otherwise than under the scheme;

(*f*) for applying the next succeeding section to the harbour or any of the harbours and declaring the authority which is to be the licensing authority for the purposes thereof;

PART IV —*cont.*

(*g*) for incorporating, with or without modifications, in relation to any such body as is mentioned in paragraph (*a*) of this subsection, any of the provisions of this Act relating to borrowing or the issue of stock, including the provisions thereof relating to guarantees by the Treasury;

(*h*) for incorporating, with or without modifications, in relation to any such body as is mentioned in paragraph (*a*) of this subsection, being a body who are to provide port facilities in or in connection with the harbour or group of harbours—

(i) any of the provisions of Part V of this Act or of any scheme or regulations made thereunder; or

(ii) any other statutory provisions relating to or affecting the charges to be made by the Commission or the terms and conditions applicable to the Commission, whether for or in relation to the provision of port facilities or not;

(*i*) for incorporating, with or without modifications, in relation to any such transfer as is mentioned in paragraph (*b*) of this subsection, any of the provisions of this Act relating to the transfer of undertakings or parts of undertakings to the Commission, including provisions relating to compensation;

(*j*) for repealing or amending any previous scheme in force with respect to the harbour or group of harbours, or any part thereof; and

(*k*) for making such other consequential or incidental provision as appears necessary or expedient for any of the purposes aforesaid, including provision for repealing or amending any statutory provision of local application affecting the harbour or group of harbours.

(4) The Commission may be the body specified, or one of the bodies specified, in a provision included in a scheme by virtue of paragraph (*a*) of the last preceding subsection, and a part of the undertaking of the Commission may be the subject of a transfer under a provision included in a scheme by virtue of paragraph (*b*) of the last preceding subsection.

(5) The Commission, in preparing a scheme under this section, shall have regard to the desirability—

(*a*) of including among the members of any body (other than the Commission) constituted or specified in a provision included in the scheme by virtue of paragraph (*a*) of subsection (3) of this section to

PART IV. —*cont.*

administer or take part in administering the scheme persons, or representatives of persons, who are payers of dues for the services or facilities afforded in, or who are otherwise interested in the trade or activities of, the harbour or group of harbours to which the scheme relates; and

(*b*) of providing for the scheme to be administered, as far as may be, from a place at or in the vicinity of the harbour, or one of the harbours in the group of harbours, to which the scheme relates.

(6) Subject to the provisions of subsection (3) of this section relating to the application to harbours of the next succeeding section, nothing in the said subsection (3) shall be construed as authorising the inclusion in any scheme of any provision which confers upon any such body as is mentioned in paragraph (*a*) of that subsection the exclusive right to carry on in or in any part of any harbour a business the activities of which consist of or include all or any of the following activities, that is to say, the berthing, towing, moving or drydocking of ships, the loading or unloading of goods or embarking or disembarking of passengers or the lighterage or the sorting, weighing, warehousing or handling of goods:

Provided that nothing in this subsection shall apply to any exclusive right exercisable immediately before the operation of the scheme by any person, whether by virtue of any statutory provision or by virtue of any right of property, being a right exercisable for the purposes of an undertaking or part of an undertaking transferred to the body under the scheme.

(7) No provision of any scheme made under this section shall apply to any private dock undertaking, oil dock undertaking, coal dock undertaking or drydock undertaking, unless either the person carrying on the undertaking consents to the application thereof or the undertaking is carried on in pursuance of some private Act or some order having the effect of an Act.

(8) A scheme under this section shall not have effect until embodied in an order made by the Minister in accordance with the provisions of the Eighth Schedule to this Act, and the date on which it takes effect shall be such date as may be specified in the order:

Provided that where objection is made in accordance with the said Schedule to the making of the order and is not withdrawn before the making thereof, the order shall be subject to special parliamentary procedure.

PART IV. —cont.

(9) The Minister may—

(*a*) specify a trade harbour or group of trade harbours, and

(*b*) direct the Commission to prepare and submit a scheme under this section with respect to the trade harbour or group of trade harbours so specified,

and the Commission shall give effect to any such directions.

(10) In this section, the following expressions have the meanings hereby assigned to them, that is to say:—

" harbour undertaking " means an undertaking or part of an undertaking the activities whereof consist wholly or mainly of the construction, improvement, maintenance, management, regulation, marking or lighting of a harbour or part of a harbour;

" private dock undertaking " means an undertaking or part of an undertaking the activities whereof consist wholly or mainly of the construction, improvement, maintenance or management of a dock the use whereof is substantially confined to ships resorting thereto for the purpose, and only for the purpose, of bringing goods which are to be used by the person carrying on the undertaking or part of an undertaking in the manufacture or production, at premises on or near the dock, of goods, substances, electricity or power, or of receiving goods or substances manufactured or produced by that person on such premises;

" oil dock undertaking " and " coal dock undertaking " mean an undertaking or part of an undertaking the activities whereof consist wholly or mainly of the construction, improvement, maintenance or management of a dock the use whereof is substantially confined to ships resorting thereto for the purpose, and only for the purpose, of bringing or receiving oil in bulk or, as the case may be, coal;

" drydock undertaking " means an undertaking or part of an undertaking the activities whereof consist wholly or mainly of the construction, improvement, maintenance or management of a dock the use whereof is substantially confined to the cleaning or repairing of ships.

Power to license provision of port facilities.

67.—(1) This section shall apply to harbours to which it is applied by a provision in that behalf contained in a scheme made under the last preceding section, and in this and the next succeeding section the expression " the harbour " means a harbour to which this section applies and the expression

PART IV. —*cont.*

" the licensing authority " means such body as may be declared by the scheme to be the licensing authority for the purposes of this section.

(2) Save so far as may be otherwise provided by the scheme, port facilities shall not be provided in or in connection with the harbour by any person except under and in accordance with the conditions of a licence granted by the licensing authority.

(3) Subject to the provisions of subsection (4) of this section, any such licence may be granted by the licensing authority for such period and subject to such conditions (including conditions as to the charges to be made by the holder of the licence) as the licensing authority think fit, and may at any time be revoked by the licensing authority:

Provided that the licensing authority shall not, unless, in their opinion, it is expedient so to do with a view to securing the better use of the harbour in the national interest or the economical improvement, maintenance or management thereof, either—

(i) refuse or revoke a licence under this section or impose any conditions thereon; or

(ii) without the consent of the applicant, grant any licence for a period of less than seven years.

(4) If any person, being an applicant for, or the holder of, any such licence, is aggrieved by any determination of the licensing authority as respects the granting or revocation of the licence, or the conditions to be attached thereto, he may appeal to the Transport Tribunal, and the tribunal shall make such order as to the grant or revocation of the licence or the conditions which are to be attached thereto as they think just and proper in all the circumstances, and the licensing authority shall give effect to their order.

(5) If any person provides any port facilities in or in connection with the harbour in such circumstances that a licence is necessary under this section, and he does so otherwise than under and in accordance with such a licence, he shall be liable on summary conviction to a fine not exceeding ten pounds and, if the contravention in respect of which he is so convicted is continued after the conviction, he shall be guilty of a further offence and liable in respect thereof on summary conviction to a fine not exceeding ten pounds for each day on which the contravention is so continued.

Right to require acquisition of undertakings providing port facilities.

68.—(1) Where—

(*a*) a person who, on the twenty-eighth day of November nineteen hundred and forty-six was carrying on an undertaking the activities of which consisted wholly

or partly of the provision of port facilities in the harbour (hereinafter in this section referred to as " the appellant ") appeals to the Transport Tribunal under subsection (4) of the last preceding section from a determination of the licensing authority in relation to the provision of port facilities in the harbour; and

(*b*) the tribunal refuse, either in whole or in part, to do by their order what is asked for by the appellant on that appeal; and

(*c*) the tribunal are satisfied that their refusal will involve a substantial interference with the carrying on by the appellant of some activity which he was carrying on before the said twenty-eighth day of November and which he has, up to the time of the determination which was the subject of the appeal, continued to carry on with only such intermissions, if any, as are incidental to the nature of the activity,

the tribunal may, on the application of the appellant, declare that the undertaking of the appellant, or some part thereof specified in the declaration, is to be transferred to such body, being either the licensing authority or some other body administering or taking part in administering the scheme relating to the harbour or providing port facilities thereunder, as may be specified in the declaration.

(2) Where a declaration is made under the last preceding subsection, and at the expiration of six months from the making thereof no agreement has been entered into between the appellant and the body specified in the declaration for the acquisition by that body by agreement of the undertaking or of the part of the undertaking specified in the declaration, the appellant may apply to the Minister for an order giving effect to the transfer required by the declaration and the Minister shall make an order accordingly:

Provided that the Minister may permit such an application to be made before the expiration of the said six months if he is satisfied that there is no reasonable prospect of the transfer being effected by agreement.

(3) Any such order shall apply to the transfer, with such exceptions and subject to such modifications as may be specified in the order, the provisions of this Act relating to transfers of undertakings or parts of undertakings under Part III of this Act, including provisions as to compensation:

Provided that—

(*a*) where the transfer is, in the opinion of the Minister, not comparable in the material respects with the form

PART IV. —*cont.*

of transfer of the whole or part of an undertaking under Part III of this Act, the order may provide—

(i) in the case of a transfer which, in the opinion of the Minister, is comparable with the form of transfer of the whole or part of an undertaking effected under Part II of this Act, for compensation on a basis reasonably comparable, in his opinion, with that of the compensation provided under this Act in respect of that form of transfer; or

(ii) in any other case, for compensation in respect of the transfer which in his opinion is proper compensation; and

(*b*) before making the order the Minister shall give the body specified in the declaration and the appellant an opportunity of being heard before a person appointed by the Minister for that purpose, and shall consider the report of the person so appointed.

(4) If the body specified in the declaration and the appellant so agree, the order may effect the transfer of a part only of the undertaking notwithstanding that the declaration related to the whole of the undertaking, or of the whole of the undertaking notwithstanding that the declaration related to part only thereof, or of a part of the undertaking not identical with the part of the undertaking specified in the declaration.

Holyhead harbour.

69. All property, rights, powers and liabilities of the Minister as successor to the Board of Trade in respect of Holyhead harbour shall, on the appointed day, become the property, rights, powers and liabilities of the Commission.

Coastal Shipping.

Working agreements as to coastal shipping.

70. Without prejudice to any powers possessed by the Commission apart from the provisions of this section, the Commission shall have power to enter into and carry out agreements with any person engaged in coastal shipping for co-ordinating the activities of that person with those of the Commission, and, in particular, for facilitating the through carriage of goods, for the quoting of through rates, and for the pooling of receipts or expenses.

Advisory Committee as to coastal shipping.

71.—(1) The Minister shall establish a Coastal Shipping Advisory Committee for the purpose of considering and from time to time reporting to the Minister on all matters which may jointly affect the interests of the Commission and those of persons engaged in coastal shipping or which the Minister may refer to them for consideration.

PART IV. —*cont.*

(2) The said Committee shall consist—

(*a*) of such number of members representing the interests of persons engaged in coastal shipping as the Minister thinks fit, to be appointed by him after consultation with such body or bodies as he thinks fit, being a body or bodies who appear to him to be representative of those persons; and

(*b*) such number of representatives of the Commission as the Minister may determine, to be nominated by the Commission, of whom one at least shall be a member of the Commission:

Provided that the number of members of the Committee representing the interests of persons engaged in coastal shipping shall not be less than the number of representatives of the Commission on the said Committee.

(3) The Committee shall appoint their own chairman from among their own members and their procedure, including their quorum, shall be such as they may determine.

(4) If the Committee make a report to the Minister with respect to any matter, the Minister may give to the Commission such directions as he thinks fit as to the exercise of the Commission's powers with respect to that matter (being directions which, in his opinion, it is necessary that he should give for securing that efficient coastal shipping services are maintained to the extent which he considers is required in the national interest), and the Commission shall give effect to any such directions.

PART V.

THE TRANSPORT TRIBUNAL AND TRANSPORT CHARGES AND FACILITIES.

The Transport Tribunal.

Renaming of, and other provisions as to, Railway Rates Tribunal.

72.—(1) The Railway Rates Tribunal established under the Railways Act, 1921, shall be known as the Transport Tribunal.

(2) The following amendments shall be made in the Railways Act, 1921—

(*a*) in subsection (4) of section twenty (which relates to the qualifications of the permanent members of the Transport Tribunal) for the words "a person of experience in railway business" there shall be substituted the words "a person of experience in transport business";

(*b*) in subsection (1) of section twenty-one (which authorises the tribunal to appoint officers or servants) the words "and not exceeding ten" shall be omitted;

PART V. —*cont.*

(*c*) in subsection (1) of section twenty-four (which relates to the panels of additional members of the tribunal) the words " upon the railways " shall be omitted and for the words from " and the other (hereinafter referred to as the railway panel) " to the end of the subsection there shall be substituted the words " and the other (hereinafter referred to as the transport panel) consisting of twelve persons nominated by the Minister from among persons who provide transport services, represent persons who provide transport services, or have had experience in the provision of transport services ";

(*d*) in subsections (3) and (4) of the said section twenty-four for the words " the railway panel " there shall be substituted the words " the transport panel ";

(*e*) in subsection (4) of the said section twenty-four for the words " In selecting a member from the general panel " there shall be substituted the words " In selecting a member from either panel ".

(3) The provisions of the Tenth Schedule to this Act shall have effect with respect to the powers and procedure of the Transport Tribunal.

Transfer to Transport Tribunal of jurisdiction under Road and Rail Traffic Act, 1933, s. 15.

73.—(1) As from the appointed day, the jurisdiction conferred by section fifteen of the Road and Rail Traffic Act, 1933, on the Appeal Tribunal constituted thereunder shall be transferred to and exercised by the Transport Tribunal, and the said Appeal Tribunal shall cease to exist, and any proceedings pending before the said Appeal Tribunal at the appointed day shall be continued before the Transport Tribunal, and the Transport Tribunal may give any necessary directions as to the manner in which any such proceedings are to be so continued.

(2) As from the appointed day, subsections (2) to (9) of the said section fifteen, subsection (12) thereof, and in subsection (13) thereof the words from the beginning of the subsection to the word " but " shall be repealed, and references in that section, so far as not repealed as aforesaid, to the said Appeal Tribunal shall be construed as references to the Transport Tribunal when exercising its jurisdiction as to appeals under that section and appeals under Part III of this Act to which that section is applied.

Transfer of jurisdiction of High Court, etc.

8 & 9 Vict. c. 20.
8 & 9 Vict. c. 28.

74.—(1) If the Commission or any railway company or canal company contravene the provisions (so far as those provisions are applicable to the Commission or that company) of any of the following enactments, that is to say, section ninety of the Railways Clauses Consolidation Act, 1845, section two of the Canal Tolls Act, 1845, section eighty-three

of the Railways Clauses Consolidation (Scotland) Act, 1845, section four of the Canal Carriers Act, 1845, or section thirty of the Railways Clauses Act, 1863 (which said enactments relate to equality of tolls), or any statutory provisions passed or made with respect to a particular undertaking similar to any of the provisions aforesaid, any person aggrieved by the said contravention may make an application to the Transport Tribunal in relation thereto.

PART V. —*cont.*
8 & 9 Vict. c. 33.
8 & 9 Vict. c. 42.
26 & 27 Vict. c. 92.

(2) On any such application the tribunal may make such order as may be just, and, save as expressly provided by this Act, no other court shall have jurisdiction in the case of any such contravention as aforesaid.

Transfer of jurisdiction of Railway and Canal Commission.

75.—(1) The jurisdiction of the Railway and Canal Commission under the enactments set out in Part I of the Eleventh Schedule to this Act and under any statutory provisions passed or made with respect to a particular railway or canal or inland navigation undertaking shall be transferred to and exercised by the Transport Tribunal, and shall cease to be exercisable by the Railway and Canal Commission:

Provided that so much of this subsection as relates to statutory provisions passed or made with respect to a particular undertaking shall not apply where the jurisdiction exercisable by the Railway and Canal Commission is so exercisable pursuant to, or by virtue of an application of, any of the provisions of the Telegraph Acts, 1863 to 1943.

(2) Subject to the provisions of Part II of the said Eleventh Schedule, any reference in any statutory provision to the Railway and Canal Commission shall, in relation to any jurisdiction transferred to the Transport Tribunal by this section, be construed as including a reference to the tribunal.

(3) Nothing in the preceding provisions of this section shall be construed as affecting any jurisdiction exercisable by the Railway and Canal Commission under any statutory provisions not mentioned in Part I of the said Eleventh Schedule (other than such statutory provisions as are mentioned in subsection (1) of this section) and the said jurisdiction shall be exercised by them as if this section had not been passed, notwithstanding that the statutory provision in question incorporates or applies any of the provisions of the enactments mentioned in the said Part I.

(4) Any proceedings pending before the Railway and Canal Commission at the date of the passing of this Act, being proceedings which, if this section had been in force when they were commenced, would have had to be commenced before the Transport Tribunal, shall be continued before the tribunal, and the tribunal may give any necessary directions as to the manner in which any such proceedings are to be so continued.

PART V. —*cont.*

Charges Schemes.

Charges schemes.

76. The Commission shall from time to time prepare, and submit to the Transport Tribunal for confirmation, drafts of schemes (hereafter in this Act referred to as "charges schemes") for determining, as respects the services and facilities provided by the Commission to which the schemes respectively relate—

(*a*) the charges which are to be made by the Commission; and

(*b*) where it is necessary or expedient so to do, the other terms and conditions which are to be applicable to the provision of those services and facilities, including, in particular, terms and conditions as to the liability of the Commission for loss or damage,

and it shall be the duty of the Commission, within two years from the passing of this Act or such longer period as the Minister may allow, to prepare and submit the draft of a scheme or, as the case may be, drafts of a series of schemes relating or together relating to all the services and facilities provided by the Commission under paragraphs (*a*) to (*c*) of subsection (1) of section two of this Act and such other of the services and facilities provided by the Commission as the Commission are of opinion should be dealt with by charges schemes.

Contents of charges schemes.

77.—(1) A charges scheme may, as respects any of the services and facilities to which it relates, adopt such system for the determination of the charges, or, as the case may be, the charges and other terms and conditions, which are to be applicable as may appear desirable, and in particular and without prejudice to the generality of the foregoing words, any such scheme may, as respects any of the services and facilities to which it relates—

(*a*) provide, with or without exceptions, for fixed charges, maximum charges, or standard charges, that is to say, charges which are to be adhered to save as otherwise provided by any provision of the scheme, and, in particular, by any provision of the scheme relating to the making of exceptional charges, special charges or agreed charges;

(*b*) provide in any such case for minimum charges;

(*c*) provide for alternative sets of terms and conditions;

(*d*) enable the Transport Tribunal to make orders authorising or requiring the Commission to afford special treatment, either as respects charges or as respects terms and conditions, or as respects both charges and terms and conditions, in specified cases or

classes of cases, and specify the persons who are to be entitled to make or oppose applications to the tribunal for such orders;

(*e*) in all or any cases, leave to the Commission the determination of the charges which are to be made or the terms and conditions which are to be applicable, subject to such conditions and such limitations, if any, as may be provided for in the scheme (including, if the scheme so provides, conditions as to the approval of the charges, terms and conditions by the Transport Tribunal or conditions otherwise reserving powers to the Transport Tribunal as to the determination of the charges, terms and conditions);

(*f*) make provision as to the publication of charges and of the terms and conditions which are to be applicable; and

(*g*) make such provision as may be appropriate in relation to through charges,

and different provision may be made for different cases or classes of cases determined by or in accordance with the provisions of the scheme.

(2) A charges scheme may revoke or amend any previous charges scheme.

Confirmation of charges schemes.

78.—(1) When the Commission have submitted a draft of a charges scheme to the Transport Tribunal, the Commission shall publish it in such manner as the tribunal may direct, together with a notice specifying the time and the manner (which shall be determined by the tribunal) in which objections to the draft scheme and other representations with respect thereto may be lodged with the tribunal.

(2) An objection to a draft scheme or any other representation with respect thereto may be lodged by any of the following bodies, that is to say—

(*a*) any body representative of any class of persons using the services or facilities to which the scheme will relate;

(*b*) any body constituted for the purposes of any scheme for the carrying on, under national ownership or control, of any industry or part of an industry or of any undertaking, being a body using the said services or facilities.

(3) Any body representative of any class of persons providing for hire or reward services or facilities similar to or comparable with the services or facilities to which the scheme will relate who desire to contend that the charges provided

PART V. —*cont.*

for in the draft scheme are unduly low may lodge a representation to that effect with the tribunal under this section and the tribunal may, if they think fit, agree to hear the body with respect to that representation.

(4) As soon as may be after the time for lodging objections and representations has elapsed, the tribunal shall hold a public inquiry into the draft scheme and shall at that inquiry hear the Commission and any such bodies as are mentioned in subsection (2) of this section who desire to be heard, and any such body as is mentioned in the last preceding subsection whom the tribunal may have agreed to hear, and may then either refuse to confirm the scheme or may confirm it with such alterations, if any, as they think fit:

Provided that the tribunal shall not be bound to hear any of the bodies specified in the said subsection (2) unless that body has duly lodged with the tribunal an objection or other representation with respect to the draft scheme, and shall not hear any such body as is mentioned in the said last preceding subsection except with respect to a representation made by them under that subsection.

(5) Any scheme confirmed by the tribunal shall be published in such manner as may be specified by the tribunal in confirming the scheme and shall come into force on such date or dates as may be so specified; and the scheme shall have effect notwithstanding anything in any statutory provision relating to the subject matter of the scheme.

(6) It shall be the duty of the Commission to give to the tribunal all such assistance as is necessary or as the tribunal may require for the purpose of deciding whether or not to confirm the scheme with or without alterations.

Alteration of charges scheme.

79.—(1) An application for the alteration of a charges scheme may be made to the Transport Tribunal either—

(*a*) by the Commission; or

(*b*) by any body representative of any class of persons using any services or facilities to which the scheme relates, being persons whose interests will be affected by the alteration; or

(*c*) by any body constituted for the purposes of any scheme for the carrying on, under national ownership or control, of any industry or part of an industry or of any undertaking, being a body using any services or facilities to which the scheme relates and whose interests will be affected by the alteration; or

(*d*) if and in so far as, in relation to particular matters, the scheme so provides, by any other person using any services or facilities to which the scheme relates, being a person whose interests will be affected by the alteration:

PART V. —*cont.*

Provided that the tribunal shall not entertain any application under this section for the alteration of any scheme if—

(i) less than twelve months have elapsed since the coming into force of the scheme; or

(ii) in their opinion the application relates to a matter which has been the subject of consideration by the tribunal within the twelve months immediately preceding the making of the application; or

(iii) in their opinion the alteration is one which owing to its magnitude ought not to be made except by an amending scheme or as the result of such a review as is provided for by the next succeeding section.

(2) Where an application is made to the Transport Tribunal under this section (not being an application which the tribunal refuse to entertain) the person making the application shall publish it in such manner as the tribunal may direct together with a notice specifying the time and manner (which shall be determined by the tribunal) in which objections to the application and other representations with respect thereto may be lodged with the tribunal by the Commission or any such body or other person as are specified in subsection (1) of this section.

(3) Any body representative of any class of persons providing for hire or reward services or facilities similar to or comparable with the services or facilities to which the scheme relates who desire to contend that the alteration sought for in the application would cause the charges made under the scheme to be unduly low may lodge a representation to that effect with the tribunal within the time and in the manner specified for objections and representations under the last preceding subsection, and the tribunal may, if they think fit, agree to hear the body with respect to that representation.

(4) As soon as may be after the time for lodging objections and representations has elapsed, the tribunal shall hold a public inquiry into the application and shall at that inquiry hear the Commission, the applicant and any such body or other person as are specified in subsection (1) of this section who desire to be heard, and any such body as is mentioned in the last preceding subsection whom the tribunal may have agreed to hear, and may then make such order, if any, with respect to the matter of the application as they think fit:

Provided that the tribunal shall not be bound to hear any body or other person, other than the Commission and the applicant, who have not duly lodged with the tribunal an

PART V. —*cont.*

objection or other representation with respect to the application and shall not hear any such body as is mentioned in the said last preceding subsection except with respect to a representation made by them under that subsection.

(5) Where an order is made under the last preceding subsection altering a charges scheme, particulars of the alteration shall, unless the tribunal determine that in all the circumstances publication is unnecessary, be published in such manner as the tribunal may specify at the time of the making of the order.

(6) It shall be the duty of the Commission to give to the tribunal all such assistance as is necessary or as the tribunal may require for the purpose of deciding whether any, and if so what, order should be made with respect to the matters of the application.

Review of charges schemes.

80.—(1) The Minister may at any time require the Transport Tribunal to review the operation of any charges scheme.

(2) Where the tribunal have been required by the Minister to review the operation of any charges scheme, they shall give notice of the requirement to the Commission and shall require the Commission to publish notice thereof in such manner as the tribunal may specify, together with a notice specifying the time and manner (which shall be determined by the tribunal) in which representations with respect to the scheme may be lodged with the tribunal.

(3) Representations may be lodged with the tribunal under this section by the following bodies, that is to say—

(*a*) any body representative of any class of persons making use of the services or facilities to which the scheme relates; or

(*b*) any body constituted for the purposes of any scheme for the carrying on, under national ownership or control, of any industry or part of an industry or any undertaking, being a body using the said services or facilities.

(4) Where—

(*a*) any body representative of any class of persons providing for hire or reward services or facilities similar to or comparable with the services or facilities to which the scheme relates desire to contend that the charges made under the scheme are unduly low; or

(*b*) any body representative of any class of persons making use of services or facilities provided by the Commission other than the services or facilities to

PART V. —*cont.*

which the scheme relates desire to contend that the charges made under the scheme are unduly low and that by reason thereof the charges made for those other services or facilities are unduly high, the body may lodge a representation to that effect with the tribunal under this section, and the tribunal may, if they think fit, agree to hear the body with respect to that representation.

(5) As soon as may be after the time for lodging representations has elapsed, the tribunal shall hold a public inquiry into the scheme and shall at that inquiry hear the Commission and any of the bodies mentioned in subsection (3) of this section who desire to be heard and such, if any, of the bodies mentioned in the last preceding subsection as the tribunal may have agreed to hear and may then alter the scheme in such manner as they think fit or may determine that no alteration is necessary, and any alteration made by the tribunal shall be published in such manner, and shall come into force on such date, as the tribunal may specify:

Provided that the tribunal shall not be bound to hear any of the bodies specified in the said subsection (3) unless that body has duly lodged with the tribunal a representation with respect to the scheme, and shall not hear any of the bodies mentioned in the said last preceding subsection except with respect to a representation made by the body in question under that subsection.

(6) It shall be the duty of the Commission to give to the tribunal all such assistance as is necessary or as the tribunal may require for the purposes of any review under this section.

Locus standi of local authorities as regards charges schemes.

81. Any reference in this Part of this Act to any body representative of any class of persons using services or facilities shall, in relation to passenger transport services provided by the Commission, include a reference to any local authority within whose area any persons using those services are resident.

Transitional provisions.

Transitional provisions as to charges.

82.—(1) The Minister may at any time, if he thinks it expedient so to do with a view to ensuring a sufficient revenue to the Commission, to any of the bodies specified in the Third Schedule to this Act, to any railway company to which a schedule of charges is applied under the Railways Act, 1921, or to any light railway company to which subsection (2) of section seventy-two of that Act applies, by regulations authorise the Commission, the body or the company to make, in respect of any services or facilities provided by them the charges for which are regulated by any statutory provision, charges additional to those in operation under that provision:

PART V. —*cont.*

Provided that before making any regulations under this subsection, the Minister shall consult with, and consider the advice of, the permanent members of the Transport Tribunal, acting as a consultative committee.

(2) Subsection (1) of this section shall not apply—

(*a*) to any services or facilities in respect to which a charges scheme is in force; or

(*b*) in the case of a body specified in the Third Schedule to this Act who are a local authority, to any services or facilities provided by that authority otherwise than in connection with the undertaking of that authority which is to vest in the Commission.

Transitional provisions as to exceptional rates and fares of the Commission.

83.—(1) The provisions of this section shall have effect as respects charges made otherwise than under a charges scheme.

(2) Where, in the opinion of the Commission, any exceptional rate which under the provisions of Part III of the Railways Act, 1921, is in operation on the date of transfer in respect of any traffic is unduly low by reason of the competition of road haulage undertakers, canal carriers or persons engaged in coastal shipping, the Commission may at any time increase that rate up to not more than sixty per cent. of the standard rate for the time being in operation under the said Act, and section thirty-eight of the said Act (which prescribes the procedure to be followed as to alterations of exceptional rates) shall not have effect in relation to such an increase:

Provided that, if any trader is aggrieved by the raising of any exceptional rate under this subsection, he may appeal to the Transport Tribunal, and if the tribunal are satisfied that the Commission were not justified in raising the rate under this subsection, they may order the lower rate to be restored from such date as they may determine and the Commission shall give effect to that order.

(3) So much of sections thirty-seven, thirty-eight and forty-one of the said Act as requires the granting or reduction of exceptional rates or the charging of exceptional fares to be reported to the Minister or enables the Minister to refer any such matter to the Transport Tribunal shall not apply to rates and fares of the Commission, and accordingly, in relation to the Commission—

(*a*) the said section thirty-seven shall have effect as if in subsection (1) thereof, the words from "which rates" to "reported to the Minister", and the whole of subsection (2), were omitted;

PART V. —*cont.*

(*b*) subsection (2) of the said section thirty-eight shall have effect as if the words from " but any such reduction " to the end of the subsection were omitted; and

(*c*) the said section forty-one shall have effect as if the words from " but the circumstances " to the end of the section were omitted.

(4) In its application to the Commission, subsection (11) of section thirty-seven of the Road and Rail Traffic Act, 1933 (which relates to agreed charges for the carriage of merchandise) shall have effect as if the words from " where the Tribunal " where those words first occur to the words " the Minister may allow, and " were omitted.

(5) In its application to the Commission, section thirty-nine of the Road and Rail Traffic Act, 1933 (which relates to agreed charges and exceptional rates competing with coastal shipping) shall have effect as if—

(*a*) in subsection (2) for the words " If at any time a representation is made to the Minister " there were substituted the words " A representation may at any time be made to the tribunal ", and the words from " the Minister shall consult " to the end of the subsection were omitted;

(*b*) in subsections (3) and (5), for the word " reference " there were substituted the word " representation ".

Temporary additional jurisdiction of Transport Tribunal as to classification of merchandise.

84. The Transport Tribunal shall in relation to charges made by any of the bodies specified in the Third Schedule to this Act or, otherwise than under a charges scheme, by the Commission as the successors to any such body, have power, on the application of the body, of the Commission, of any person interested or of any body representative of any class of persons interested, to alter the classification of merchandise which is in operation under any statutory provision in relation to charges made in connection with any canal or inland navigation.

Overriding and miscellaneous provisions.

Overriding provisions as to exercise by Commission and Transport Tribunal of their powers as to charges.

85. Neither the Commission nor the Transport Tribunal shall do anything in the exercise of their respective powers as respects charges and the submission, confirmation and alteration of charges schemes which in their opinion will prevent the Commission from discharging the Commission's general duty to secure that their revenue is not less than sufficient for making provision for the meeting of charges properly chargeable to revenue taking one year with another, or which in their opinion will prevent the Commission from giving effect to any direction of the Minister under any provision of this

PART V. —*cont.*

Act; and it is hereby declared that the duty of the Commission to give effect to such directions as aforesaid includes a duty to make such applications and to do such other things in relation to the making or alteration of charges schemes as are required in order to give effect to any such direction.

Discontinuance of annual review of charges, etc

86. After the passing of this Act, no annual review of charges shall be held under section fifty-nine of the Railways Act, 1921, and no general revision or variation of standard charges shall be carried out under section thirty-five of that Act, and no general revision of fares shall be carried out under sections twenty-nine or thirty-four of the London Passenger Transport Act, 1933.

Provisions as to railway freight rebates

87.—(1) Subject as in this section provided, the Minister may by regulations terminate as respects the Commission the system of rebates provided for by the Railway Freight Rebates Enactments, 1929 to 1943, and provide for the winding up of the Railway Freight Rebates Fund and for payment of any balance standing to the credit thereof to the Commission, without prejudice, however, to any relief from rates provided for by any Act.

6 & 7 Geo. 6. c. 23.

(2) The period of suspension of coal rebates provided for by section one of the Railway Freight Rebates Act, 1943, shall continue until the date on which the system of railway freight rebates provided for by the Railway Freight Rebates Enactments, 1929 to 1943, is terminated by regulations made under subsection (1) of this section.

(3) The amounts which under section two of the said Act are to be paid to the Minister of Fuel and Power shall be paid to the Minister, at such times and in such manner as the Treasury may direct, and shall be applied by him in such manner as he thinks fit and as the Treasury may approve so as to reduce transport charges in Great Britain, including, if the Minister thinks fit and the Treasury approve, charges for the carriage of goods by sea to or from any point in Great Britain from or to any other point in Great Britain.

(4) Subsection (3) of the said section two shall cease to have effect and the reference in subsection (2) of section five of the said Act to the Minister of Fuel and Power shall be construed as a reference to the Minister.

(5) Any regulations made under subsection (1) of this section so as to come into operation—

(*a*) before a scheme under section thirty-eight of this Act as to the property, rights, powers and liabilities of the Railway Clearing House has come into operation; or

PART V.—*cont.*

(*b*) without such a scheme having come into operation, before the whole of the Railway Clearing House (Railway Freight Rebates Fund) Redeemable 2½ per cent. Stock 1937-52 (issued in pursuance of powers conferred by section sixty-eight of and the Eleventh Schedule to the Local Government Act, 1929, and the Railway Freight Rebates Act, 1936, and in this section referred to as "the Rebates Stock") has been purchased or redeemed and cancelled by the Railway Clearing House,

shall provide that the principal of and the interest on any amount of the Rebates Stock outstanding immediately before the date of coming into operation of the regulations shall as from that date become a liability of the Commission, and all sums payable by the Commission for interest or repayment of principal or into any sinking fund for repayment of principal in respect of the Rebates Stock shall be paid out of the revenue of the Commission and shall have the same priority as payment of rates over other payments thereout to the extent of any relief from rates provided for by any Act.

PART VI.

FINANCE.

88.—(1) The Commission may, with the consent of the [illegible] Minister, or in accordance with the terms of any general [illegible] authority given by him, borrow temporarily, by way of overdraft or otherwise, such sums as the Commission may require for meeting their obligations or discharging their functions under this Act:

Provided that the aggregate of the amounts outstanding in respect of any temporary loans raised by the Commission under this subsection shall not at any time exceed twenty-five million pounds.

(2) The Commission may, with the consent of the Minister and the approval of the Treasury, borrow money by the issue of British transport stock for all or any of the following purposes, that is to say—

(*a*) the provision of money for meeting any expenses incurred in connection with any permanent work the cost of which is properly chargeable to capital;

(*b*) the redemption of any British transport stock;

(*c*) the provision of working capital;

(*d*) the provision of money required to satisfy any right to compensation in respect of the transfer to the Commission of the whole or any part of an undertaking which, under any provision of this Act, is to be defrayed in cash, not being money required to

PART VI. —*cont.*

pay compensation to officers or servants or to make to a local authority periodical payments in respect of any of their securities;

(*e*) the purchase, otherwise than simply by way of investment, of any securities of any body corporate which is carrying on or about to carry on or which directly or indirectly controls another body corporate which is carrying on or about to carry on, any such activities as are specified in subsection (1) of section two of this Act;

(*f*) the provision of any money, not being money properly chargeable to revenue, which is required for lending to, or is required to be paid under any guarantee given for the benefit of, any such body corporate as is mentioned in the last preceding paragraph or any other person who is carrying on or about to carry on any such activities as are therein mentioned;

(*g*) any other purpose for which capital moneys are properly applicable, including the repayment of any money temporarily borrowed under subsection (1) of this section for any of the purposes mentioned in the preceding paragraphs of this subsection:

Provided that the total amount borrowed under this subsection, otherwise than for the purposes specified in paragraphs (*b*) and (*d*) thereof, shall not exceed two hundred and fifty million pounds.

The reference in paragraph (*d*) of this subsection to any provision of this Act includes a reference to any provision thereof applied, with or without modifications, by any scheme or order under this Act.

(3) Save as aforesaid, the Commission shall not borrow any money.

British transport stock.

89.—(1) The Commission—

(*a*) may create and issue any stock required for the purpose of exercising their powers under the last preceding section;

(*b*) shall create and issue such stock as is required for the purpose of satisfying any right to compensation which under any provision of this Act is to be satisfied by the issue of British transport stock; and

(*c*) may, with the consent of the Minister and the approval of the Treasury, create and issue stock in order to satisfy the whole or any part of the amount payable by them on the acquisition of the whole or part of any other undertaking acquired by them by agreement;

and the stock so created and issued is in this Act referred to as " British transport stock ": PART VI —*cont.*

Provided that the creation and issue of stock under paragraph (*c*) of this subsection shall be deemed for the purposes of the proviso to subsection (2) of the last preceding section to be a borrowing by the Commission of the amount satisfied by the creation and issue of the stock.

The reference in paragraph (*b*) of this subsection to compensation which under any provision of this Act is to be satisfied by the issue of British transport stock includes a reference to compensation which is to be so satisfied under any provision of this Act as applied by any scheme or order made under this Act.

(2) The British transport stock which is to be created and issued under paragraph (*b*) of subsection (1) of this section in satisfaction of a claim to compensation of any amount shall subject to the provisions of the Fifth Schedule to this Act be such stock as is, in the opinion of the Treasury, equal in value at the date of the issue to that amount, regard being had to the market value of government securities at that date.

(3) Subject to the provisions of this section and of the said Fifth Schedule, British transport stock shall be issued, transferred, dealt with and redeemed upon such terms and in accordance with such provisions as may be prescribed by regulations made by the Minister, with the approval of the Treasury, and any such regulations may, in relation to any British transport stock, apply with or without modifications any provision of the Local Loans Act, 1875, or of any enactments relating to stock issued by a local authority. 38 & 39 Vict. c. 83.

(4) Notwithstanding anything in the two last preceding subsections, so much of any British transport stock created and issued in satisfaction of compensation in the case of any of the bodies specified in the Third Schedule to this Act as represents securities specified in Part III of the Fourth Schedule to this Act, shall be of the same nominal amount, shall carry interest at the same rates and payable at the same dates, and shall be redeemed at the same dates and on the same notice and by payment of the same amounts, as in the case of the securities.

(5) Any British transport stock in which no person is interested except the Commission shall be cancelled.

Treasury guarantees.

90.—(1) The principal of and the interest on any British transport stock created and issued under paragraph (*b*) of subsection (1) of the last preceding section or created and issued for borrowing money for the purposes specified in paragraph (*d*) of subsection (2) of the last but one preceding section, shall be guaranteed by the Treasury, and the Treasury

PART VI. —*cont.*

may guarantee, in such manner and on such conditions as they think fit, the redemption or repayment of, and the payment of any interest on, any other British transport stock or any temporary loan raised by the Commission.

(2) Any sums required by the Treasury for fulfilling any such guarantee as is provided for by subsection (1) of this section shall be charged on and issued out of the Consolidated Fund of the United Kingdom or the growing produce thereof (hereinafter referred to as "the Consolidated Fund"), and any such sums shall be repaid, together with interest thereon at such rate as the Treasury may determine, by the Commission to the Treasury in such manner and over such period as the Treasury may, after consultation with the Minister, determine.

(3) Immediately after a guarantee is given under this section, the Treasury shall lay a statement of the guarantee before each House of Parliament.

(4) Where any sum is issued out of the Consolidated Fund under this section, the Treasury shall forthwith lay before each House of Parliament a statement that that sum has been so issued.

Ordinary powers of investment.

91. Any sums in the hands of the Commission which are not immediately required by them for the purposes of their business may be invested by them in such manner as they think proper.

General reserve.

92.—(1) Without prejudice to the power of the Commission to establish appropriate reserves for replacements or other purposes, the Commission shall establish and maintain a general reserve.

(2) The management of the general reserve, the sums to be carried from time to time to the credit thereof, and the application of the moneys comprised therein shall be as the Commission may determine:

Provided that—

(*a*) no part of the moneys comprised in the general reserve shall be applied otherwise than for the purposes of the Commission; and

(*b*) the Minister may, with the approval of the Treasury, give to the Commission directions as to any matter relating to the establishment or management of the general reserve or the carrying of sums to the credit thereof, or the application thereof, and the Commission shall give effect to any such directions.

(3) It is hereby declared that one of the purposes of the general reserve is the prevention of frequent fluctuations in the

charges made by the Commission, and the powers of the Commission in relation to the general reserve shall be exercised accordingly. PART VI. —cont.

Sums which are to be chargeable to revenue.

93. The Commission shall charge to revenue in every year all charges which are proper to be made to revenue, including, in particular, proper allocations to general reserve, proper provision for depreciation or renewal of assets and proper provision for redemption of capital, and all payments (including the payments which are by the relevant provisions of this Act, or by any other relevant statutory provision, to be deemed to be capital payments) which fall to be made, in lieu of any other form of compensation, to any local authority in that year in respect of any undertaking transferred to the Commission, and references in this Act to charges properly chargeable to revenue shall be construed accordingly.

Accounts and statistics.

94.—(1) The Commission—

(*a*) shall cause proper accounts and other records in relation thereto to be kept; and

(*b*) shall prepare an annual statement of accounts in such form and containing such particulars, compiled in such manner, as the Minister may from time to time direct with the approval of the Treasury.

(2) The said annual statement shall be so framed as to provide, as far as may be, separate information as respects the principal activities of the Commission, and, in combination with the periodical statistics and returns rendered by the Commission, to show, as far as may be, the financial and operating results of each such activity, and the Minister and the Treasury shall exercise their powers under this section accordingly.

(3) The accounts of the Commission shall be audited by an auditor or auditors to be appointed annually by the Minister and in accordance with a scheme of audit approved by him and, if the Minister so directs, the accounts of the Commission as respects any part of their undertaking specified in the direction shall be separately audited by an auditor or auditors so appointed as aforesaid.

(4) So soon as the accounts of the Commission have been audited as aforesaid, they shall send a copy of the statement of accounts referred to in paragraph (*b*) of subsection (1) of this section to the Minister, together with a copy of the report made by the auditor or auditors on that statement, and a copy of that statement and of any such report shall be included in the report which is under Part I of this Act to be laid by the Minister annually before each House of Parliament.

PART VI. —*cont.*

(5) The Commission shall compile and render to the Minister such periodical statistics and returns relating to each of their principal activities in such forms and at such times as the Minister may direct, and the Minister shall lay a copy of any such statistics and returns before each House of Parliament:

Provided that, in giving any directions under this subsection, the Minister shall have regard to the desirability of requiring the Commission to compile and render statistics and returns on a basis which, in his opinion, is reasonably comparable with that of the statistics and returns required at the date of the passing of this Act to be rendered by railway and canal companies by or under the enactments mentioned in the next succeeding subsection.

34 & 35 Vict. c. 78.

(6) Sections nine and ten of the Regulation of Railways Act, 1871, sections thirty-two and thirty-nine of the Railway and Canal Traffic Act, 1888, the Railway Companies (Accounts and Returns) Act, 1911, and section seventy-seven of the Railways Act, 1921 (which relate to the keeping of and audit of accounts of railway companies, and the making of returns and the keeping of statistics by railway and canal companies) and, except in so far as the Minister may by order otherwise provide, so much of any other statutory provision as relates to the accounts, statistics and returns to be kept or made by the owners of undertakings transferred to the Commission (whether in whole or in part and whether by agreement or otherwise), or as relates to the audit or publication of any such accounts, shall not apply to the Commission.

PART VII.

CONDITIONS OF EMPLOYMENT, PENSIONS AND COMPENSATION TO OFFICERS AND SERVANTS.

Conditions of Employment.

General provisions as to terms and conditions of employment of staff, etc.

95.—(1) It shall be the duty of the Commission, except so far as the Commission are satisfied that adequate machinery exists for achieving the purposes of this subsection, to seek consultation with any organisation appearing to the Commission to be appropriate, with a view to the conclusion between the Commission and that organisation of such agreements as appear to the parties to be desirable with respect to the establishment and maintenance of machinery for—

(*a*) the settlement by negotiation of terms and conditions of employment of persons employed by the Commission, with provision for reference to arbitration in default of such settlement in such cases as may be determined by or under the agreements; and

PART VII. —*cont.*

(*b*) the promotion and encouragement of measures affecting the safety, health and welfare of persons employed by the Commission, and the discussion of other matters of mutual interest to the Commission and such persons, including efficiency in the operation of the Commission's services.

(2) Where the Commission conclude such an agreement as is mentioned in the last preceding subsection or any variation is made in such an agreement, the Commission shall forthwith transmit particulars of the agreement or the variation to the Minister and the Minister of Labour and National Service.

(3) Without prejudice to the generality of the provisions of this Act relating to the effect of a delegation of powers of the Commission to an Executive, it is hereby declared that the preceding provisions of this section require to be satisfied separately as respects the persons under the control of each Executive or under the direct control of the Commission itself, and references in the preceding provisions of this section to the Commission shall be construed accordingly:

Provided that where such an agreement as is mentioned in subsection (1) of this section is concluded by an Executive, or any variation is made in such an agreement by an Executive, the Executive concerned shall forthwith transmit particulars of the agreement or the variation to the Commission and the Commission shall then transmit those particulars to the Minister and the Minister of Labour and National Service.

(4) Nothing in this section shall be construed as prohibiting the Commission or any Executive from taking part together with other employers in the establishment and maintenance of machinery for the settlement of terms and conditions of employment and the promotion and encouragement of measures affecting the safety, health and welfare of their workers and the discussion of other matters of mutual interest to them and their workers.

Provisions as to Part IV of Railways Act, 1921, and Part VI of London Passenger Transport Act, 1933. 23 & 24 Geo. 5. c. 14.

96.—(1) Any agreement made under the last preceding section to which the National Union of Railwaymen, the Associated Society of Locomotive Engineers and Firemen, and the Railway Clerks Association are parties may amend or supersede any of the provisions of sections sixty-two to sixty-six of the Railways Act, 1921, or of Part VI of the London Passenger Transport Act, 1933, but unless and until such provision is made by such an agreement, those enactments, as adapted by the provisions of this Act, shall continue in force.

(2) It shall not be necessary for there to be separate councils under section sixty-three of the Railways Act, 1921, for each of the parts of the undertaking of the Commission which

PART VII. —*cont.*

correspond to the undertakings of the several railway companies and there may, under the said section sixty-three, be councils established or operating for two or more of the said parts, and subsection (1) of the said section sixty-three shall have effect accordingly.

(3) Section sixty-five of the Railways Act, 1921, shall, subject to the provisions of any such agreement as is mentioned in subsection (1) of this section, have effect as from the date of transfer as if for the reference to the General Managers' Committee of the Railway Clearing House there were substituted a reference to the Commission.

(4) In subsection (1) of section sixty-six of the Railways Act, 1921, the reference to the employees employed by the railway companies mentioned in subsection (2) of that section shall, as from the date of transfer, be construed as a reference to the employees employed by the Commission in the parts of their undertaking corresponding to the undertakings of those railway companies.

Police force conference.

97.—(1) Arrangements shall be made for establishing a conference consisting of an equal number of representatives of the Commission and of the members of the police forces of the Commission, to which all questions relating to rates of pay, hours of duty and conditions of service of members of the police forces of the Commission shall be referred.

(2) In the event of disagreement between the two sides of the conference, an independent chairman shall be appointed with power to give binding decisions, such chairman to be chosen by mutual agreement or failing agreement to be nominated by the Minister of Labour and National Service.

(3) On the appointed day, section sixty-seven of the Railways Act, 1921 (which provides for separate railway police conferences) shall cease to have effect.

Pensions.

Provisions as to pension rights.

98.—(1) The Minister may make regulations for all or any of the following purposes, that is to say—

(*a*) for providing pensions to or in respect of—

(i) persons who are or have been in the employment of the Commission or any body in whom there vests or to whom there is transferred any undertaking or part of an undertaking under any of the provisions of a scheme or order made under this Act;

(ii) persons who have been employed in any undertaking the whole of which under or by virtue of any of the provisions of this Act or of a scheme

or order made thereunder or under any agreement vests in or is transferred to the Commission or any other body but who have not been taken into the service of the Commission or that body;

(iii) persons who are or have been employed in any undertaking part of which under or by virtue of any of the provisions of this Act or of a scheme or order made thereunder or under any agreement vests in or is transferred to the Commission or any other body, being persons who have been employed in connection with any activities of that undertaking which are transferred to the Commission or that body but who have not been taken into the service of the Commission or that body;

(iv) persons who are or have been employed in connection with the Caledonian and Crinan Canals or Holyhead Harbour, or by or in connection with the Railway Clearing House;

(*b*) for the establishment and administration of pension schemes and pension funds for any of the purposes of the preceding paragraph, for the continuance, amendment, repeal or revocation of existing pension schemes relating in whole or in part to any of the like purposes and of statutory provisions relating thereto and trust deeds, rules or other instruments made for the purposes thereof, for the transfer in whole or in part, or for the extinguishment, of liabilities under any such existing pension schemes, and for the transfer in whole or in part, or winding up, of pension funds held for the purposes of any such existing pension schemes, so, however, that nothing in this paragraph shall be construed as authorising the diversion of any such funds to purposes other than those of the preceding paragraph;

(*c*) for making any provision consequential on any such provision as aforesaid, including provision for the dissolution or winding up of bodies, whether incorporated or not, the continued existence whereof is unnecessary having regard to the regulations.

(2) Where provision is made by any such regulations for the amendment, repeal or revocation of any existing pension scheme or of any statutory provisions relating thereto or any trust deed, rules or other instrument made for the purposes thereof, or for the transfer or extinguishment of any liability under any pension scheme or for the transfer or winding up of any pension fund held for the purposes of any such scheme, the regulations shall be so framed as to secure that persons

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having pension rights under the scheme, whether such persons as are mentioned in paragraph (*a*) of the last preceding subsection or not, are not placed in any worse position by reason of the amendment, repeal, revocation, transfer, extinguishment or winding up:

Provided that this subsection shall have effect subject to such limitations as may be prescribed for meeting cases in which, in connection with any provision made by this Act or in anticipation of the making of any such provision, pension rights have been created otherwise than in the ordinary course.

(3) Regulations made under this section shall not be invalid by reason that in fact they do not secure that persons having pension rights are not placed in any worse position by reason of any such amendment, repeal, revocation, transfer, extinguishment or winding up as is mentioned in the last preceding subsection, but if the Minister is satisfied or it is determined as hereinafter mentioned that any such regulations have failed to secure that result, the Minister shall as soon as may be make the necessary amending regulations.

Any dispute arising between the Minister and any person as to whether or not the said result has been secured by any regulations made under this section shall be referred to a referee or board of referees appointed by the Minister of Labour and National Service after consultation with the Lord Chancellor or, where the proceedings are to be held in Scotland, after consultation with the Secretary of State, for his or their determination thereon.

(4) Without prejudice to the generality of the preceding provisions of this section, regulations made under this section may contain provisions authorising any person who, being a participant in any pension scheme to which the regulations relate, becomes a member of the Commission or of an Executive being treated as if his service as a member of the Commission or of an Executive, as the case may be, were service in the employment of the Commission, and the pension rights of any such persons resulting from the operation of any such provision shall not be affected by any provision of this Act which requires that the pensions, if any, which are to be paid in the case of members of the Commission or an Executive are to be determined by the Minister with the approval of the Treasury or by the Commission with the approval of the Minister and the Treasury.

(5) Nothing in this section shall authorise the making of regulations relating to an existing pension scheme which provide for the payment by any person carrying on an undertaking or part of an undertaking in which persons to which that scheme relates are employed, being an undertaking which, or such part of an undertaking as, has not vested

in or been transferred to the Commission or any body by or under this Act or any scheme or order made thereunder—

(*a*) of contributions in respect of the services of persons who are no longer employed in that undertaking or part of an undertaking rendered after they cease to be so employed; or

(*b*) of contributions in respect of persons who are employed in that undertaking or part of an undertaking in excess of the contributions provided for by the existing pension scheme.

(6) Nothing in this section, and in particular nothing in subsection (2) thereof, shall be taken to derogate from the power conferred by subsection (4) of section sixty-nine of the National Insurance Act, 1946, to make regulations providing for the modifying or winding up of pension schemes in connection with the passing of that Act. 9 & 10 Geo. 6. c. 67.

(7) Regulations made under this section may contain such supplementary and consequential provisions as the Minister thinks necessary, including provisions as to the manner in which questions arising under the regulations are to be determined and provisions adapting, modifying or repealing statutory provisions.

(8) Regulations made for the purposes of this section may be made so as to have effect from a date prior to the making thereof, so, however, that so much of any regulations as provides that any provision thereof is to have effect from a date prior to the making thereof shall not place any person other than the Commission in a worse position than he would have been in if the regulations had been made to have effect only as from the date of the making thereof.

Special provisions as to railway and canal pension funds, etc.

99.—(1) The provisions of this section shall, subject to any regulations made under the last preceding section, have effect in relation to pension schemes relating in whole or in part to the undertakings of the bodies specified in the Third Schedule to this Act and in relation to pension rights of persons who have been in the employment of any such body.

(2) The provisions of this Act which direct that liabilities of a body shall become, as from the date of transfer, liabilities of the Commission shall apply in relation to customary obligations of the body in relation to pensions, notwithstanding that the body was under no legal obligation in respect of those pensions; and if any question arises as to the existence or extent of any such customary obligation, the question shall, in default of agreement, be referred for determination to a referee or board of referees appointed by the Minister of Labour and National Service, after consultation with the Lord

PART VII. —*cont.*

Chancellor or, where the proceedings are to be held in Scotland, after consultation with the Secretary of State, and the decision of that referee or board shall be final and the Commission shall give effect to that decision.

(3) Any officer or servant of the Commission, in whatever part of the undertaking of the Commission he is employed, may, with the consent of the Commission and the managers of the scheme, become a participant in any such scheme as is mentioned in subsection (1) of this section, and all service in the employment of the Commission rendered by any person while he is a participant under any such scheme shall be treated for the purposes of the scheme as if it were service in connection with the part of the undertaking of the Commission which represents the undertaking to which the scheme related before the date of transfer.

(4) Any person who, being a participant in any such scheme, becomes a member of the Commission or of an Executive shall, unless he otherwise elects in writing not more than one month after his appointment, be treated as if his service as a member of the Commission or of the Executive, as the case may be, were service in the employment of the Commission, and his pension rights resulting from the operation of this subsection shall not be affected by any provision of this Act which requires that the pensions, if any, which are to be paid in the case of members of the Commission or an Executive are to be determined by the Minister with the approval of the Treasury or by the Commission with the approval of the Minister and the Treasury.

Superannuation rights of certain officers transferred to the Ministry of Transport.

100.—(1) This section shall have effect in relation to any person to whom the Treasury may direct that it shall apply, being a person who—

(*a*) was, immediately before the date of transfer, in the employment of any of the bodies mentioned in the Third Schedule to this Act, but has by arrangement with that body acted continuously as an officer of the Minister since before the end of the year nineteen hundred and forty-two; and

(*b*) was, immediately before the date of transfer, a participant in any such scheme as is mentioned in the last preceding section; and

(*c*) becomes, on the date of transfer, an officer of the Minister; and

(*d*) consents that this section shall apply to him.

(2) On the date of transfer, the said person shall cease to be a participant in the scheme, and he shall pay over to the Minister any return of contributions made to him under the scheme.

(3) Any whole time service rendered by a person as an officer of the Minister on or after the date of transfer, and any service rendered by him, whether to the State or not, before the date of transfer while he was a participant in the scheme shall be treated for the purposes of the Superannuation Acts, 1834 to 1946, as service in the permanent civil service of the state in an established capacity. PART VII —*cont.*

Compensation.

Compensation to officers and servants in connection with transfers

101.—(1) The Minister shall by regulations require the Commission to pay, in such cases and to such extent as may be specified in the regulations, compensation—

(*a*) to officers or servants of any person whose undertaking is transferred to the Commission by Part II of this Act; or

(*b*) to officers or servants of any person whose undertaking or part of whose undertaking is transferred to the Commission by notice of acquisition given under Part III of this Act; or

(*c*) to officers or servants employed in connection with the Caledonian and Crinan Canals or Holyhead Harbour; or

(*d*) to officers or servants employed by a body which, immediately before the date of transfer under Part II of this Act, was completely controlled by one or more of the bodies specified in the Third Schedule to this Act; or

(*e*) to officers or servants employed by or in connection with the Railway Clearing House,

being officers or servants who suffer loss of employment or loss or diminution of emoluments or pension rights or whose position is worsened in consequence—

(i) in the cases mentioned in paragraphs (*a*) to (*c*) of this subsection, of the transfer effected by Part II of this Act, the transfer effected in pursuance of the notice, or the transfer effected by the provisions of this Act relating to the said Caledonian and Crinan Canals and Holyhead Harbour, as the case may be;

(ii) in the cases mentioned in paragraph (*d*) of this subsection, of the transfer effected by Part II of this Act; and

(iii) in the cases mentioned in paragraph (*e*) of this subsection, of the transfer effected by the said Part II or the coming into operation of any provision of a scheme under this Act relating to the Railway Clearing House.

PART VII. —*cont.*

(2) Different regulations may be made under this section in relation to different classes of persons and different classes of transfers, and any such regulations may be so framed as to have effect as from a date prior to the making thereof, so, however, that so much of any regulations as provides that any provision thereof is to have effect as from a date earlier than the making thereof shall not place any person other than the Commission in a worse position than he would have been in if the regulations had been made to have effect only as from the date of the making thereof.

(3) Regulations made under subsection (1) of this section—

(*a*) may prescribe the procedure to be followed in making claims for compensation, and the manner in which and the persons by whom the question whether any or what compensation is payable is to be determined; and

(*b*) may in particular contain provisions enabling appeals from any determination as to whether any or what compensation is payable to be brought, in such cases and subject to such conditions as may be prescribed by the regulations, to a referee or board of referees appointed by the Minister of Labour and National Service, after consultation with the Lord Chancellor or, where the proceedings are to be held in Scotland, after consultation with the Secretary of State,

and where any such provision is made as is specified in paragraph (*b*) of this subsection, the decision of the referee or board of referees shall be final.

(4) No regulations shall be made under this section unless a draft thereof has been laid before Parliament and has been approved by resolution of each House of Parliament.

(5) Nothing in this section shall be construed as enabling regulations to be made prejudicing the rights of any person under the Third Schedule to the Railways Act, 1921, or Part VII of the London Passenger Transport Act, 1933.

(6) For the purposes of this section, a body shall be deemed to be completely controlled by one or more other bodies if and only if it is a body with a share capital and no person other than one or more of the following persons, that is to say—

(*a*) the other bodies aforesaid;

(*b*) bodies themselves completely controlled by one or more of those other bodies; and

(*c*) persons holding not more than one share each as subscribers to the Memorandum of Association of the body in question

has any beneficial interest in any of that share capital which carries voting rights, not being voting rights exercisable only in the event of a default in the payment of dividend, or in any other special circumstances defined in the Articles of Association of the body in question.

PART VII. —*cont.*

Compensation to officers and servants in other cases.

102.—(1) The Minister shall not regard as satisfactory for the purposes of sub-paragraph (1) of paragraph 1 of the Eighth Schedule to this Act any scheme which provides for the transfer of the whole or any part of any undertaking, and shall not give his approval to any agreement providing for the transfer of the whole or any part of an undertaking which, under any provision of this Act, requires his approval, unless he is satisfied that appropriate provision has been or will be made by the scheme or agreement for the payment by the transferee in the appropriate cases and to the appropriate extent of compensation to officers and servants who suffer loss of employment or loss or diminution of emoluments or pension rights or whose position is worsened in consequence of the transfer in question.

(2) Where under any provision of this Act an agreement for the transfer of an undertaking or part of an undertaking to the Commission can be made without the approval of the Minister, the agreement shall contain such provisions in relation to the matters specified in subsection (1) of this section as the Minister may by general direction to the Commission require.

(3) Any order by the Minister giving effect to the transfer to the Commission or any other body of the whole or part of a canal carrier undertaking, or an undertaking providing port facilities, with respect to which a declaration has been made under the provisions of this Act by the Transport Tribunal, shall, notwithstanding any power of the Minister to except provisions of this Act from application to such a transfer, include such provision as appears to him appropriate in relation to the matters specified in subsection (1) of this section.

Fees and allowances on references under Part VII to referees.

103. The Minister of Labour and National Service may, with the consent of the Treasury, pay, out of moneys provided by Parliament,—

(*a*) to any referee or to the members of any board of referees appointed by him under any provision of this Part of this Act or under any such provision of a scheme or agreement as is referred to in subsection (1) of the last preceding section or under any such provision of an order as is mentioned in subsection (3) of the last preceding section such fees and allowances as he may with the consent of the Treasury determine; and

PART VII —*cont.*

(*b*) to persons giving evidence before any such referees or board such allowances as he may with the consent of the Treasury determine.

Arbitration Acts do not apply to proceedings before referees or boards of referees

104. Nothing in the Arbitration Acts, 1889 to 1934, shall be construed as applying to any proceedings before a referee or board of referees appointed under this Part of this Act by the Minister of Labour and National Service.

PART VIII.

SETTLEMENT OF QUESTIONS ARISING IN CONNECTION WITH COMPULSORY ACQUISITIONS.

Establishment of Transport Arbitration Tribunal.

105.—(1) For the purpose of performing the functions specified in this Part of this Act, there shall be established a tribunal to be called " The Transport Arbitration Tribunal " (in this Act referred to as the arbitration tribunal).

(2) The arbitration tribunal shall consist of—

(*a*) one member, to be appointed by the Lord Chancellor, who shall be a person of legal experience and shall, subject to the provisions of this subsection, be the president of the tribunal;

(*b*) one member, to be appointed by the Lord President of the Court of Session, who shall be a person of legal experience in Scotland; and

(*c*) two members, to be appointed by the Lord Chancellor, of whom one shall be a person of experience in business and one shall be a person of experience in finance:

Provided that the person appointed under paragraph (*a*) of this subsection shall not act in relation to any proceedings which, under the provisions of this Part of this Act, are to be treated as Scottish proceedings; and the person appointed under paragraph (*b*) of this subsection shall only act in relation to such proceedings and, in relation thereto, shall act as president of the tribunal.

(3) The members of the arbitration tribunal shall hold office for such period as may be determined at the time of their respective appointments and shall be eligible for reappointment:

Provided that—

(*a*) a member may at any time by notice in writing to the Lord Chancellor, or the Lord President of the Court of Session, as the case may be, resign his office;

PART VIII. —*cont.*

(*b*) the Lord Chancellor, or the Lord President of the Court of Session, as the case may be, may declare the office of any member vacant on the ground of incapacity to perform the duties of the office or misbehaviour;

(*c*) if any member becomes bankrupt or makes an arrangement with his creditors, his office shall thereupon become vacant.

(4) If any member of the arbitration tribunal becomes, by reason of illness or other infirmity, temporarily incapable of performing the duties of his office, the Lord Chancellor, or the Lord President of the Court of Session, as the case may be, shall appoint some other fit person to discharge his duties for any period not exceeding six months at one time, and the person so appointed shall, during that period, have the same powers as the person in whose place he is appointed.

(5) The arbitration tribunal may, at any stage in any proceedings before them, refer the proceedings for hearing and determination to a person or persons appointed by them for the purpose, and where any proceedings are so referred, the person or persons to whom the proceedings are referred shall be deemed to constitute the tribunal for the purposes of those proceedings and shall have all the powers and duties of the tribunal in relation to the hearing and determination thereof.

Procedure and enforcement of orders of arbitration tribunal.

106.—(1) The arbitration tribunal shall be a court of record and have an official seal, which shall be judicially noticed, and any order of the tribunal shall be enforceable as if it were an order of the High Court.

(2) The provisions of the Arbitration Acts, 1889 to 1934, with respect to—

(*a*) the administration of oaths and the taking of affirmations; and

(*b*) the correction in awards of mistakes and errors; and

(*c*) the summoning, attendance and examination of witnesses and the production of documents; and

(*d*) the costs of the reference and award,

shall, with any necessary modifications, apply in respect of any proceedings before the arbitration tribunal, but save as aforesaid the said Acts shall not apply to any such proceedings.

(3) The arbitration tribunal may, and if so ordered by the Court of Appeal shall, state in the form of a special case for determination by the Court of Appeal any question of law which may arise before them.

(4) The Minister shall have a right to be heard in all proceedings before the arbitration tribunal.

(5) Subject to the provisions of this section, the procedure in or in connection with any proceedings before the arbitration

PART VIII —*cont.*

tribunal shall be such as may be determined by rules to be made by the tribunal with the approval of the Lord Chancellor.

(6) In relation to proceedings which, under this Part of this Act, are to be treated as Scottish proceedings, this section shall have effect subject to the following modifications—

(*a*) for subsections (2) and (3), there shall be respectively substituted the following subsections—

"(2) The arbitration tribunal shall have the like powers for securing the attendance of witnesses and the production of documents, and with regard to the examination of witnesses on oath and the awarding of expenses as if the arbitration tribunal were an arbiter under a submission.

(3) The arbitration tribunal may, and if so directed by the Court of Session shall, state a case for the opinion of that Court on any question of law arising in the proceedings, and the decision of that Court thereon shall be final unless the Court of Session or the House of Lords give leave to appeal to the House of Lords, which leave may be given on such terms as to expenses or otherwise as the Court of Session or the House of Lords may determine.

(*b*) in subsection (5), for the reference to the Lord Chancellor there shall be substituted a reference to the Secretary of State,

and, in the case of any such proceedings, the tribunal shall, except in so far as for special reasons they think fit not to do so, sit in Scotland.

Staff and expenses of arbitration tribunal.

107.—(1) The arbitration tribunal may, subject to the consent of the Treasury as to numbers, appoint such officers and servants as they consider necessary for assisting them in the proper execution of their duties.

(2) There shall be paid to the members of the arbitration tribunal and to any such officer or servant as aforesaid such remuneration (whether by way of salaries, fees or allowances) as the Minister may, with the approval of the Treasury, determine.

(3) There shall be paid to any person to whom proceedings are referred by the arbitration tribunal under the preceding provisions of this Part of this Act for hearing and determination such remuneration as the tribunal may, with the approval of the Treasury, determine.

(4) Any such remuneration as aforesaid and any other expenses of the arbitration tribunal shall be defrayed in the first instance by the Minister out of moneys provided by

Parliament but the amounts from time to time so paid by the Minister shall be repaid on demand to the Minister by the Commission.

PART VIII. —*cont.*

Agreements as to amount of compensation.

108.—(1) Subject to the provisions of this Part of this Act, no sum shall be paid to any person by the Commission by way of or on account of compensation under Part III of this Act except in pursuance of an agreement with that person confirmed by the arbitration tribunal under this section or of an order of that tribunal under the next succeeding section:

Provided that the confirmation of the tribunal shall not be required in the case of an agreement for the payment of compensation to any person if the total amount of the compensation payable to him thereunder does not exceed twenty thousand pounds.

(2) The arbitration tribunal shall not confirm any agreement which requires their confirmation unless they are satisfied either—

(*a*) that the relevant facts have been fully investigated and the amount agreed to be paid is believed by the parties to the agreement to represent, with as much accuracy as is possible, the amount required to be paid on a strict application of the relevant provisions of this Act; or

(*b*) that the amount agreed to be paid represents a reasonable estimate of the amount which would ultimately be found to be payable if the relevant facts were fully ascertained and the relevant provisions of this Act strictly applied thereto, and that further investigation of the facts would cause undue delay or expense; or

(*c*) that the amount to be paid represents a reasonable compromise of a disputed claim:

Provided that where the arbitration tribunal are not so satisfied as aforesaid but would have been so satisfied if a different sum had been fixed by the agreement, they may direct that the agreement shall have effect as if such sum as the tribunal may specify were substituted in the agreement for the sum therein mentioned, and where such a direction is given the like consequences shall follow as would have followed if the agreement had originally been made with that substitution and the agreement had then been confirmed by the tribunal.

(3) Where the compensation to which any such agreement as aforesaid relates arises out of or in connection with the transfer of an undertaking having its principal place of business in Scotland, the proceedings shall, subject to the provisions of this Part of this Act, be treated as Scottish proceedings.

PART VIII. —*cont.*

Jurisdiction of arbitration tribunal as to disputes.

109.—(1) Subject to the provisions of this Part of this Act the arbitration tribunal shall have sole jurisdiction to determine any dispute to which the Commission is a party as to any of the following questions that is to say—

(*a*) the question whether any or what sum is payable by any person by way of compensation or interest or compensation in respect of the transfer to the Commission, under any of the provisions of this Act, of an undertaking, a part of an undertaking, any property or any hire purchase agreement;

(*b*) whether any or what sum is repayable to the Commission in respect of an overpayment of any such compensation as aforesaid or of interest thereon;

(*c*) whether the acquisition of any property, or the making or variation of any agreement or contract, with respect to which a notice of disclaimer is given by the Commission under any provision of this Act, was or was not reasonably necessary for the purposes mentioned in that provision, or was or was not an act of unreasonable imprudence on the part of the body or person therein mentioned;

(*d*) whether any such notice of disclaimer is in any other respect invalid; or

(*e*) any other question required by any provision of this Act to be determined by the arbitration tribunal.

(2) Where a dispute arises out of or in connection with the transfer of an undertaking having its principal place of business in Scotland or of a railway wagon the owner of which has his principal place of business in Scotland, the proceedings before the tribunal in respect of the dispute shall, subject to the provisions of this Part of this Act, be treated as Scottish proceedings.

Powers of arbitration tribunal where delay in settlement of compensation.

110.—(1) Subject to the provisions of this Part of this Act where, under any provision of this Act, an undertaking or part of an undertaking or any property or any rights under any contract or agreement are transferred to the Commission and it appears to the arbitration tribunal on or after the expiration of twelve months from the date of transfer that the compensation payable by reason of the transfer has not been entirely and finally settled, the arbitration tribunal may require the Commission to bring before the tribunal all questions outstanding as to the compensation so payable, and the Commission shall as soon as may be submit those questions to the tribunal accordingly.

(2) Where any question is submitted under this section to the arbitration tribunal, the tribunal may determine the amount of compensation which is to be payable to any person

PART VIII. —*cont.*

and for that purpose may require the Commission or any other person affected to give to the tribunal such information as the tribunal may require, and the tribunal may, if they think fit and are satisfied that further investigation of the facts would cause undue delay or expense, fix, as the amount to be paid, a sum estimated by them to be reasonably equivalent to the amount which would ultimately be found to be payable if the relevant facts were fully ascertained and the relevant provisions of this Act strictly applied thereto.

(3) The Commission shall, so far as may be necessary for the purpose of enabling the arbitration tribunal to exercise their functions under the preceding provisions of this section, keep the tribunal informed as to any acquisitions made by them under any of the provisions of this Act.

(4) Where the undertaking has its principal place of business in Scotland or the property or rights are situate in Scotland, the proceedings of the tribunal shall, subject to the provisions of this Part of this Act, be treated as Scottish proceedings.

Transfer of proceedings from England to Scotland and from Scotland to England.

111.—(1) If, at any stage in any proceedings before the arbitration tribunal which would not otherwise fall to be treated as Scottish proceedings, the tribunal are satisfied that, by reason of the fact that questions of Scottish law arise or for any other reason, the proceedings ought thereafter to be treated as Scottish proceedings, the tribunal may order that they shall thereafter be so treated, and the provisions of this Part of this Act shall have effect accordingly.

(2) If, at any stage in any proceedings before the arbitration tribunal which would otherwise be treated as Scottish proceedings, the tribunal are satisfied that, by reason of the fact that questions of English law arise or for any other reason, the proceedings ought no longer to be treated as Scottish proceedings, they may make an order that the proceedings shall thereafter not be treated as Scottish proceedings and the provisions of this Part of this Act shall have effect accordingly.

Special provisions as to officers and servants.

112. Nothing in the preceding provisions of this Part of this Act shall apply to any compensation payable under regulations made under Part VII of this Act for providing compensation to officers or servants.

Application to schemes.

113. Any reference in the preceding provisions of this Part of this Act to any provision of this Act includes a reference to that provision as applied, with or without modifications, by any scheme or order made under any other provision thereof, and, except so far as the contrary is expressly provided by the scheme or order, any reference in this Part of this Act to the Commission shall, in relation to a scheme or order providing for a transfer to a body other than the Commission, be deemed, in relation to that transfer, to include a reference to that body.

PART IX.

MISCELLANEOUS AND GENERAL.

Additional compensation to local authorities.

114.—(1) Where, under Part II of this Act or under a scheme made under Part IV of this Act, any undertaking to which this section applies is transferred from a local authority to the Commission or to a body constituted or specified under such a scheme, the Commission or that body, as the case may be, shall pay to the authority whose undertaking is transferred the appropriate sum as compensation under this section.

(2) The undertakings to which this section applies are—

(*a*) any undertaking of a local authority which falls to be transferred under Part II of this Act;

(*b*) any undertaking which, at the passing of this Act, is being carried on by a local authority, being an undertaking which could be transferred to the Commission or to some other body as aforesaid under a scheme under Part IV of this Act;

and the expression "the appropriate sum" means, in relation to any undertaking to which this section applies, such sum as may be specified in relation to that undertaking by regulations made by the Minister, so, however, that the total of all the appropriate sums for undertakings the activities whereof consist wholly or partly of operating passenger road transport services does not exceed two and a half million pounds and the total of all the appropriate sums for other undertakings does not exceed two hundred thousand pounds.

(3) This section shall apply in relation to a transfer of part of an undertaking to which this section applies as it applies in relation to the whole of that undertaking, except that the sum payable by way of compensation under this section shall be such part of the appropriate sum as may be determined by the Minister; and the total of the sums so determined by the Minister in relation to parts of an undertaking shall not exceed the appropriate sum for the whole of that undertaking.

(4) The compensation payable under this section shall be payable in cash and shall be in addition to any compensation payable under any provision of this Act, or under any other provision of this Act as applied by a scheme; and any references in Part IV of this Act to provisions of this Act relating to compensation shall be deemed not to include references to this section.

(5) In this section, the expression "local authority" includes the council of a county district.

PART IX. —*cont.*

Right of pre-emption for local authorities in certain cases.

115.—(1) Where, on the occasion of the acquisition by the Commission, whether by agreement or otherwise, of the whole or any part of any undertaking of any local authority, the Commission acquire any land theretofore held by the local authority for the purposes of that undertaking, the local authority shall, for a period of ten years from the date of the acquisition of the land, have the right of pre-emption conferred by the subsequent provisions of this section.

(2) If the Commission, within the said period of ten years, desire to dispose, whether absolutely or for a term of years, of any of that land as being land not required by them for the discharge of their duties under this Act, they shall before disposing of it give to the local authority at least three months' notice, stating whether they desire to dispose of it absolutely and, if not, stating the term of years for which they desire to dispose of it.

(3) Where the local authority receive a notice under subsection (2) of this section and notify the Commission, before the expiration of the period of three months from the date of the Commission's notice, that they desire to acquire the land either absolutely or for the term of years specified in the Commission's notice, as the case may be, they shall have the right and be under an obligation to acquire that land, on such terms as may be agreed between the Commission and the authority or, in default of agreement, as may be determined by arbitration to be fair and reasonable having regard to all the circumstances of the case.

(4) The right of pre-emption conferred upon the local authority by this section shall be deemed to be an estate contract within the meaning of section ten of the Land Charges Act, 1925, and that Act and the Land Registration Act, 1925, shall have effect accordingly.

(5) In this section, the expression "local authority" includes the council of a county district.

Treatment of Travel Agencies.

116. The Commission shall secure that, in the treatment, in like circumstances of travel agencies no discriminatory practices are introduced after the date of transfer as between travel agencies which are directly or indirectly controlled by the Commission and other travel agencies existing at the date of the passing of this Act or as between such other travel agencies.

Renaming of Traffic Commissioners and licensing authorities.

117. The Traffic Commissioners appointed under Part IV of the Road Traffic Act, 1930, for any area shall be known as "The Licensing Authority for Public Service Vehicles", and the licensing authority for the purposes of Part I of the Road and Rail Traffic Act, 1933, for any area shall be known as

PART IX. —*cont.*

"The Licensing Authority for Goods Vehicles", and references in this Act or in any other statutory provision shall be construed accordingly.

Special provisions as to River Lee.

118.—(1) The provisions of the Twelfth Schedule to this Act (being provisions consequential on the transfer effected by Part II of this Act of the undertaking of the Lee Conservancy Board) shall have effect with respect to the constitution and membership of the Lee Conservancy Catchment Board.

(2) Notwithstanding anything in the said Part II, the functions of the Lee Conservancy Board, so far as they are declared by regulations made under this section to be functions relating to water supply, fisheries, pollution or land drainage to which it is expedient that this subsection should apply, shall, in lieu of becoming exercisable by the Commission, become exercisable by the Lee Conservancy Catchment Board.

(3) Any such regulations as aforesaid shall be made by the Minister, the Minister of Agriculture and Fisheries and the Minister of Health acting jointly, on the application either of the Commission or of the Lee Conservancy Catchment Board, and any such regulations may include provision—

(*a*) for securing that any property, rights, powers or liabilities of the Lee Conservancy Board which would otherwise become by virtue of the said Part II property, rights, powers or liabilities of the Commission shall, wholly or in part, become property, powers, rights or liabilities of the Lee Conservancy Catchment Board;

(*b*) for repealing or modifying any provision made by or under any statutory provision, so far as it appears to the said Ministers necessary or expedient so to do for giving effect to the other provisions of the regulations;

(*c*) for making such other consequential or incidental provision as appears to the said Ministers to be necessary or expedient.

(4) Until the appointed day and save in so far as may be otherwise agreed between the Commission and the Lee Conservancy Catchment Board, the said Board—

(*a*) shall, as agents for the Commission, carry on that part of the undertaking of the Commission which corresponds to the undertaking of the Lee Conservancy Board and, for that purpose, have all such rights and powers as are transferred to the Commission from the Lee Conservancy Board by this Act; and

(*b*) shall, as respects the carrying on thereof, give effect to any directions as to the exercise of the said rights and powers which may from time to time be given to them by the Commission; and

(*c*) shall, to such extent as may be agreed between them and the Commission or as may, in default of agreement, be determined by the Minister and the Minister of Agriculture and Fisheries acting together, be entitled, on payment of such sums to the Commission as may be so agreed or determined, to make use, for the purposes of their own undertaking, of the services of officers and servants employed and property held by the Commission for the purposes of the said part of the Commission's undertaking.

Miscellaneous regulation-making powers.

119. Without prejudice to any other provision of this Act providing for the making of regulations, the Minister may make regulations—

(*a*) prescribing anything which under this Act is to be prescribed;

(*b*) specifying the manner in which any documents required or authorised by this Act to be served on any person are to be so served;

(*c*) making provision for the safe custody and redelivery or disposal of any property found on or in any premises, vessels or vehicles belonging to the Commission and fixing the charges to be made by the Commission in respect thereof;

(*d*) providing for the registration of the title of the Commission to property vesting in them under or by virtue of any provision of this Act, being property of a kind subject to provision for the registration of title thereto;

(*e*) authorising the Commission or any person the whole or any part of whose undertaking has been or is to be the subject of a transfer under this Act to the Commission to inspect property or inspect or make extracts from or take copies of documents in the custody or under the control of that person or of the Commission, as the case may be.

Other provisions as to orders and regulations.

120.—(1) Any order made under this Act by the Minister may be revoked or varied by a subsequent order made in the like manner and subject to the like conditions.

(2) Any regulations made under this Act by the Minister or by any other Minister of the Crown or government department, other than those made under section one hundred and

PART IX. —*cont.*

one of this Act, shall be laid before Parliament immediately after they are made, and, if either House, within a period of forty days after the regulations are so laid before it, resolves that the regulations be annulled, the regulations shall thereupon cease to have effect, but without prejudice to the validity of anything previously done thereunder or to the making of new regulations.

(3) In reckoning for the purposes of the last preceding subsection any such period of forty days, no account shall be taken of any time during which Parliament is dissolved or prorogued or during which both Houses are adjourned for more than four days.

56 & 57 Vict. c. 66.

(4) Notwithstanding anything in subsection (4) of section one of the Rules Publication Act, 1893, regulations and orders made under this Act shall be deemed not to be, or to contain, statutory rules to which that section applies.

Penalties.

121.—(1) If any person, in giving any information, making any claim or giving any notice for the purposes of any provision of this Act, or any regulation or order made thereunder, makes any statement which he knows to be false in a material particular, or recklessly makes any statement which is false in a material particular, he shall be liable on summary conviction to imprisonment for a term not exceeding three months or to a fine not exceeding one hundred pounds or to both such imprisonment and such fine, or on conviction on indictment to imprisonment for a term not exceeding two years or to a fine not exceeding five hundred pounds, or to both such imprisonment and such fine.

(2) If any person contravenes any provision of this Act or any regulation or order made thereunder and no other penalty is provided in relation to the contravention, he shall be liable on summary conviction to a fine not exceeding one hundred pounds and, if the contravention in respect of which he is so convicted is continued after the conviction, he shall be guilty of a further offence and liable in respect thereof on summary conviction to a fine not exceeding five pounds for each day on which the contravention is so continued.

(3) Where any offence against this Act or any regulation or order made thereunder has been committed by a body corporate, every person who at the time of the commission of the offence was a director, general manager, secretary or other similar officer of the body corporate, or was purporting to act in any such capacity, shall be deemed to be guilty of that offence unless he proves that the offence was committed without his consent or connivance, and that he exercised all such diligence to prevent the commission of the offence as he ought to have exercised having regard to the nature of his functions in that capacity and in all the circumstances.

PART IX. —*cont.*

Power of Minister as to inquiries.

122. The Minister may hold inquiries for the purposes of his powers and duties under this Act as if those purposes were purposes of the Ministry of Transport Act, 1919, and section twenty of that Act shall apply accordingly.

Administrative expenses and receipts by Government departments.

123.—(1) Any administrative expenses incurred in the execution of this Act by the Minister or by any other Minister of the Crown or Government department shall be paid out of moneys provided by Parliament.

(2) Any sums received by the Minister or by any other Minister of the Crown or Government department under or by virtue of this Act, other than any sum received by the Minister under section two of the Railway Freight Rebates Act, 1943, as amended by the provisions of Part V of this Act, shall be paid into the Exchequer.

Board of Trade documents.

124. All documents purporting to be made or issued by the Board of Trade for any of the purposes of this Act and to be sealed with the seal of the Board, or to be signed by a secretary, under secretary or assistant secretary of the Board, or any person authorised in that behalf by the President of the Board, shall be received in evidence and deemed to be a document so made or issued without further proof, unless the contrary is shown.

Interpretation.

125.—(1) In this Act, except so far as the contrary is expressly provided or the context otherwise requires, the following expressions have the meanings hereby respectively assigned to them, that is to say,—

" abnormal indivisible load " means a load which—

(i) cannot without undue expense or undue risk of damage be divided into two or more loads for conveyance on a road; and

(ii) owing to its dimensions or weight can only be carried by motor vehicles or trailers the use of which on roads is lawful only by reason of an order of the Minister made under proviso (*b*) to subsection (1) of section three of the Road Traffic Act, 1930;

" alteration," in relation to a charges scheme under Part V of this Act, includes an addition, and " alter " shall be construed accordingly;

" amalgamated company " has the same meaning as in the Railways Act, 1921;

" borrow," in relation to the Commission or any other body, does not include—

(*a*) the receipt of money by the Commission or that body in the course of the carrying on of a savings bank operated for the benefit of the employees of the Commission or that body, or the use

PART IX. —*cont.*

by the Commission or that body of money so received; or

(*b*) the receipt or use by the Commission or that body of moneys received by trustees carrying on such a savings bank as aforesaid; or

(*c*) the receipt or use by the Commission or that body of moneys of a pension fund established for the purposes of a pension scheme in which employees of the Commission or that body are participants.

" canal carrier undertaking," means an undertaking consisting wholly or partly of the carriage of goods by canal or inland navigation;

" charges " includes fares, rates, tolls and dues of every description;

" coastal shipping " means the carrying of goods or passengers in ships by sea to or from any point in Great Britain from or to any point in the United Kingdom, the Isle of Man, the Channel Islands or Eire, but does not include the carrying of goods or passengers in the exercise of a right of ferry legally established whether by Act of Parliament or otherwise;

" contravention ", in relation to any provision of this Act or of any regulation or order made thereunder, includes a failure to comply with the requirements of that provision, and " contravene " shall be construed accordingly.

" director ", in relation to a body the affairs whereof are managed by the members thereof without any board of directors or similar body, means a member of the body;

" dividend " includes any distribution of profits by way of bonus or otherwise;

" dock " includes any pier, jetty or other place at which ships can ship or unship goods or passengers;

" emoluments " includes any allowances, privileges or benefits, whether obtaining legally or by customary practice;

" harbour " means any harbour, whether natural or artificial, and any port, haven, estuary, tidal or other river or inland waterway navigated by sea-going ships, and any dock;

" hire purchase agreement " and, in relation to a hire purchase agreement, " hirer " have the same meanings as in the Hire Purchase Act, 1938; & 2 Geo. 6. c. 53.

" inland waterway " includes every such waterway whether natural or artificial;

PART IX. —*cont.*

" liability " includes an obligation;

" local authority " means the council of a county, the Common Council of the City of London, or the council of a county borough;

" meat " means carcases of animals, parts of carcases of animals, or offals of animals, being carcases, parts of carcases or offals suitable for human consumption, whether fresh, chilled or frozen, but not being carcases, parts of carcases or offals which have been cooked or subjected to any process other than skinning, trimming or cleaning;

" the Minister " means the Minister of Transport or the Minister of War Transport;

" mortgage or other like incumbrance " means a mortgage, a pledge or a charge or lien for securing money or money's worth, and in relation to a mortgage or other like incumbrance " the incumbrancer " means the mortgagee, pledgee or person entitled to the benefit of the charge or lien, as the case may be;

" officer " includes a managing director and a director whose functions are substantially those of an employee but does not include any other director, and " employment " and " employed " shall be construed accordingly;

" operating centre " has the meaning assigned to it by sections fifty-eight and sixty-two of this Act;

" ordinary furniture removal " means the removal of furniture or effects, not being part of the stock in trade of the person to whom they belong, from or to premises occupied by that person to or from other premises occupied by him or to or from a store, not being the store of a person from whom he has recently purchased or hired the furniture or effects or to whom he has sold or is about to sell the furniture or effects;

" participant " means, in relation to a pension scheme, a person who (whether he is referred to in the scheme as a member, as a contributor or otherwise howsoever) contributes or has contributed under the scheme and has pension rights thereunder;

" passenger road transport service " means a service of express carriages, stage carriages, tramcars or trolley vehicles carrying passengers,

" passenger transport service " means a passenger road transport service or a service carrying passengers by rail;

PART IX. —*cont.*

" pension ", in relation to a person, means a pension, whether contributory or not, of any kind whatsoever payable to or in respect of him, and includes a gratuity so payable and a return of contributions to a pension fund, with or without interest thereon or any other addition thereto and any sums payable on or in respect of the death of that person;

" pension fund " means a fund established for the purposes of paying pensions;

" pension rights " includes, in relation to any person, all forms of right to or eligibility for the present or future payment of a pension, and any expectation of the accruer of a pension under any customary practice, and includes a right of allocation in respect of the present or future payment of a pension;

" pension scheme " includes any form of arrangements for the payment of pensions, whether subsisting by virtue of Act of Parliament, trust, contract or otherwise;

" port facilities " means the constructing, improving, maintaining, regulating, managing, marking or lighting of a harbour or any part thereof, the berthing, towing, moving or dry-docking of a ship which is in, or is about to enter, or has recently left a harbour, the loading or unloading of goods, or embarking or disembarking of passengers in or from any such ship, the lighterage or the sorting, weighing, warehousing or handling of goods in a harbour;

" privately owned ", in relation to a railway wagon, means owned by any person other than the Commission, a railway company or a light railway company;

" property " does not include a mere contractual right;

" railway wagon " does not include any wagon constructed for use otherwise than on standard gauge railways;

" repayment or distribution of capital " includes any distribution by way of bonus or otherwise not made wholly out of profits and also includes any distribution of assets made otherwise than in cash;

" securities ", in relation to a body corporate, means any shares, stock, debentures, debenture stock, any perpetual annuities, and any other security of a like nature of the body corporate and, in the case of a local authority, includes a mortgage created under Part IX of the Local Government Act, 1933, or any

13 & 24 Geo. 5. c. 51.

similar enactment, and a mortgage given to the Public Works Loan Commissioners;

" ship " includes every description of vessel used in navigation;

" statutory provision " means a provision whether of a general or a special nature contained in, or in any document made or issued under, any Act, whether of a general or a special nature;

" superimposed trailer " means a trailer which is normally attached to the vehicle that draws it in such a manner that part of the trailer is superimposed upon that vehicle and that not less than twenty per cent. of any load evenly distributed upon the trailer is borne by that vehicle;

" Transport Tribunal " means the tribunal heretofore known as the Railway Rates Tribunal.

(2) Except in so far as the context otherwise requires, expressions used in Part III of this Act have the same meanings as in the Road and Rail Traffic Act, 1933, and expressions used in any provision of this Act in relation to the carriage of passengers by road have the same meanings as in the Road Traffic Act, 1930.

(3) In this Act, except in so far as the context otherwise requires, the expression " the appointed day " means such day as the Minister may by order appoint, and different days may be appointed for different purposes and different provisions of this Act.

(4) The provisions of the Thirteenth Schedule to this Act shall have effect for the purpose of determining whether or not any body corporate directly or indirectly controls any other body corporate.

(5) Any reference in this Act to the transfer of the whole or any part of an undertaking includes a reference to any such transfer as is effected in consequence of the giving in relation to that undertaking of a notice of acquisition under Part III of this Act.

(6) Except in so far as the context otherwise requires, any reference in this Act to any other enactment shall be construed as a reference to that enactment as amended, extended or applied by or under any other enactment, including this Act.

Application to Scotland.

126.—(1) The provisions of this section shall have effect for the purpose of the application of this Act to Scotland.

PART IX. —*cont.*

(2) In the application to Scotland of any provision of this Act the following expressions, except where the context otherwise requires, shall have the meanings respectively assigned to them—

" disclaim " includes abandon, and the expression " disclaimer " shall be construed accordingly;

22 & 23 Geo. 5. c. 38.

" hire purchase agreement " means any contract to which the Hire Purchase and Small Debt (Scotland) Act, 1932, applies or would apply if the limitation as to value contained in section one of that Act were omitted, and the expression " hirer " shall be construed accordingly;

" local authority " means a county or town council;

14 & 15 Geo. 5. c. 27.

" mortgage or other like incumbrance " means a heritable security (within the meaning of the Conveyancing (Scotland) Act, 1924, but exclusive of a real burden *ad factum praestandum*), or a pledge, charge or lien for securing money or money's worth, and " incumbrancer " means the creditor in a heritable security, or the pledgee or person entitled to the benefit of the charge or lien.

(3) For any reference to the Minister of Health (except in section thirty-four) there shall be substituted a reference to the Secretary of State.

(4) Any reference to a Bill in Parliament shall include a reference to an order under the Private Legislation Procedure (Scotland) Act, 1936.

6 Geo. 5 & 1 Edw. 8. c. 52

(5) Any question or dispute which is required by this Act to be determined by arbitration (other than a question or dispute required to be determined by the arbitration tribunal) shall be determined by a single arbiter appointed, in default of agreement, by the Court of Session or the sheriff on the application of either party to the question or dispute. At any stage of the proceedings in any such arbitration, the arbiter may, and shall if so directed by the Court of Session, state a case for the opinion of that court on any question of law arising in the arbitration.

(6) Section twenty-four shall have effect as if for publication under subsection (1) in the London Gazette, there were substituted, in the case of a body having its principal office in Scotland, publication in the Edinburgh Gazette.

(7) Section thirty-one shall have effect as if in subsection (3) thereof paragraph (*a*) of the proviso were omitted.

(8) Section thirty-four shall have effect as if for any reference to the quinquennial period beginning in April nineteen

hundred and fifty-one there were substituted a reference to the quinquennial period beginning at the term of Whit-Sunday nineteen hundred and fifty-three. PART IX. —*cont.*

(9) Section forty-nine shall have effect as if in subsection (1) paragraph (*a*) of the proviso were omitted.

(10) Any inquiry in relation to an order embodying a scheme under section sixty-three or section sixty-six of this Act affecting Scotland only, shall, if the Minister so directs, be held by Commissioners under the Private Legislation Procedure (Scotland) Act, 1936, and where any direction is so given—

(*a*) it shall be deemed to have been given under section two as read with section ten of the Statutory Orders (Special Procedure) Act, 1945; and 9 & 10 Geo. 6. c. 18.

(*b*) if publication of notice in accordance with paragraph 2 of the Eighth Schedule to this Act has been made, the provisions of subsection (1) of the aforesaid section two with regard to advertisement of notice shall be deemed to have been complied with.

(11) Section one hundred and nineteen shall have effect as if there were added at the end thereof the following paragraph—

(*f*) providing for the completion of the title of the Commission to heritable property vesting in them by virtue of this Act by the execution and recording in the General Register of Sasines of conveyances of or instruments relating to such property.

(12) Any order of the Transport Tribunal or of the arbitration tribunal may be recorded for execution in the books of council and session and shall be enforceable accordingly.

127.—(1) So much of Part II of this Act as relates to the transfer to the Commission of the undertakings of the bodies specified in the Third Schedule to this Act, and, in relation to any such transfer and to the undertakings to which any such transfer relates, the provisions of Parts I, VI, VII, VIII and IX of this Act, shall extend to Northern Ireland. Application to Northern Ireland.

(2) The provisions of this Act which, by virtue of the preceding subsection, extend to Northern Ireland shall in their application to Northern Ireland have effect subject to the modifications specified in the Fourteenth Schedule to this Act.

(3) For the purposes of section six of the Government of Ireland Act, 1920, this Act shall be deemed to be an Act passed before the appointed day within the meaning of that section. 10 & 11 Geo. 5. c. 67.

(4) Save as is provided in this section, this Act shall not extend to Northern Ireland.

PART IX —*cont.*

Short title, and repeal.

128.—(1) This Act may be cited as the Transport Act, 1947.

(2) The enactments specified in the Fifteenth Schedule to this Act are hereby repealed to the extent specified in the third column of that Schedule—

(*a*) in the case of the enactments specified in Part I of that Schedule, as from the passing of this Act;

(*b*) in the case of the enactments specified in Part II of that Schedule, as from the first day of January, nineteen hundred and forty-eight;

(*c*) in the case of the enactments specified in Part III of that Schedule, as from the appointed day.

SCHEDULES.

FIRST SCHEDULE.

Section 1

PROVISIONS AS TO BRITISH TRANSPORT COMMISSION.

1. The Commission shall be a body corporate with perpetual succession and a common seal and power to hold land without licence in mortmain.

2. The Commission may act notwithstanding a vacancy among the members thereof.

3. The quorum of the Commission shall be three, and, subject as aforesaid, the Commission may regulate their own procedure.

4. The application of the seal of the Commission shall be authenticated by the signatures of the chairman of the Commission or some other member of the Commission authorised by the Commission to authenticate the application of the seal thereof, and of the secretary of the Commission or some person authorised by the Commission to act in his stead in that behalf.

5. Every document purporting to be an instrument issued by the Commission and to be sealed as aforesaid or to be signed on behalf of the Commission shall be received in evidence and be deemed to be such an instrument without further proof unless the contrary is shown.

SECOND SCHEDULE.

Section 5.

PROVISIONS AS TO EXECUTIVES.

1. Each Executive shall consist of a chairman and not less than four nor more than eight other members appointed by the Minister after consultation with the Commission from among persons who appear to the Minister to have had wide experience and shown capacity in transport, industrial, commercial or financial matters, in administration or in the organisation of workers.

2.—(1) Every member of an Executive shall hold and vacate office in accordance with the terms of his appointment, and shall hold office on such terms and conditions (including terms and conditions relating

2ND SCH. —*cont.*

to remuneration and pensions) as may be determined from time to time by the Commission with the approval of the Minister and the Treasury ;

Provided that any member may at any time by notice in writing to the Commission resign his office.

(2) A member of an Executive shall, on ceasing to be a member, be eligible for re-appointment.

(3) A person shall be disqualified for being appointed or being a member of an Executive so long as he is a member of the Commons House of Parliament.

(4) Before appointing a person to be a member of an Executive the Minister shall satisfy himself that the person will have no such financial or other interest as is likely to affect prejudicially the discharge by him of his functions as a member of the Executive and the Minister shall also satisfy himself from time to time with respect to every member of an Executive that he has no such interest ; and any person who is, or whom the Minister proposes to appoint to be, a member of an Executive shall, whenever requested by the Minister so to do, furnish to him such information as the Minister considers necessary for the performance by the Minister of his duties under this sub-paragraph.

(5) Any remuneration or pension payable under this paragraph shall be paid by the Commission.

3. Every Executive shall be a body corporate with perpetual succession and a common seal.

4. Every Executive may act notwithstanding any vacancy among the members thereof, and the quorum and procedure of every Executive shall be such as the Executive may from time to time determine.

5. The application of the seal of an Executive shall be authenticated by the signature of the chairman of the Executive or some other member of the Executive authorised by the Executive to authenticate the application of the seal thereof and of an additional person authorised by the Executive to authenticate the application of the seal thereof.

6. Every document purporting to be an instrument issued by an Executive and to be sealed as aforesaid or to be signed on behalf of the Executive shall be received in evidence and be deemed to be such an instrument without further proof unless the contrary is shown.

THIRD SCHEDULE.

Sections 12, 16, 21, 22, 23, 25, 26, 27, 38, 82, 84, 89, 99, 100, 101, 127 and Sch. 5.

BODIES WHOSE UNDERTAKINGS ARE TRANSFERRED TO COMMISSION.

PART I.

Railway Undertakers.

The Southern Railway Company.
The Great Western Railway Company
The London and North Eastern Railway Company.
The London Midland and Scottish Railway Company.
The London Passenger Transport Board.
The East Kent Light Railways Company.
The Kent and East Sussex Light Railway Company.
The King's Lynn Docks and Railway Company.
The Mersey Railway Company.
The Shropshire Railways Company.
The Shropshire and Montgomeryshire Light Railway Company.
The Easton and Church Hope Railway Company.
The Forth Bridge Railway Company.
The North Devon and Cornwall Junction Light Railway Company.
The Southport and Cheshire Lines Extension Railway Company.
The Weymouth and Portland Railway Company.
The Whitechapel and Bow Railway Company.
The Manchester, South Junction and Altrincham Railway Company.
The Oldham, Ashton-under-Lyne and Guide Bridge Junction Railway Company.
The West London Extension Railway Company.
The Cheshire Lines Committee.
The Great Central and Midland Joint Committee (Lessors).
The Great Central and Midland Joint Committee (Lessees).
The Great Central and North Staffordshire Railway Committee.
The Great Central and North Western Railways Joint Committee.
The Great Central, Hull and Barnsley and Midland Committee.
The Great Western and Great Central Railways Joint Committee (Lessors).
The Great Western and Great Central Railways Joint Committee (Lessees).
The London Midland and Scottish and Great Western Railways Joint Committee (Severn and Wye and Severn Bridge Railway).
The Methley Railway Joint Committee.
The Metropolitan and Great Central Joint Committee.
The Midland and Great Northern Railways Joint Committee.
The Norfolk and Suffolk Joint Railway Committee.
The Somerset and Dorset Railway Joint Committee.
The South Yorkshire Joint Line Committee.
The Whitechapel and Bow Railway Joint Committee.
The Axholme Joint Railway Committee.
The Dumbarton and Balloch Joint Railway.
The Dundee and Arbroath Joint Railway.
The East London Railway Joint Committee.
The Great Northern and London and North Western Joint Committee.

3RD SCH. —*cont.*

The Grangemouth Branch Railway.
The Great Western and Great Central (Banbury Junction Railway) Joint Committee.
The Halifax and Ovenden Joint Committee.
The Halifax High Level Joint Committee.
The Hammersmith and City Railway Joint Committee.
The London Midland and Scottish and Great Western Railways Joint Committee.
The Metropolitan and London and North Eastern Railway Companies —Watford Joint Railway Committee.
The Mid-Nottinghamshire Joint Railways Committee.
The Otley and Ilkley Joint Line Committee.
The Princes Dock Branch Joint Railway.
The Midland and North-Eastern Railway Companies Committee.
The Tottenham and Hampstead Joint Committee.
The Birkenhead Railway Company.
The Hammersmith and City Railway Company.
The Shrewsbury and Hereford Railway Company.
The Tenbury Railway Company.
The West Cornwall Railway Company.
The West London Railway Company.
Any other body whose members consist wholly of, or of representatives of, two or more of the above mentioned bodies.

PART II.

Canal and inland navigation undertakers.

The Undertakers of the Aire and Calder Navigation.
The Sheffield and South Yorkshire Navigation Company.
The Aire and Calder and River Dun Navigations Joint Committee.
The Company of Proprietors of the Birmingham Canal Navigations.
The Company of Proprietors of the Calder and Hebble Navigation.
The Company of Proprietors of the Coventry Canal Navigation.
The Grand Union Canal Company.
The Leeds and Liverpool Canal Company.
The Lee Conservancy Board.
The Lord Mayor, Aldermen and Citizens of the City of Nottingham (in respect of the Trent Navigation undertaking).
The Oxford Canal Company.
The Severn Commissioners.
The Sharpness Docks and Gloucester and Birmingham Navigation Company.
The Staffordshire and Worcestershire Canal Company.
The Company of Proprietors of the Stourbridge Navigation.
The Trent Navigation Company.
The Weaver Navigation Trustees.
The Company of Proprietors of the Herefordshire and Gloucestershire Canal Navigation.

FOURTH SCHEDULE.

Sections 16, 17, 89 and Sch. 5.

Securities to be Replaced by British Transport Stock.

Part I.

Securities valued by reference to official quotations.

(1)		(2)
	Description of Security.	
Name of body by which security was issued.	*Nature of Security.*	*Value of Security (per £100 nominal value).*
		£ s. d.
The Southern Railway Company.	4% Debenture stock	128 3 9
	5% Debenture stock	139 10 0
	4% Redeemable debenture stock (1962–67).	113 10 0
	4% Redeemable debenture stock (1970–80).	115 3 9
	5% Guaranteed preference stock	137 0 0
	5% Redeemable guaranteed preference stock (1957).	115 7 6
	5% Preference stock	124 8 9
	5% Redeemable preference stock (1964).	115 7 6
	Preferred ordinary stock ...	77 12 6
	Deferred ordinary stock... ...	24 0 0
The Great Western Railway Company.	2½% Debenture stock	95 10 0
	4% Debenture stock	128 3 9
	4½% Debenture stock	128 13 9
	4¾% Debenture stock	130 7 6
	5% Debenture stock	142 7 6
	5% Rent charge stock	139 13 9
	5% Consolidated guaranteed stock	137 0 0
	5% Consolidated preference stock	125 3 9
	5% Redeemable preference stock (1950).	106 10 0
	Consolidated ordinary stock ...	59 1 3
The London Midland and Scottish Railway Company.	4% Debenture stock	118 13 9
	5% Redeemable debenture stock (1952).	108 17 6
	4% Guaranteed stock	107 18 9
	4% Preference stock	85 8 9
	5% Redeemable preference stock (1955).	105 10 0
	4% Preference stock (1923) ...	62 15 0
	Ordinary stock	29 10 0

4TH SCH. —*cont.*

(1) *Description of Security.* *Name of body by which security was issued.*	*Nature of Security.*	(2) *Value of Security (per £100 nominal value).* £ s. d.
The London and North Eastern Railway Company.	3% Debenture stock	103 5 0
	4% Debenture stock	118 7 6
	4½% Sinking fund debenture stock.	107 10 0
	4% First guaranteed stock ...	106 17 6
	4% Second guaranteed stock ...	100 15 0
	4% First preference stock ...	58 5 0
	5% Redeemable preference stock (1955).	103 13 9
	4% Second preference stock ...	29 5 0
	5% Preferred ordinary stock ...	7 6 3
	Deferred ordinary stock... ...	3 12 0
The London Passenger Transport Board.	London Transport 4½% A stock (1985-2023).	133 3 9
	London Transport 5% A stock (1985-2023).	142 3 9
	London Transport 5% B stock (1965-2023).	128 3 9
	London Transport C stock (1956 or thereafter).	67 3 9
The Great Central and Midland Joint Committee (Lessors).	Great Central and Midland 3½% guaranteed stock.	101 10 0
The Great Western and Great Central Railways Joint Committee (Lessors).	Great Western and Great Central 3½% guaranteed stock.	102 10 0
The Midland and Great Northern Railways Joint Committee.	3% Midland and Great Northern Joint Line rent charge stock.	88 0 0
The Whitechapel and Bow Railway Company.	4% Debenture stock	112 10 0
The Birkenhead Railway Company.	4½% Perpetual preference stock	124 10 0
	4% Consolidated stock	112 3 9
The Shrewsbury and Hereford Railway Company.	6% Rent charge stock	159 10 0
The Great Western, Bristol and Exeter and South Devon Railway Companies.	4½% Joint rent charge stock. ...	115 10 0
The Forth Bridge Railway Company.	Debenture stock	109 0 0
	Ordinary stock	104 17 6

4TH SCH. —*cont.*

(1) *Description of Security.*		(2)
Name of body by which security was issued.	*Nature of Security.*	*Value of Security (per £100 nominal value).*
		£ s. d.
The Mersey Railway Company.	4% New first perpetual debenture stock.	116 15 0
	4% Perpetual debenture stock (Act 1866).	116 12 6
	3% Perpetual debenture stock (Act 1871).	97 0 0
	3% Perpetual debenture stock (Acts 1882–3–5).	97 0 0
	3% Perpetual B debenture stock	97 0 0
	3% Perpetual preference stock...	76 0 0
	Consolidated ordinary stock ...	36 7 6
The Sheffield and South Yorkshire Navigation Company.	4½% Preference stock	22 0 0
The Company of Proprietors of the Birmingham Canal Navigations.	Consolidated stock	103 15 0
The Grand Union Canal Company.	3% Perpetual debenture stock...	87 10 0
	5½% Perpetual debenture stock	111 17 6
	4% Grand Union Canal development loan No. 1 debenture stock (redeemable 1953).	102 10 0
	Capital (ordinary) stock ...	21 5 0
The Leeds and Liverpool Canal Company.	3½% Debenture stock	79 10 0
	Consolidated ordinary stock ...	13 8 9
The Lee Conservancy Board.	4% Debenture stock	117 10 0
The Sharpness Docks and Gloucester and Birmingham Navigation Company.	4% Debenture stock	96 10 0

PART II.

Other securities, not being securities guaranteed by the Treasury.

Name of body by which Security was issued.	*Nature of Security.*
The Southern Railway Company ...	Perpetual annuities.
The Ross and Monmouth Railway Company (Great Western Railway Company).	3½% Redeemable debentures of £100 each.
The London and North Eastern Railway Company.	The L.M.S. Railway (Midland) loan.
	West Hartlepool "primary charges"; Hartlepool and Clarence class C preference shares.
The London Passenger Transport Board	London Transport 4½% I.A stock (1975–2023).

4TH SCH. —*cont.*

Name of body by which Security was issued.	*Nature of Security.*
The Whitechapel and Bow Railway Company.	Shares.
The Oldham, Ashton-under-Lyne and Guide Bridge Junction Railway Company.	Shares.
The Tenbury Railway Company ...	4½% shares of £10 each.
The Easton and Church Hope Railway Company.	4½% Debenture stock. 5% Preference stock. Ordinary shares.
The North Devon and Cornwall Junction Light Railway Company.	5% Debenture stock. Ordinary shares.
The Shropshire Railways Company ...	5% Debenture bonds. 5% First Debenture stock. 5% Second Debenture stock. 4½% Prior charge debenture stock. Ordinary stock.
The Weymouth and Portland Railway Company.	4½% Debenture stock. 4% Debenture stock. Consolidated stock.
The East Kent Light Railways Company	5% Debenture stock. Ordinary shares.
The Kent and East Sussex Light Railway Company.	4% Debenture stock. 3% Headcorn guaranteed stock. Ordinary shares.
The King's Lynn Docks and Railway Company.	4½% Debenture stock. 5% Preference stock (1884). 4% Preference stock (1869). 4% Consolidated preference stock. Capital stock. Extension capital stock.
The Shropshire and Montgomeryshire Light Railway Company.	Ordinary Shares.
The Hammersmith and City Railway Company.	5% Irredeemable £10 preference shares (1864). 5% Irredeemable £10 preference shares (1865) (fully paid). 5% Irredeemable £10 preference shares (1865) (£2 paid). Consolidated Ordinary stock.
The Shrewsbury and Hereford Railway Company.	4½% Rent charge stock.
The West Cornwall Railway Committee	West Cornwall guaranteed 5% stock.
The West London Railway Company ...	3½% First class preference (class "A") shares. 6% Second class preference (class "B") shares. 2% Ordinary (class "C") shares.
The Southport and Cheshire Lines Extension Railway Company.	3% Guaranteed debenture stock. 2½% Perpetual preference stock. Ordinary stock.
The Undertakers of the Aire and Calder Navigation.	Terminable Loans. 3½% Irredeemable debenture stock. 4% Redeemable debenture stock. Ordinary stock.

4th Sch. —*cont.*

Name of body by which Security was issued.	*Nature of Security.*
The Sheffield and South Yorkshire Navigation Company.	3% Debenture stock. Ordinary shares (fully paid). Ordinary shares (£4 paid).
The Company of Proprietors of the Birmingham Canal Navigations.	4% Perpetual debenture stock.
The Company of Proprietors of the Calder and Hebble Navigation.	Ordinary stock.
The Company of Proprietors of the Coventry Canal Navigation.	Ordinary shares.
The Grand Union Canal Company ...	4% Debenture stock (redeemable 1956 at 102%). 3½% Perpetual debenture stock. 6% Non-cumulative preference stock.
The Lee Conservancy Board	3½% Debenture stock. 3% Advances from Development Fund. 3½% Mortgage loan. 3½% Mortgage loan.
The Leeds and Liverpool Canal Company.	3½% Preference stock.
The Oxford Canal Company	Ordinary stock.
The Severn Commissioners	4½% Mortgages (1842 Act). 4½% Mortgages (1844 Act). 5% Mortgages (1890 Act).
The Sharpness Docks and Gloucester and Birmingham Navigation Company.	5% Cumulative preference stock "A". 5½% Preference stock "B". 5% Preference stock "C". Ordinary consolidated stock.
The Staffordshire and Worcestershire Canal Company.	4½% Debenture stock. Consolidated stock.
The Company of Proprietors of the Stourbridge Navigation.	Ordinary shares.
The Trent Navigation Company ...	6% Debenture stock. 3½% Debenture stock. 5% Preference shares. Ordinary shares.
The Company of Proprietors of the Herefordshire and Gloucestershire Canal Navigation.	7½% preference shares of £20 (fully paid). Ordinary shares of £100. Ordinary shares of £140.

Part III.

Securities guaranteed by the Treasury.

The London Passenger Transport Board	London Transport 3% guaranteed stock (1967-1972).
The Lee Conservancy Board	3½% Mortgage loan.

Sections 16, 18, 25 and 89.

FIFTH SCHEDULE.

ISSUE OF BRITISH TRANSPORT STOCK IN SATISFACTION OF RAILWAY OR CANAL COMPENSATION.

PART I.

Provisions applicable to securities with values determined before the date of transfer.

1. This Part of this Schedule shall apply to—
   (*a*) the securities mentioned in Parts I and III of the Fourth Schedule to this Act; and
   (*b*) such of the securities mentioned in Part II of that Schedule as may be declared by order of the Minister to be securities the values whereof have been determined before the date of transfer.

2. The persons who, immediately before the date of transfer, were the holders of any securities to which this Part of this Schedule applies shall, by virtue of this Act, become instead on that date the holders of British transport stock representing so much of the compensation payable in the case of the body in question as is attributable to those securities and that much of that compensation shall be thereby satisfied; and all securities to which this Part of this Schedule applies shall, by virtue of this Act, be extinguished on the date of transfer.

3. The date of transfer shall, for the purpose of computing the amount of British transport stock to be created and issued in satisfaction of any compensation attributable to any securities to which this Part of this Schedule applies, be treated as the date of the issue of that stock, and interest shall begin to accrue on that stock as from the date of transfer.

4. The regulations to be made under Part VI of this Act by the Minister with the approval of the Treasury for prescribing the terms on which and the provisions in accordance with which British transport stock is to be issued, transferred, dealt with and redeemed shall include provisions whereby any stock or share certificate or other similar document in force immediately before the date of transfer in relation to any securities to which this Part of this Schedule applies shall be treated as applicable to any British transport stock created and issued in satisfaction of any compensation attributable to those securities until a corresponding document is issued with respect to that stock.

5. Where the holder of any securities becomes, under this Part of this Schedule, instead the holder of British transport stock, he shall hold that British transport stock in the same right and on the same trusts and subject to the same powers, privileges, provisions, charges, restraints, and liabilities as those in, on or subject to which he held those securities, and any provision of any deed, will, disposition or other instrument, and any statutory provision as to what is to be done by the holder of the securities or the redemption moneys thereof shall, with any necessary modifications, have effect in relation to the said stock as it would have had effect in relation to the securities if they had not been extinguished:

5TH SCH. —*cont.*

Provided that—

(*a*) the whole of any interest of any of the bodies mentioned in the Third Schedule to this Act in any of the said securities shall be treated as having passed to the Commission and the preceding provisions of this paragraph shall have effect accordingly;

(*b*) nothing in this paragraph shall limit the powers of the Minister under Part VI of this Act as respects the making, with the approval of the Treasury, of regulations in relation to British transport stock.

6. Nothing in this part of this Schedule affects—

(*a*) the distribution of any amounts received under section twenty of this Act by any of the bodies to whom that section applies;

(*b*) any payment of interest or dividend, or of any perpetual annuity or by way of redemption of any security, being a payment the liability for which is declared by any provision of Part II of this Act to pass to the Commission.

PART II.

Provisions applicable to other securities.

1.—(1) The provisions of this Part of this Schedule shall apply to those of the securities mentioned in Part II of the Fourth Schedule to this Act to which Part I of this Schedule does not apply.

(2) In this Part of this Schedule, the expression "the conversion date" means, in relation to any securities, such date as may be specified in relation thereto by order of the Minister, being a date as soon as conveniently may be after the compensation payable in the case of the body in question which is attributable to those securities has been determined.

2. During the period beginning with the date of transfer and ending immediately before the conversion date, the securities to which this Part of this Schedule applies shall continue to exist and may be transferred and transmitted, but the Commission shall keep the registers or other records of the holders of those securities and the only rights which shall attach to those securities shall be—

(*a*) the right to have instead British transport stock which attaches to the securities by virtue of the next succeeding paragraph; and

(*b*) the right to the payment of interest which attaches to the securities under paragraph 5 of this Part of this Schedule,

and all other rights attaching to the securities shall, by virtue of this Act, be extinguished on the date of transfer.

3. The persons who, immediately before the conversion date, were the holders of any securities to which this Part of this Schedule applies shall, by virtue of this Act, become instead on that date the holders of British transport stock representing so much of the compensation

5TH SCH. —*cont.*

payable in the case of the body in question as is attributable to those securities, and that much of that compensation shall be thereby satisfied; and all securities to which this Part of this Schedule applies shall, by virtue of this Act, be extinguished on the conversion date.

4. The date of transfer shall, for the purpose of computing the amount of British transport stock to be created and issued in satisfaction of any compensation attributable to any securities to which this Part of this Schedule applies, be treated as the date of the issue of that stock, and, subject to the provisions of the next succeeding paragraph, interest shall begin to accrue on that stock as from the date of transfer.

5.—(1) The Commission shall, on such dates as the Minister may direct, make to the persons who are, at such times as may be specified in the direction, the holders of any securities to which this part of this Schedule applies, payments of interest not exceeding the amount which, in the opinion of the Commission, will be found to have accrued on the British transport stock ultimately created and issued under paragraph 3 of this Part of this Schedule in satisfaction of the compensation attributable to those securities.

(2) If the amounts paid by the Commission under sub-paragraph (1) of this paragraph in respect of any securities are equal to or greater than the amount of interest which is found to have accrued, for the period beginning with the date of transfer and ending immediately before the conversion date, on the British transport stock created and issued as aforesaid in satisfaction of the compensation attributable to these securities, the interest so found to have accrued shall be treated as discharged.

(3) If the amounts paid as aforesaid in respect of any securities are less than the amount found to have accrued as aforesaid on the British transport stock created and issued as aforesaid in satisfaction of the compensation attributable to these securities, the amount so found to have accrued due shall be treated as discharged to the extent of the amounts so paid, and the balance shall be added to and treated as part of the interest (being interest accruing on and after the conversion date) which first falls to be paid after the conversion date on that stock.

(4) Any amounts payable under sub-paragraph (1) of this paragraph which have not been paid by reason that it has not been possible to discover the person entitled thereto or that the title thereto has not been established or that a cheque or warrant issued for the purpose of making payment thereof has not been encashed shall, for the purposes of sub-paragraphs (2) and (3) of this paragraph (but not for any other purposes) be treated as paid.

6. Paragraphs 4, 5 and 6 of Part I of this Schedule shall apply for the purposes of this Schedule as if—

(*a*) any reference therein to that Part of this Schedule were a reference to this Part of this Schedule; and

(*b*) the reference in the said paragraph 4 to the date of transfer were a reference to the conversion date.

SIXTH SCHEDULE.

Section 30

COMPENSATION FOR ACQUISITION OF PRIVATELY-OWNED WAGONS.

Type of Wagon.

Year in which wagon was first built	8 ton	10 ton	12/13 ton wood body wood frame	15 ton wood body wood frame	12/13 ton wood body steel frame	12/13 ton all steel	14/16 ton all steel	21 ton wood body steel frame	21 ton all steel (5 door)	21 ton all steel (9 door)	21 ton hopper (all types)
	£	£	£	£	£	£	£	£	£	£	£
1946 ...	248	248	267	307	282	306	323	390	403	414	—
1945 ...	224	224	242	278	251	268	285	357	370	382	—
1944 ...	210	210	227	261	231	236	256	328	341	355	430
1943 ...	201	201	217	250	214	221	231	310	321	333	416
1942 ...	194	194	209	240	207	213	221	299	310	322	402
1941 ...	179	179	193	222	191	198	207	289	299	310	388
1940 ...	175	175	189	217	184	191	200	278	289	299	374
1939 ...	171	171	184	212	177	184	192	268	278	288	359
1938 ...	166	166	180	207	170	177	185	257	267	276	345
1937 ...	162	162	175	202	163	169	177	246	256	265	331
1936 ...	158	158	171	197	156	162	170	236	245	254	317
1935 ...	154	154	167	192	149	155	162	225	234	242	303
1934 ...	150	150	162	186	142	148	154	215	223	231	289
1933 ...	146	146	158	181	135	140	147	204	212	219	274
1932 ...	142	142	153	176	128	133	139	194	201	208	260
1931 ...	138	138	149	171	121	126	132	183	190	197	246
1930 ...	133	133	144	166	114	119	124	172	179	185	232
1929 ...	129	129	140	161	107	111	116	162	168	174	218
1928 ...	125	125	135	156	100	104	109	151	157	163	203
1927 ...	121	121	131	151	93	97	101	141	146	151	189
1926 ...	117	117	126	145	86	90	94	130	135	140	175
1925 ...	113	113	122	140	79	82	86	120	124	129	161
1924 ...	109	109	118	135	72	75	78	109	113	117	147
1923 ...	105	105	113	130	65	68	71	99	102	106	132
1922 ...	100	100	109	125	58	61	63	88	91	95	118
1921 ...	96	96	104	120	51	53	56	78	80	83	104
1920 ...	92	92	100	115	44	46	48	67	69	72	90
1919 ...	74	74	81	93	31	32	40	44	46	47	58
1918 ...	70	70	77	89	25	26	33	36	37	38	47
1917 ...	67	67	73	84	22	22	25	35	37	38	47
1916 ...	63	63	70	80							
1915 ...	60	60	66	76							
1914 ...	57	57	62	71							
1913 ...	53	53	58	67							
1912 ...	50	50	54	62							
1911 ...	46	46	51	58							
1910 ...	43	43	47	54							
1909 ...	39	39	43	49							
1908 ...	36	36	39	45							
1907 ...	32	32	36	41							
1906 ...	29	29	32	36							
1905 ...	25	25	28	32							
1904 ...	22	22	24	28							
1903 ...	19	21	22	25							
1902 ... (or earlier)	£16 10	21	22	25	—If built before 1917 £22—	—If built before 1917 £22—	—If built before 1917 £25—	—If built before 1917 £35—	—If built before 1917 £37—	—If built before 1917 £38—	—If built before 1917 £47—

Section 33.

SEVENTH SCHEDULE.

WAGONS EXEMPTED FROM CERTAIN RESTRICTIONS UNDER PART II.

1. Tank wagons.

2. Wagons specially set apart for the following specific traffics, that is to say, for the conveyance of—

Cement.
Copperas.
Iron oxide waste.
Lime (if the wagons are roofed wagons or fitted with permanent superstructures for the support of sheets).
Crude naphthalene.
Night soil and sewage.
Nitre-cake.
Salt.
Tarred materials.

3. Specially constructed wagons, that is to say—

Bolster wagons.
Brake-vans.
Bulk grain vans.
Chassis wagons.
Hopper-bottomed door wagons with a carrying capacity exceeding 40 tons.
Open wagons with no doors and no fittings for doors.
Propeller wagons.
Gun wagon sets.
Multiple box wagons.
Sand wagons with drainer bottoms.
Iron ore wagons built to special dimensions for the tipping plant at particular iron works.

4. Wagons specially constructed or set apart for use on train ferry services to and from the Continent of Europe.

Sections 38, 63, 64, 66, 102 and 126.

EIGHTH SCHEDULE.

ORDERS GIVING EFFECT TO SCHEMES.

PART I.

1.—(1) Where it appears to the Minister that the scheme submitted to him makes satisfactory provision with respect to the matters dealt with in the scheme, he shall prepare the draft of an order embodying the scheme and give notice of the preparation of the draft and that he proposes to proceed with the making of the order:

Provided that, in the case of a scheme under Part IV of this Act which provides for the transfer of the whole or any part of any undertaking, the Minister shall not regard the scheme as making satisfactory provision unless—

(*a*) where the person theretofore carrying on the undertaking is a local authority or is a joint committee, joint board, joint

8TH SCH. —*cont.*

authority or other combined body, being a committee, board, authority or body all the members of which are, or are representatives of, local authorities, it makes provision for compensation to that local authority, joint committee, joint board, joint authority or combined body, which is, in the opinion of the Minister, identical, as near as may be, with the provision made in the case of transfers under Part II of this Act from local authorities;

(*b*) in the case of an undertaking or part of an undertaking (not being an undertaking theretofore carried on by such a person as is referred to in subhead (*a*) of this proviso), the activities of which before the transfer by or under the scheme consist wholly or partly of operating passenger road transport services, and the activities, if any, of which after that transfer will not include the operation of such services, it complies with the provisions of Part II of this Schedule;

(*c*) in any other case, being a case in which the transfer is, in the opinion of the Minister, comparable in the material respects to any form of transfer of the whole or part of an undertaking effected under Part II or Part III of this Act, it provides compensation on a basis reasonably comparable in his opinion to that of the compensation provided under this Act in the case of that form of transfer; and

(*d*) in any other case, it provides, in the opinion of the Minister proper compensation in respect of the transfer.

References in this sub-paragraph to local authorities (other than the last reference in sub-head (*a*) of the proviso thereto) include references to councils of county districts.

(2) Where it appears to the Minister in the case of any scheme submitted to him that it would not be expedient to give effect to the scheme in the form in which it was submitted to him, he may refer the scheme with his observations thereon to the Commission for their further consideration and thereupon they shall re-consider the scheme in the light of the Minister's observations and may again submit the scheme to the Minister with such amendments as they think fit.

2.—(1) A notice under paragraph 1 of this Schedule shall be published—

(*a*) in the London Gazette, the Edinburgh Gazette, or both, according as the scheme affects England, Scotland, or both; and

(*b*) in such local newspapers, and in such other ways, if any, as appear to the Minister best suited for bringing the notice to the attention of persons concerned,

and shall specify a place where the draft of the order may be inspected, and copies thereof obtained at all reasonable hours, and the time (not being less than forty days from the publication of the notice) within which, and the manner in which, any objections to the draft may be made to the Minister, and the Minister shall consider any objections made within the time and in the manner specified in the notice:

8TH SCH. —*cont.*

Provided that the Minister shall not be required to consider any objection unless it comprises or there is submitted therewith a statement in writing setting out the specific grounds for any amendments, additions or modifications asked for, or any objection which in his opinion is frivolous.

(2) Any such objection as aforesaid may ask for amendments, additions or modifications to or of the order which amount to amendments, additions or modifications to or of the scheme.

3.—(1) If there are no objections which the Minister is required to consider, or if all such objections are withdrawn, the Minister may make the order either in the terms of the draft or subject to such amendments, additions or modifications, if any, as he thinks fit, being amendments, additions or modifications which in his opinion do not effect important alterations in the draft as published.

(2) Where any such objection is made and is not withdrawn, the Minister shall cause in the case of a scheme under Part IV of this Act, a public local inquiry, or, in any other case, an inquiry, to be held with respect thereto, and the Minister may, after considering the report of the person by whom the inquiry was held make the order either in the terms of the draft or subject to such amendments, additions or modifications as the Minister thinks fit.

(3) The amendments, additions or modifications referred to in this paragraph may amount to amendments, additions or modifications to or of the scheme.

4. The Minister may, with the consent of the Treasury, pay out of moneys provided by Parliament to any person appointed to hold an inquiry for the purposes of this Schedule such fees and allowances, and to persons giving evidence such allowances, as he may with the consent of the Treasury determine.

PART II.

5. Where, by or under a scheme made under Part IV of this Act, such an undertaking or part of an undertaking as is specified in subhead (*b*) of paragraph 1 of this Schedule is transferred to a body constituted or specified by or under that scheme, the scheme shall incorporate in relation to that undertaking the provisions of section forty-seven of this Act and of the Ninth Schedule to this Act subject to the adaptations and modifications set out in the subsequent provisions of this Part of this Schedule.

6. The following references shall throughout the said section forty-seven and the said Ninth Schedule be construed as follows—

(*a*) references to a goods vehicle shall be construed as including references to any vehicle registered under the Roads Act, 1920;

(*b*) references to the Commission shall be construed as references to the said body;

(*c*) references to a notice of acquisition, and to the giving of such a notice, and to the transfer resulting from or effected by such a notice shall be construed as references to a transfer by or under a scheme.

7. At the end of subsection (1) of the said section forty-seven there shall be inserted the following proviso— 8TH SCH. —*cont.*

" Provided that, where the vehicle is a trolley vehicle or a tramcar, paragraph (*a*) of this subsection shall have effect as if, in the case of a trolley vehicle, the words ' one-seventh ' or, in the case of a tramcar, the words ' one-fourteenth ' were substituted for the words ' one-fifth ', wherever those words occur."

8. In subsection (3) of the said section forty-seven for the word " five " there shall be substituted the word " seven ".

9. In paragraph (*a*) of subsection (4) of the said section forty-seven for the words " vehicles authorised to be used under A licences or B licences " there shall be substituted the words " public service vehicles, trolley vehicles or tramcars ".

10. The provisions of subsection (5) of the said section forty-seven shall apply where the rights of the hirer under a hire purchase agreement vest in the said body by reason of a transfer by or under the scheme.

11. The reference in subsection (8) of the said section forty-seven to any other express provision contained in this Act shall be construed as a reference to any other express provision for the payment of additional compensation contained in the scheme.

12. The said Ninth Schedule shall have effect as if—

(*a*) for sub-paragraph (2) of paragraph 2 of that Schedule there were substituted the following sub-paragraph :—

" (2) In this Schedule, the expression ' the last three financial years ' means, in relation to an undertaking—

(*a*) where the undertaking has been carried on for not less than three years ending with the date in the year nineteen hundred and forty-eight to which the accounts of the undertaking for a period of twelve months were made up in the ordinary course, the three years ending with that date ; or

(*b*) in any other case, the three years ending with the date in the twelve months immediately preceding the transfer to which the accounts of the undertaking for a period of twelve months were made up in the ordinary course ; "

(*b*) paragraph 6 of that Schedule were omitted.

Section 47 and Sch 8.

NINTH SCHEDULE.

MEANING OF "AVERAGE NET ANNUAL PROFIT" IN RELATION TO ROAD TRANSPORT UNDERTAKINGS.

1. Where a notice of acquisition is given under Part III of this Act with respect to an undertaking, the average net annual profit of the undertaking shall, for the purpose of compensation for cessation of business, be ascertained in accordance with the subsequent provisions of this Schedule.

2.—(1) There shall be ascertained, in relation to each of the last three financial years of the undertaking, what profit or loss was made in the carrying on of the undertaking.

(2) In this Schedule, the expression "the last three financial years" means, in relation to an undertaking,—

(*a*) where accounts of the undertaking were made up in the ordinary course for a period of twelve months ending with a date within the twelve months immediately preceding the date of transfer, the three years ending with the first mentioned date;

(*b*) in any other case the three years ending with such date within the twelve months immediately preceding the date of transfer as may be agreed between the Commission and the transferor, or, in default of agreement, the three years ending immediately before the date of transfer.

3. In ascertaining the said profits or losses, such deductions shall be made in respect of wear and tear and provision for replacement of property held for the purposes of the undertaking as may be just.

4. When the amount of the profit or loss for any of the said three years has been ascertained, such adjustment, if any, of the amount thereof shall be made as may be just, having regard to the extent and nature of the property held in the year for the purposes of the undertaking as compared with the extent and nature of the property which vests in the Commission by virtue of the notice of acquisition, not being property duly disclaimed by the Commission.

5.—(1) The amount of the profits made in the said three years, ascertained and adjusted as aforesaid, shall then be aggregated, and the amount of the losses made in the said three years, ascertained and adjusted as aforesaid, shall also be aggregated.

(2) If there are no profits to be aggregated, or the aggregate of the profits does not exceed the aggregate of the losses, the average net annual profit shall be taken to be nil.

(3) If the aggregate of the profits exceeds the aggregate of the losses—

(*a*) the excess shall be divided by three; and

(*b*) there shall then be ascertained the sum which is equal to one year's interest, at such rate as the Treasury may determine, on the net amount of compensation payable in respect of the property vested in the Commission by virtue of the notice of acquisition; and

9TH SCH. —*cont.*

(*c*) if the amount ascertained under sub-head (*b*) of this sub-paragraph is equal to or exceeds the amount ascertained under sub-head (*a*) thereof, the net annual profit of the undertaking shall be taken to be nil; and

(*d*) if the amount ascertained under the said sub-head (*b*) is less than the amount ascertained under the said sub-head (*a*) the difference shall be taken to be the average net annual profit of the undertaking:

Provided that where, by the end of the last three financial years, less than three years have elapsed since the undertaking began to be carried on, sub-head (*a*) of this sub-paragraph shall have effect as if, instead of requiring the excess to be divided by three, it required the sum to be ascertained which bears to the excess the same proportion that one year bears to the period which has elapsed as aforesaid.

6. Where, by the end of the last three financial years, not less than three years have elapsed since the undertaking began to be carried on, and the transferor satisfies the Commission, or, in case of dispute, the arbitration tribunal established under Part VIII of this Act, that in any one of the last three financial years, by reason of the abnormality of the circumstances of that particular year as compared with the circumstances of the other two years, the profit made was to a substantial extent less than, or the loss made showed a substantial fall from, the average profit made in the other two years, then only those other two years shall be taken into account for the purposes of the last preceding paragraph, and accordingly for the word "three," wherever that word occurs in the last preceding paragraph, except in the proviso thereto, there shall be substituted the word "two."

7.—(1) Where the undertaking was formed wholly or partly by the acquisition or merger of other undertakings—

(*a*) the profit or loss made in any of the last three financial years in carrying on each of those other undertakings shall be taken into account as if it were a profit or loss made in carrying on the undertaking itself; and

(*b*) where any of those other undertakings began to be carried on before the undertaking itself, the earliest date on which any of those undertakings began to be carried on shall be taken, for the purposes of this Schedule, to be the date when the undertaking itself began to be carried on.

(2) Where any such other undertaking as is mentioned in sub-paragraph (1) of this paragraph was itself formed wholly or partly by the acquisition or merger of other undertakings, the reference in the said sub-paragraph to the first mentioned other undertaking shall be taken to include references to the last mentioned other undertakings, and so on in the case of a series of acquisitions or mergers.

8. For the purposes of this Schedule, any rights under a hire purchase agreement which vest in the Commission shall be treated as if they were property vested in the Commission, and references in this Schedule to property duly disclaimed by the Commission shall be taken to include references to any rights under any such agreement which is so disclaimed by the Commission.

Section 72.

TENTH SCHEDULE.

PROVISIONS AS TO THE TRANSPORT TRIBUNAL

1. The Transport Tribunal shall, for the purposes of the exercise of any of their functions under this or any other Act, have full jurisdiction to hear and determine all matters whether of law or of fact, and shall, as respects the attendance and examination of witnesses, the production and inspection of documents, the enforcement of their orders, the entry on and inspection of property and other matters necessary or proper for the due exercise of their said jurisdiction, have in England all such powers, rights and privileges as are vested in the High Court and in Scotland all such powers, rights and privileges as are vested in the Court of Session, and execution may be had in England on any of their orders as if it were an order of the High Court.

2. Where the Transport Tribunal decide that a person is entitled to damages, they may ascertain the amount of the damages either by trial before themselves or by directing inquiry to be taken before one or some of their members or before one of their officers.

3. The Transport Tribunal shall annually make a report to the Minister of all their proceedings, whether under this Act or under any other statutory provision, and the report shall be laid before Parliament, and so much of any enactment as requires an annual report by the Transport Tribunal of any of their proceedings shall cease to have effect.

4. Notwithstanding anything in section twenty-five of the Railways Act, 1921, rules made under section twenty-two of that Act may provide for the review by the Transport Tribunal of decisions previously given by them, and this paragraph shall be deemed to have had effect as from the commencement of that Act.

5. Subject to the provisions of this Act, sections twenty-two to twenty-six of the Railways Act, 1921 (which contain provisions with respect to the constitution and procedure of, and appeals from, the Transport Tribunal) shall apply with respect to the jurisdiction conferred on the Transport Tribunal by this Act as they apply with respect to the jurisdiction conferred on them by that Act.

6.—(1) Where any proceedings are pending before the Transport Tribunal by virtue of any jurisdiction conferred on them by this Act, other than jurisdiction which but for the provisions of this Act would have been jurisdiction of the Railway and Canal Commission or of the High Court or the Court of Session, the president of the tribunal may, if he sees fit so to do, select one or more persons from a special panel to be constituted as hereinafter provided, and appoint that person or those persons with or without a permanent member or permanent members of the tribunal to hear and determine those proceedings; and the person or persons so appointed shall, for the purposes of the proceedings in respect of which they are so appointed, constitute the tribunal, and subsection (4) of section twenty-four of the Railways Act, 1921, shall not apply in relation to those proceedings. Where proceedings are to be heard and determined by a person or persons selected as aforesaid with a permanent member or permanent members of the tribunal, the president of the tribunal may, if he thinks fit, appoint himself as the said permanent member or one of the said permanent members.

10TH SCH. —*cont.*

(2) The said panel shall consist of such number of persons nominated by the Lord Chancellor, such number of persons nominated by the Board of Trade, such number of persons nominated by the Secretary of State for Scotland, and such number of persons nominated by the Minister, as the Minister may direct.

(3) Where two or more persons are appointed under this paragraph to hear and determine any proceedings, the president of the Transport Tribunal shall determine which of those persons is to act as president as respects the hearing and determination of the proceedings.

(4) Subsections (2) and (5) of section twenty-four of the said Act shall apply in relation to a member of the special panel as they apply in relation to a member of the general panel.

(5) The President of the Transport Tribunal may, if he thinks fit so to do in relation to any class of proceedings, select one or more persons from the said special panel and appoint them with or without a permanent member or permanent members of the tribunal to hear and determine all proceedings of that class, not being proceedings in relation to which other provisions may have been or may thereafter be made under sub-paragraph (1) of this paragraph; and where such an appointment is made, then, until it is revoked by the President of the tribunal, the preceding provisions of this paragraph shall have effect in relation to any proceedings of that class, not being such proceedings as aforesaid, as if the said person or persons had been selected and appointed under the said sub-paragraph (1) to hear and determine those proceedings.

7.—(1) A person appointed from the special panel or from any other panel of the tribunal constituted under any Act other than this Act, and any additional member of the tribunal appointed under the Ninth Schedule to the London Passenger Transport Act, 1933, shall be paid such remuneration and expenses as the Minister may with the approval of the Treasury determine.

(2) Any such remuneration or expenses shall be defrayed by the Minister out of moneys provided by Parliament, but, so far as not met out of the amount recovered by way of fees, they shall, on demand, be paid to the Minister by the Commission as part of their working expenses.

ELEVENTH SCHEDULE.

Section 75.

Transfer of Jurisdiction of Railway and Canal Commission.

Part I.

Acts jurisdiction under which is to be transferred.

The Railway Regulation Acts, 1840 to 1893.
The Railway and Canal Traffic Acts, 1854 to 1894.
The Railways Clauses Act, 1863.
The Cheap Trains Act, 1883.
The Conveyance of Mails Act, 1893.
The Railway Employment (Prevention of Accidents) Act, 1900.
The Railways (Private Sidings) Act, 1904.
The Ministry of Transport Act, 1919.
The Railways Act, 1921.
The Road and Rail Traffic Act, 1933.

11TH SCH. —*cont.*

PART II.

Modifications of enactments referring to Railway and Canal Commission.

The Acts hereinafter mentioned shall, in relation to the jurisdiction transferred by this Act from the Railway and Canal Commission to the Transport Tribunal, have effect subject to the omissions of the enactments and parts of enactments hereinafter specified in relation to those Acts respectively, but nothing in this Part of this Schedule shall apply in relation to any jurisdiction of the Railway and Canal Commission which is not so transferred.

1. *The 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 : ", and from the words " and in case of disobedience " to the end of the section.

2. *The Regulation of Railways Act*, 1873—

Section five ; in section six, the words " except for the purpose of enforcing any decision or order of the Commissioners " ; and sections twenty-six, twenty-seven, thirty, thirty-one and thirty-two.

3. *The 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 ; and sections eighteen to twenty-two, fifty and fifty-one.

4. *The Regulation of Railways Act*, 1889—

In section two, the words from " and thereupon " to the end of the section.

5. *The Railway Regulation Act*, 1893—

Subsection (5) of section one.

6. *The Conveyance of Mails Act*, 1893—

Section four.

7. *The Railway and Canal Traffic Act*, 1894—

Section two.

8. *The Railway Employment (Prevention of Accidents) Act*, 1900—

Section twelve.

9. *The Railways (Private Sidings) Act*, 1904—

Section three.

10. *The Ministry of Transport Act*, 1919—

Section nineteen.

11. *The Railways Act*, 1921—

In subsection (4) of section sixteen, from the words " in any of the ways " to the end of the section ; and in subsection (3) of section seventy-seven from the words " in any of the ways " to the end of the subsection

TWELFTH SCHEDULE.

Section 118.

CONSTITUTION OF LEE CONSERVANCY CATCHMENT BOARD.

1. In this Schedule—

" the Catchment Board " means the Lee Conservancy Catchment Board ;

" the Conservancy Board " means the Lee Conservancy Board ;

" the Act of 1900 " means the Lee Conservancy Act, 1900 ;

" the Act of 1921 " means the Lee Conservancy Act, 1921 ;

" the Act of 1930 " means the Land Drainage Act, 1930.

2. As from the first day of January, nineteen hundred and forty-eight, the Catchment Board shall, subject to the provisions of this Schedule, instead of consisting of the members for the time being of the Conservancy Board and the six additional members provided for by subsection (1) of section eighty of the Act of 1930, consist of—

(*a*) persons elected and appointed in accordance with the provisions of Part II of the Act of 1900 and Part III of the Act of 1921, as amended by the subsequent provisions of this Schedule ; and

(*b*) the said six additional members.

3. No member shall be elected to the Catchment Board by the barge owners, and accordingly sections thirteen and fourteen of the Act of 1900 and sections seven to ten of the Act of 1921 shall not apply in relation to the Catchment Board.

4. The persons who, immediately before the first day of January, nineteen hundred and forty-eight, are members of the Catchment Board by reason of being members of the Conservancy Board, other than the representative of the barge owners, shall, unless they previously die or resign or become disqualified, continue in office until the first Friday in April in the year nineteen hundred and forty-nine, and shall be deemed for the purposes of section twelve of the Act of 1900 and section eleven of the Act of 1921 (which relate to casual vacancies) to have been appointed or elected to the Catchment Board by the persons by whom they were appointed or elected to the Conservancy Board.

5. The following enactments, that is to say—

(*a*) section three of the Act of 1900, in relation to members of the Catchment Board other than the said six additional members ; and

(*b*) section four of the Act of 1900 and section eleven of the Act of 1921, in relation to the appointed members of the Catchment Board ; and

(*c*) sections five to twelve, section sixteen and section eighteen of the Act of 1900, in relation to the elected members of the Catchment Board ; and

(*d*) section fifteen of the Act of 1900, in relation to all members of the Catchment Board,

shall have effect as if references to the Conservancy Board and Conservators were references to the Catchment Board and members of the Catchment Board.

Section 125.

THIRTEENTH SCHEDULE

MEANING OF "CONTROL".

1. Subject to the provisions of this Schedule, a body corporate shall be deemed for the purposes of this Act to be directly or indirectly controlled by another body corporate if, but only if—

(*a*) that other either—

(i) is a member of it and controls the composition of its board of directors; or

(ii) holds more than half in nominal value of its equity share capital; or

(*b*) the first mentioned body corporate is directly or indirectly controlled (whether by virtue of this paragraph or not) by a third body corporate which is directly or indirectly controlled by that other.

2. For the purposes of the preceding paragraph, the composition of a body corporate's board of directors shall be deemed to be controlled by another if, but only if, in relation to all or a majority of the directors one or other of the following conditions is satisfied, that is to say—

(*a*) that a person's appointment as director, or continuance in office as director, depends on that other exercising in his favour or not exercising against him some power exercisable by that other without the consent of or concurrence of any other person, or can be made so to depend upon the exercise of any power or powers so exercisable; or

(*b*) that the appointment of a person as director follows necessarily from his appointment as director of that other, and the persons whose appointment follows as aforesaid are all or a majority of the directors of that other.

3. In determining whether one body corporate is or is not directly or indirectly controlled by another body corporate—

(*a*) any shares held or power exercisable by that other in a fiduciary capacity shall be treated as not held or exercisable by it;

(*b*) subject to the following sub-paragraph, any shares held or powers exercisable—

(i) by any person as a nominee for that other (except where that other is concerned only in a fiduciary capacity); or

(ii) by, or by a nominee for, a body corporate directly or indirectly controlled by that other, not being a body corporate which is concerned only in a fiduciary capacity;

shall be treated as held or exercisable by that other;

(*c*) any shares held or powers exercisable by any person by virtue of the provisions of any debentures of the first mentioned body corporate or of a trust deed securing any issue of such debentures shall be disregarded.

4. In this Schedule, the expression "equity share capital" means, in relation to a body corporate, its issued share capital excluding any part thereof which, as respects both dividends and capital, carries no right to participate beyond a specified amount in a distribution.

In this paragraph references to share capital include references to capital in the form of stock.

FOURTEENTH SCHEDULE.

Section 127.

Application to Northern Ireland.

1. References to enactments or statutory provisions include references to enactments of the Parliament of Northern Ireland and provisions, whether of a general or a special nature, contained in, or in any document made or issued under, any Act of the Parliament of Northern Ireland, whether of a general or a special nature.

2. The references in section nine of this Act to Bills in Parliament shall include references to Bills in the Parliament of Northern Ireland.

3. Nothing in this Act shall be deemed to exempt the Commission from liability to any tax, duty, rate, levy or other charge whatsoever, whether general or local, imposed by or under any Act of the Parliament of Northern Ireland.

4. Section eleven of this Act shall have effect as if for subsection (2) the following subsection were substituted:—

"(2) In its application to any such action as aforesaid, section twenty of the Common Law Procedure (Ireland) Act, 1853 (which relates to the limitation of actions of contract or tort and certain other actions) shall have effect as if for references therein to six years and four years respectively there were substituted references to three years."

5. Nothing in section ninety-four of this Act or any order made thereunder shall affect any statutory obligation (including any obligation imposed by or under an Act of the Parliament of Northern Ireland) to furnish any information, accounts, statistics or returns to the Ministry of Commerce for Northern Ireland in respect of any railway undertaking carried on in Northern Ireland.

6. In section ninety-five of this Act, the references to the Minister of Labour and National Service shall, in relation to agreements affecting Northern Ireland, be deemed to include references to the Ministry of Labour and National Insurance for Northern Ireland.

7. Subsection (6) of section ninety-eight of this Act shall have effect as if for the reference therein to subsection (4) of section sixty-nine of the National Insurance Act, 1946, there were substituted a reference to subsection (4) of section sixty-six of the National Insurance Act (Northern Ireland), 1946.

Section 128.

FIFTEENTH SCHEDULE.

PART I.

Enactments repealed as from the passing of this Act.

Session and Chapter.	Short Title.	Extent of Repeal.
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.
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.
9 & 10 Geo. 5. c. 50.	Ministry of Transport Act, 1919.	Sections nineteen and twenty-three.
11 & 12 Geo. 5. c. 55.	Railways Act, 1921.	In subsection (4) of section sixteen, from the words "in any of the ways" to the end of the section; in subsection (1) of section twenty-one the words "and not exceeding ten"; subsection (3) of section twenty-two; in subsection (1) of section twenty-four, the words "upon the railways"; section twenty-seven; in section thirty-five the words from "Provided that" to "under that section"; sections fifty-eight and fifty-nine; subsection (2) of section sixty-one; in subsection (3) of section seventy-seven, from the words "in any of the ways" to the end of the subsection; in section eighty, subsection (2), and in subsection (3) the words "or an inquiry by a committee chosen either wholly or partly from such panel as aforesaid".
19 & 20 Geo. 5. c. 17.	Local Government Act, 1929.	Sub-paragraph (4) of paragraph 12 of the Eleventh Schedule.
23 & 24 Geo. 5. c. 14.	London Passenger Transport Act, 1933.	Subsection (1) of section thirty-six; paragraph 5 of the Ninth Schedule.

15th Sch. —cont.

Session and Chapter.	Short Title.	Extent of Repeal.
23 & 24 Geo. 5. c. 53.	Road and Rail Traffic Act, 1933.	Subsection (2) of section sixteen; in subsection (1) of section twenty-nine, the words "after consultation with the Transport Advisory Council"; section forty-six; and the Second Schedule.
6 & 7 Geo. 6. c. 23.	Railway Freight Rebates Act, 1943.	Subsection (3) of section two.

Part II.

Enactments repealed as from the first day of January, nineteen hundred and forty-eight.

Session and Chapter.	Short Title.	Extent of Repeal.
11 & 12 Geo. 5. c. 55.	Railways Act, 1921	Section nineteen; in subsection (2) of section twenty-one the words "in such proportions as the rates tribunal may determine"; and section seventy-five.
23 & 24 Geo 5. c. 14.	London Passenger Transport Act, 1933.	Subsections (1), (2) and (4) of section three; section fifteen; in section twenty-one, from the beginning of the section to the words "Provided that"; in subsection (2) of section twenty-six, the words "and, in the case of public service vehicles operating wholly or in part outside the special area, subject, as respects any part of the service outside that area, to the provisions of section seventy-two of the Road Traffic Act, 1930"; subsection (4) of section twenty-nine, in the proviso to subsection (2) of section thirty, the words "shall have regard to the desirability of the establishment and maintenance by the Board of an adequate reserve fund, and" and the words "which would in their opinion preclude the Board from complying with their obligations under subsection (4) of section three of this Act, or"; section thirty-one; subsection (4) of section thirty-four; in the proviso to subsection (2) of section thirty-five the words "which

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15TH SCH. —*cont.*

Session and Chapter.	Short Title.	Extent of Repeal.
23 & 24 Geo. 5. c. 14.—*cont.*	London Passenger Transport Act, 1933.—*cont.*	would be likely to affect prejudicially the financial position of the amalgamated railway companies or any of them or"; sections thirty-seven, forty-two, forty-three, and forty-six to forty-nine; in section eighty-nine, in paragraph (*c*) of subsection (11), the words from "in the proportions" to the end of the paragraph, and in subsection (17) the words "in the proportions specified in subsection (11) of this section"; in the Ninth Schedule, sub-paragraph (*a*) of paragraph 4; and the Tenth Schedule.

PART III.

Enactments repealed as from the appointed day.

Session and Chapter.	Short Title.	Extent of Repeal.
11 & 12 Geo. 5. c. 55.	Railways Act, 1921	Section sixty-seven.
23 & 24 Geo. 5. c. 53.	Road and Rail Traffic Act, 1933	In section fifteen, subsections (2) to (9), subsection (12), and in subsection (13) from the beginning of the subsection to the word "but"; in section twenty-two, in subsection (1) the words from "including" to the end of the subsection, in subsection (2) the words "the members and deputy members, and the clerk and other officers and servants of the Tribunal", and in subsection (3) the words "the Tribunal"; and subsection (2) of section twenty-three.

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