



Regulation of Railways Act 1873

1873 CHAPTER 48

Regulations as to Commissioners

21 Assistant Commissioners.

The Assistant Commissioners shall be subject to the orders of the Commissioners, and shall make such inquiries and reports and perform such other acts and services as the Commissioners may direct; and it shall be lawful for such Assistant Commissioners, Or either of them, to undertake such arbitration under the Act as the Commissioners with the consent of the parties to such arbitration may direct; and the said Assistant Commissioners for the purposes of such inquiries, reports, and arbitrations shall have and may exercise all powers of entry, inspection, summoning and examining witnesses, requiring the production of documents, and administering an oath by this Act conferred upon the Commissioners.

22 Salary of Commissioners.

There shall be paid to each of the Commissioners such salary, not exceeding three thousand pounds a year, and to each Assistant Commissioner such salary not exceeding fifteen hundred pounds a year, as the Treasury determine.

The salaries and expenses of the Commissioners and of their officers and of the Assistant Commissioners shall be paid out of moneys to be provided by Parliament,

23 Assessors.

The Commissioners may from time to time, in the exercise of any jurisdiction in this Act conferred on them, with the consent of the Treasury, call in the aid of one or more assessors, who shall be persons of engineering or other technical knowledge. There shall be paid to such assessors such remuneration as the Treasury, upon the recommendation of the Commissioners, may direct.

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24 Appointment of officers.

The Commissioners may from time to time appoint such officers and clerks with such salaries as the Commissioners, with the sanction of the Treasury, think fit.

25 Powers of Commissioners.

For the purposes of this Act the Commissioners shall, subject as in this Act mentioned, have full power to decide all questions whether of law or of fact, and shall also have the following powers ; that is to say,

- (a) They may, by themselves or by any person appointed by them to prosecute an inquiry, enter and inspect any place or building, being the property or under the control of any railway or canal company, the entry or inspection of which appears to them requisite;
- (b) They may require the attendance of all such persons as they think fit to call before them and examine, and may require answers or returns to such inquiries as they think fit to make;
- (c) They may require the production of all books, papers, and documents relating to the matters before them;
- (d) They may administer an oath ;
- (e) They may when sitting in open court punish for contempt in like manner as if they were a court of record.

Every person required by the Commissioners to attend as a witness shall be allowed such expenses as would be allowed to a witness attending on subpoena before a court of record; and in case of dispute as to the amount to be allowed, the same shall be referred to a master of one of the superior courts, who, on request, under the hands of the Commissioners, shall ascertain and certify the proper amount of such expenses.

26 Orders of Commissioners.

Any decision or any order made by the Commissioners for the purpose of carrying into effect any of the provisions of this Act may be made a rule or order of any superior court, and shall be enforced either in the manner directed by section three of the Railway and Canal Traffic Act, 1854, as to the writs and orders therein mentioned, or in like manner as any rule or order of such court.

For the purpose of carrying into effect this section, general rules and orders may be made by any superior court in the same manner as general rules and orders may be made with respect to any other proceedings in such court.

The Commissioners may review and rescind or vary any decision or order previously made by them or any of them.

The Commissioners shall, in all proceedings before them under sections 6, 11, 12, and 13 of this Act, and may, if they think fit, in all other proceedings before them under this Act, at the instance of any party to the proceedings before them, and upon such security being given by the appellant as the Commissioners may direct, state a case in writing for the opinion of any superior court determined by the Commissioners upon any question which in the opinion of the Commissioners is a question of law.

The court to which the case is transmitted shall hear and determine the question or questions of law arising thereon, and shall thereupon reverse, affirm, or amend the determination in respect of which the case has been stated or remit the matter to the

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Commissioners with the opinion of the court thereon, or may make such other order in relation to the matter, and may make such order as to costs, as to the court may seem fit, and all such orders shall be final and conclusive on all parties : Provided that the Commissioners shall not be liable to any costs in respect or by reason of any such appeal.

The operation of any decision or order made by the Commissioners shall not be stayed pending the decision of any such appeal, unless the Commissioners shall otherwise order.

Save as aforesaid, every decision and order of the Commissioners shall be final.

27 **Sittings of Commissioners.**

The Commissioners shall sit at such times and in such places and conduct their proceedings in such manner as may seem to them most convenient for the speedy despatch of business; they may, subject as in this Act mentioned, sit either together or separately, and either in private or in open court, but any complaint made to them shall, on the application of any party to the complaint, be heard and determined in open court.

28 **Costs.**

The costs of and incidental to any proceeding before the Commissioners shall be in the discretion of the Commissioners.

29 **Power of Commissioners to make general orders.**

The Commissioners may at any time after the passing of this Act and from time to time make such general orders as may be requisite for the regulation of proceedings before them, including applications for and the stating of cases for appeal, and also for prescribing, directing, or regulating any matter which they are authorised by this Act to prescribe, direct, or regulate by general order, and also for enabling the Commissioners in cases to be specified in such general orders to exercise their jurisdiction by any one or two of their number : Provided, that any person aggrieved by any decision or order made in any case so specified may require a re-hearing by all the Commissioners; they may further make regulations for enabling them to carry into effect the provisions of this Act, and may from time to time revoke and alter any general orders or regulations made in pursuance of this Act.

Every general order, and every alteration in a general order, made in pursuance of this section shall be submitted to the Lord Chancellor for approval, and shall not come into force until it shall be approved by him. Every general order purporting to be made in pursuance of this Act shall, immediately after the making thereof, be laid before both Houses of Parliament, if Parliament be then sitting, or if Parliament be not then sitting, within seven days after the then next meeting of Parliament, and if either House of Parliament by a resolution passed within two months after such general order has been so laid before the said House, resolve that the whole or any part of such general order ought not to continue in force, the same shall after the date of such resolution cease to be of any force, without prejudice nevertheless to the making of any other general order in its place, or to anything done in pursuance of such general order before the date of such resolution; but, subject as aforesaid, every general order purporting to be

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made in pursuance of this Act shall be deemed to have been duly made and within the powers of this Act, and shall have effect as if it had been enacted in this Act.

30 Evidence of documents.

Every document purporting to be signed by the Commissioners, or any one of them, shall be received in evidence without proof of such signature, and until the contrary is proved shall be deemed to have been so signed and to have been duly executed or issued by the Commissioners.

31 Commissioners to make annual reports.

The Commissioners shall, once in every year, make a report to Her Majesty of their proceedings under this Act during the past year, and such report shall be laid before both Houses of Parliament within fourteen days after the making thereof if Parliament is then sitting, and if not, then within fourteen days after the next meeting of Parliament.