

[Reprinted on the 3rd February, 1976, pursuant to the Acts Republication Act, 1967, as amended, and incorporating all amendments made prior to that date.]

GENERAL TRAMWAYS ACT, 1884-1935

being

The General Tramways Act, 1884, No. 309 of 1884 [Assented to 10th September, 1884];

as amended by

Statute Law Revision Act, 1935, No. 2246 of 1935 [Assented to 19th December, 1935].

An Act to regulate the construction and working of tramways.

WHEREAS it is desirable to comprise in one general Act sundry provisions usually introduced into Acts of Parliament relative to the construction and working of tramways—Be it therefore Enacted by the Governor of the Province of South Australia, with the advice and consent of the Legislative Council and House of Assembly of the said province, in this present Parliament assembled, as follows:

Preamble.

1. This Act may be called the "General Tramways Act, 1884-1935¹".

Short title.

2. In the construction of this Act the following expressions, so far as the context and the subject-matter permit, shall have the meanings hereinafter assigned to them respectively, namely—

Interpretation.
S. 2 amended by
2246, 1935, s. 4
(2nd Sched.).

"special Act" shall mean any Act which shall hereafter be passed to authorize the construction of a tramway:

"prescribed" shall be equivalent to "prescribed for that purpose in the special Act":

"the promoters" shall mean the parties authorized by the special Act to execute such works or undertakings:

The word "road" shall mean any carriageway being a public highway, and the carriageway of any bridge forming part of or leading to the same:

The words "road authority" shall include the municipal corporation or district council having authority in the place in question:

The word "district", in connection with "road authority", shall mean the area within which such road authority enjoys control over the roads:

"owner", with reference to any notice required by this Act, or the special Act, or any Act incorporated therewith, to be given to the owner of any lands, or any consent to be obtained from the owner of any lands, shall mean any person or corporation who, under the provisions of this or the special Act, would be enabled to sell and convey lands to the promoters of the undertaking:

¹ In a previous reprint of this Act under the Acts Republication Act, 1934, the short title had been altered in accordance with s. 4 of that Act.

“justices” shall mean justices of the peace for the State who shall not be interested in the matter:

“the bank” shall mean the bank to be named in the special Act as the bank to which payments are to be made.

Incorporation of Act with special tramway Acts.

3. This Act shall apply to every tramway undertaking to be authorized by any Act which shall hereafter be passed; and all the clauses and provisions of this Act, save so far as they shall be expressly varied or excepted by any such Act, shall be incorporated therewith and apply, so far as applicable, to the undertaking authorized thereby¹.

Act to apply to existing tramways if directors petition to be brought under the provisions of this Act.

4. The directors of any tramway undertaking heretofore authorized may apply to the Government by petition praying that any such tramway undertaking may be brought under the provisions of this Act; and the Governor, if he shall deem it advisable so to do, may, on receipt of such petition, by proclamation in the *Government Gazette*, declare that this Act shall apply to any such tramway undertaking; and from and after such proclamation all the clauses and provisions of this Act shall apply to such tramway undertaking, and all clauses and provisions in the Act heretofore passed authorizing such tramway undertaking inconsistent with any clause or provision of this Act shall be deemed to have been repealed.

PART I

PART I

CONSTRUCTION OF TRAMWAYS

Power to take land.
S. 5 amended by 2246, 1935, s. 4 (2nd Sched.).

5. The promoters may purchase or take, under the provisions of the Compulsory Acquisition of Land Act, 1925², any lands, authorized by the special Act, necessary for tramways other than lands subject to any public right-of-way, and all the provisions of that Act shall be incorporated with every special Act: Provided that the powers of the promoters for the compulsory purchase of lands for the purpose of the special Act shall not be exercised after the end of eighteen months from the passing thereof.

Mode of formation of tramways.

6³. Every tramway line shall be constructed and maintained with two rails (the running surfaces of which shall be laid at a distance of four feet eight and a half inches from each other), and shall be constructed and maintained in such a manner that the uppermost surface of every rail shall be on a level with the surface of the road; and the rails used in the construction of every tramway shall be of iron or steel, and of the weight of not less than twenty pounds to the yard. And such rails shall be grooved, the groove in no case exceeding one and a quarter inches in width.

Tramways not to impede traffic.

7. Every tramway shall be constructed and maintained in such a manner as not to cause any impediment or injury to the use by the public for the purpose of traffic of any road whereon the same shall be laid, and the public shall at all times be entitled to the free and uninterrupted use of every part of such road, save when any conveyance of the promoters shall be passing over or be about to pass over any part thereof, or be standing thereon, and then the public shall not be entitled to the use of the part of such road over which such conveyance shall be passing or about to pass, or upon which such conveyance

¹ Section 7 of the Bus and Tramways Act, 1935-1975, provides that this Act is not incorporated with that Act.

² The Compulsory Acquisition of Land Act, 1925 and its amendments have been repealed by the Land Acquisition Act, 1969 (Now Land Acquisition Act, 1969-1972).

³ See Act No. 28 of 1958, s. 10.

shall be standing: Provided that no such conveyance shall stand at any point in any road other than a terminus of the tramways, except for the purpose of taking up or setting down passengers, or for the purpose of passing at any turn-out or siding.

8. The promoters from time to time may dig up and alter the surface of any road, and with the consent of the road authority temporarily stop the traffic thereof, for the purpose of making, forming, laying down, maintaining and renewing any tramway duly authorized, or any part or parts thereof respectively, upon, over, or through any road, or over any river or stream, subject to the following regulations—

Power to break up streets, &c.

- (1) They shall give to the road authority notice of their intention so to do, specifying the time at which they will begin, and the portion of road proposed to be opened or broken up; such notice to be given seven days at least before the commencement of the work:
- (2) They shall not open or break up any road except under the superintendence and to the reasonable satisfaction of the road authority, unless that authority refuses or neglects to give such superintendence at the time specified in the notice, or discontinues the same during the work:
- (3) They shall not alter the level of any road unless authorized so to do by the special Act, and in all cases in which they do so alter the level they shall alter the level over the whole width of the road, and remake and remetal the same to the satisfaction of the road authority:
- (4) They shall pay all reasonable expenses to which the road authority is put on account of such superintendence:
- (5) They shall not, without the consent of the road authority, open or break up at any one time and place a greater length than one hundred yards of any road, and they shall leave an interval of at least three hundred yards between any two places at which they shall open or break up any road at the same time.

Where the carriage-way in or upon which any tramway is proposed to be formed or laid down is crossed by any railway or tramway on the level, any work which the promoters may be empowered to construct, and which affects or in anywise interferes with such railway or tramway or the traffic thereon, shall be constructed and maintained under the superintendence (at the cost of the promoters) and to the reasonable satisfaction of the person, corporation, company, or authority owning such railway or tramway, unless, after notice to be given by the promoters seven days at least before the commencement of such work, such superintendence is refused or withheld.

9. When the promoters have opened or broken up any portion of any road they shall be under the following further obligations, namely—

Completion of works and re-instatement of road.

- (1) They shall with all convenient speed, and in all cases within four weeks at the most (unless the road authority otherwise consents in writing), complete the work on account of which they opened or broke up the same, and (subject to the formation, maintenance, or renewal of the tramway) fill in the ground and make good the surface, and, to the satisfaction of the road authority, restore the portion of the road to as good condition as that in which it was before it was opened or broken up, and clear away all surplus paving or metalling material or rubbish occasioned by the work to

such spot in the road district wherein any such road shall be situated as the road authorities shall direct:

- (2) They shall in the meantime cause the place where the road is opened or broken up to be fenced and watched, and to be properly lighted at night:
- (3) They shall bear or pay all reasonable expenses of the repair of the road for six months after the same is restored as far as those expenses are increased by the opening or breaking up.

If the promoters fail to comply in any respect with the provisions of the present section, they shall for every such offence (without prejudice to the enforcement of specific performance of the requirements of this or the special Act or to any other remedy against them) be liable to a penalty not exceeding forty dollars¹, and to a further penalty not exceeding ten dollars¹ for each day during which any such failure continues after the first day on which such penalty is incurred.

Limiting ascent of roads where level is altered.

10. Where the level of any road shall be altered in making any tramway, the ascent of any main road shall not be more than one foot in thirty feet, and the ascent of any other public road shall not be more than one foot in twenty feet. The level of the main or public road shall be furnished by the road authority to the promoters, and a good and sufficient fence of four feet high at the least shall be made on each side of every bridge which shall be erected by the promoters.

Repair of part of road where tramway is laid.

11. The promoters shall at their own expense at all times maintain and keep in good condition and repair, with such materials and in such manner as the road authority shall direct and to their satisfaction, so much of any road whereon any tramway belonging to the promoters is laid as lies between the rails of the tramway, and where two tramways are laid by the same promoters in any road at a distance of not more than four feet from each other the portion of the road between the tramways, and in every case so much of the road as extends eighteen inches beyond the rails of and on each side of any such tramway.

If undertaking abandoned promoters to restore road.

If the promoters abandon their undertaking or any part of the same and take up any tramway or any part of any tramway belonging to them, they shall with all convenient speed and in all cases within six weeks at the most from the time any portion of the tramway is abandoned or taken up (unless the road authority otherwise consents in writing) fill in the ground and make good the surface, and to the satisfaction of the road authority restore the portion of the road upon which such tramway was laid to as good a condition as that in which it was before such tramway was laid thereon, and clear away all surplus paving or metalling material or rubbish occasioned by such work; and they shall in the meantime cause the place where the road is opened or broken up to be fenced and watched and to be properly lighted at night: Provided always, that if the promoters fail to comply with the provisions of this section the road authority if they think fit may themselves at any time after seven days' notice to the promoters open and break up the road and do the works necessary for the repair and maintenance or restoration of the road to the extent in this section above mentioned, and the expense incurred by the road authority in so doing shall be repaid to them by the promoters.

¹ Pursuant to s. 8 of the Acts Replication Act, 1967, as amended, references to amounts of money expressed in decimal currency have been substituted for references to amounts of money expressed in the old currency.

12. The road authority on the one hand and the promoters on the other hand may from time to time enter into and carry into effect, and from time to time alter, renew, or vary, contracts, agreements, or arrangements with respect to the paving and keeping in repair of the whole or any portion of the roadway of any road on which the promoters shall lay any tramway, and the proportion to be paid by either of them of the expense of such paving and keeping in repair.

Road authority and promoters may contract for paving roads on which tramways are laid.

13. For the purpose of making, forming, laying down, maintaining, repairing, or renewing any of their tramways, the promoters may from time to time, where and as far as it is necessary or may appear expedient for the purpose of preventing frequent interruption of the traffic by repairs or works in connection with the same, alter the position of any mains or pipes for the supply of gas or water, or any wires or apparatus for telegraphic or other purposes, subject to the provisions of this Act and also subject to the following restrictions, that is to say—

Provisions as to mains and pipes for the supply of gas and water.

- (1) Before laying down a tramway in a road in which any mains or pipes, wires, or apparatus may be laid, the promoters shall, whether they contemplate altering the position of any such mains or pipes, wires, or apparatus or not, give seven days' notice to the company, persons, or person, or authority to whom such mains or pipes, wires, or apparatus may belong, or by whom they are controlled, of the intention to lay down or alter the tramway, and shall at the same time deliver a plan and section of the proposed work. If it should appear to any such company, person, or authority that the construction of the tramway as proposed would endanger any such main or pipe, wire, or apparatus, or interfere with or impede the supply of water or gas, or the telegraphic or other communication, such company, person, or authority (as the case may be) may give notice to the promoters to lower or otherwise alter the position of the said mains or pipes, wires, or apparatus in such manner as may be considered necessary, and any difference as to the necessity of any such lowering or alteration shall be settled in manner provided by this Act for the settlement of differences between the promoters and other companies or persons, and all alterations to be made under this section shall be made with as little detriment and inconvenience to the company, person, or authority to whom such mains or pipes, wires, or apparatus may belong, or by whom the same are controlled, or to the inhabitants of the district, as the circumstances will admit, and under the superintendence of such company, person, or authority, or of their surveyor or engineer, if they or he think fit to attend after receiving not less than forty-eight hours' notice for that purpose, which notice the promoters are hereby required to give:
- (2) The promoters shall not remove or displace any of the mains or pipes, valves, siphons, plugs, wires, or apparatus, or other works belonging to or controlled by any such company, person, or authority, or do anything to impede the passage of water or gas, or the telegraphic or other communication into or through such mains or pipes without the consent of such company, person, or authority, or in any other manner than such company, person, or authority shall approve, until good and sufficient mains, pipes, valves, siphons, plugs, and other works necessary or proper for continuing the supply of water or gas or telegraphic or other

communication as sufficiently as the same was supplied by the mains or pipes, wires, or apparatus proposed to be removed or displaced shall, at the expense of the promoters, have been first made and laid down in lieu thereof and ready for use, and to the satisfaction of the surveyor or engineer of such water or gas or other company, person, or authority, or, in case of disagreement between such surveyor or engineer and the promoters, as an engineer appointed by the Governor shall direct:

- (3) The promoters shall not lay down any such pipes contrary to the regulations of any Act relating to such water or gas or other company, or relating to telegraphs:
- (4) The promoters shall make good all damage done by them to property belonging to or controlled by any such company, person, or authority, and shall make full compensation to all parties for any loss or damage which they may sustain by reason of any interference with such property or with the private service pipes of any person supplied by any such company, person, or authority with water or gas:
- (5) If, by any such operations as aforesaid, the promoters interrupt the supply of water or gas in or through any main or main pipe, they shall be liable to a penalty not exceeding forty dollars¹ for every day upon which such supply shall be so interrupted.

For protection
of sewers, &c.

14. Where in any district any tramway, or any work connected therewith, interferes with any sewer, drain, watercourse, subway, defence, or work in such district, or in any way affects the sewerage or drainage of such district, the promoters shall not commence any tramway or work until they shall have given to the proper authority fourteen days' previous notice in writing of their intention to commence the same, by leaving such notice at the principal office of such authority, with all necessary particulars relating thereto: nor until such authority shall have signified their approval of the same, unless such authority do not signify their approval, disapproval, or other directions within fourteen days after service of the said notice and particulars as aforesaid; and the promoters shall comply with and conform to all reasonable directions and regulations of the said authority in the execution of the said works, and shall provide by new, altered, or substituted works in such manner as such authority shall reasonably require for the proper protection of and for preventing injury or impediment to the sewers and works hereinbefore referred to by or by reason of the tramways, and shall save harmless the said authority against all and every the expense to be occasioned thereby, and all such works shall be done under the direction, superintendence, and control of the engineer or other officer or officers of the said authority, at the reasonable costs, charges, and expenses in all respects of the promoters; and when any new, altered, or substituted work as aforesaid, or any works or defence connected therewith, shall be completed by or at the costs, charges, or expenses of the promoters under the provisions of this Act, the same shall thereafter be as fully and completely under the direction, jurisdiction, and control of the said authority, and be maintained by them, as any sewers or works.

Rights of
authorities and
companies, &c.,
to open roads.

15. Nothing in this or the special Act shall take away or abridge any power to open or break up any road along or across which any tramway is laid, or any other power vested in any road authority or other authority for any of the purposes for which such authority is respectively constituted, or in any

¹ Pursuant to s. 8 of the Acts Reproduction Act, 1967, as amended, references to amounts of money expressed in decimal currency have been substituted for references to amounts of money expressed in the old currency.

company, body, or person for the purpose of laying down, repairing, altering, or removing any pipe for the supply of gas or water, or any tubes, wires, or apparatus for telegraphic or other purposes; but in the exercise of such power every such road or other authority, company, body, or person, shall be subject to the following restrictions, that is to say—

- (1) They shall cause as little detriment or inconvenience to the promoters as circumstances admit:
- (2) Before they commence any work whereby the traffic on the tramway will be interrupted, they shall (except in cases of urgency, in which cases no notice shall be necessary) give to the promoters notice of their intention to commence such work, specifying the time at which they will begin to do so; such notice to be given forty-eight hours at least before the commencement of the work:
- (3) They shall not be liable to pay to the promoters any compensation for injury done to the tramway by the execution of such work, or for loss of traffic occasioned thereby, or for the reasonable exercise of the powers so vested in them as aforesaid:
- (4) Whenever, for the purpose of enabling them to execute such work, the road authority shall so require, the promoters shall either stop traffic on the tramway to which the notice shall refer, where it would otherwise interfere with such work, or shore up and secure the same at their own risk and cost during the execution of the work there: Provided that such work shall always be completed by the road authority with all reasonable expedition:
- (5) Any company, body, person, or authority shall not execute such work so far as it immediately affects the tramway, except under the superintendence of the promoters, unless they refuse or neglect to give such superintendence at the time specified in the notice for the commencement of the work, or discontinue the same during the progress of the work; and such company, body, person, or authority shall execute such work at their own expense, and to the reasonable satisfaction of the promoters: Provided that any additional expense arising by reason of the existence of the tramway in any road or place where any such main pipes, tubes, wires, or apparatus shall have been laid before the construction of such tramway, shall be borne by the promoters.

16. If any difference arises between the promoters on the one hand, and any road authority, or any gas or water company, or any company, body, person, or authority to whom any sewer, drain, wires, or apparatus for telegraphic or other purposes may belong, or any other company or authority on the other hand, with respect to any interference or control exercised or claimed to be exercised by them or him, or on their or his behalf, or by the promoters or lessees, by virtue of this or the special Act, in relation to any tramway or work, or in relation to any work or proceeding of the road authority, or other authority, company, body, or person, or with respect to the propriety of or the mode of execution of any work relating to any tramway, or with respect to the amount of any compensation to be made by or to the promoters, or on the question whether any work is such as ought reasonably to satisfy the local authority, or other authority, or body, company, or person concerned, or with respect to any other subject or thing regulated by, or comprised in, this Act, the matter in difference shall (unless otherwise specially provided by this or the special Act) be settled by an engineer, or other fit person, nominated as referee by the Governor, on the application of either

Difference
between
promoters and
road authority,
&c.

party, and the expenses of the reference shall be borne and paid as the referee directs.

If line not completed, powers to cease.

17. If the tramway authorized by the special Act be not completed within the period limited thereby, then, on the expiration of such period, the powers granted to the promoters for making and completing the said tramway or otherwise in relation thereto shall cease and determine.

Maintenance of tramways.

18. The promoters shall at all times keep the tramways in good repair and working order, and after the end of the time allowed by the special Act for constructing the tramways, the promoters shall provide and cause cars in sufficient numbers to travel along the tramways from the one terminal station to the other terminal station at least four times each way, between the hours of seven o'clock in the morning and eleven o'clock in the evening of every day except Sunday.

Government may purchase.

19. At any time after the expiration of fourteen years from the time of the passing of the special Act, or of any period of seven years thereafter, it shall be lawful for the Government to purchase the said tramways and undertaking, at a price to be determined as follows, that is to say: Two arbitrators shall be appointed by the Government, and two arbitrators by the promoters, and all matters relating to such purchase shall be submitted to the decision of such arbitrators, and in all other respects such arbitration shall be conducted in accordance with and under and subject to "The Railways Clauses Consolidation Act," No. 7 of 1847¹: Provided that the Government shall not be compelled to abide by the event of the award if the Government shall give to the promoters, within one month of the award being given, notice in writing to that effect, and thereupon the promoters shall be at liberty to carry on and work the said tramway: And provided also, that the Government shall pay all costs of the reference and award, and all costs and charges incidental thereto.

Power to sell undertaking with consent of Governor.

20². The promoters may, with the consent of the Governor, sell the tramways and undertaking to any person or company, at such price and upon such terms as the promoters shall determine; and for the purpose of carrying out such sale, the promoters may grant, transfer, and assign the tramways and undertaking to the purchaser, and thereupon all the rights, powers, authorities, obligations, and liabilities of the promoters in respect of the undertaking shall vest in, may be exercised by, and shall attach to the purchaser as if the purchaser had been the original promoters. For the purposes of this section, the terms "promoters" shall include every person in whom for the time being the undertaking shall be vested, whether by purchase or by operation of law or otherwise.

Tramways not to be exempt from general Act.

21. Nothing in the special Act contained shall be deemed or construed to exempt the tramway thereby authorized to be made from any future revision and alteration, under the authority of Parliament, of the maximum rates of fares and charges authorized by the special Act.

Government not bound to compensate.

22. If at any future time the Government shall construct or erect any line or lines of tramway or railway, the construction or erection of which may, or may be supposed to, injuriously affect, whether by competition or otherwise, the lines of tramway by the special Act authorized, the promoters shall not be entitled to receive or claim any compensation from the Government by reason of such damage or injury.

¹ The Railways Clauses Consolidation Act has been repealed and superseded by the South Australian Railways Commissioner's Act, 1936. (Now Railways Act, 1936-1975).

² See Act No. 28 of 1938, s. 10.

23¹. In each year after the year 1884² the promoters shall pay to each municipal corporation and district council within whose limits the tramway authorized by the special Act shall be laid, the following rates, namely:—To the Corporation of Adelaide rates calculated on the sum of two hundred dollars³ per mile; and to other municipal corporations and to all district councils rates calculated on the sum of fifty dollars³ per mile, as the annual value of every mile in length of the tramways along any of the streets subject to the control of the said corporations or district councils, or the successors of such district council respectively, in the same manner as rates declared and levied upon ratable property by virtue of the Local Government Act, 1934⁴; and such rates shall form portion of the general revenue of such corporation or district council, or the successors of such district council respectively: Provided that, save as in this section provided, neither the tramways nor any works connected therewith, nor the cars, horses, engines, rolling-stock, or other things used in working the tramways, shall be liable to the payment of any municipal, district, or other local rates or taxes whatever.

Rating provisions.
S. 23 amended by 2246, 1935, s. 4 (2nd Sched.).

PART II

PART II

GENERAL PROVISIONS

CARRIAGES

24. The promoters of tramways authorized by the special Act may use on their tramways carriages with flange wheels or wheels suitable only to run on a grooved rail, and, subject to the provisions of this and the special Act, the promoters shall have the exclusive use of their tramways for carriages with flange wheels or other wheels suitable only to run on the prescribed rail.

Power for promoters to use tramways with flange-wheeled carriages.

All carriages used on any tramway shall be moved by the power prescribed by the special Act, and where no such power is prescribed, by horses or mules only.

No carriage used on any tramway which is hereafter authorized shall extend beyond the outer edge of the wheels of such carriage more than eleven inches on each side, nor measure in width more than seven feet and a half.

25. The promoters and any other person may from time to time make and enter into and carry into effect contracts, agreements, and arrangements for or with reference to the use by such other person of the tramways, and the tolls, rates, and charges to be paid for such use, and the terms and conditions of such user, and all incidental matters.

Promoters may make arrangements for use of tramways.

LICENCES

26¹. If, at any time after any tramway, or part of any tramway, shall have been for three years opened for general traffic in any district, it shall be represented in writing to the Governor by the road authority of such district, or by twenty inhabitant ratepayers of such district, that the public are deprived of the full benefit of the tramway, the Governor may (if he consider that *prima facie* the case is one for inquiry) direct an inquiry by a referee, under this Act, into the truth of the representation; and if the referee report that the truth of

Licences to use the tramway may in certain events be granted to third parties by the Governor.

¹ See Act No. 28 of 1958, s. 10.

² Reference to the year one thousand eight hundred and eighty-four altered to 1884 pursuant to s. 7 (1) of the Acts Republication Act, 1967, as amended.

³ Pursuant to s. 8 of the Acts Republication Act, 1967, as amended, references to amounts of money expressed in decimal currency have been substituted for references to amounts of money expressed in the old currency.

⁴ Now Local Government Act, 1934-1975.

the representation has been proved to his satisfaction, the Governor may, from time to time, grant licences to any company or person to use such tramway, in addition to the promoters for such traffic, and with such carriages as are authorized by the special Act, subject to the following provisions, conditions, and restrictions, that is to say—

- (1) The licence shall be for any period not less than one year nor more than three years from the date of the licence, but may be renewable by the Governor:
- (2) The licence shall be to use the whole of such tramway for the time being opened for public traffic, or such part or parts of such tramway as the Governor, having reference to the cause for granting the licence, shall think right:
- (3) The licence shall direct the number of carriages which the licensee or licensees shall run upon such tramway, and the mode in which, and times at which, such carriages shall be run:
- (4) The licence shall specify the tolls to be paid to the promoters by the licensee or licensees for the use of the tramways:
- (5) The licensee or licensees, and their officers and servants, shall permit one person duly authorized for that purpose by the promoters, to ride free of charge in or upon each carriage of the licensee or licensees run upon the tramways for the whole or any part of the journey:
- (6) The Governor may, at any time after the granting of any licence, revoke, alter, or modify the same for good cause shown to him.

In default of payment of tolls, licensees' carriages may be detained and sold.

27. If on demand any licensee fail to pay the tolls due in respect of any passengers carried in any carriage, it shall be lawful for the promoters, to whom the same are payable, to detain and sell such carriage, or if the same shall have been removed from tramway or premises of such promoters or lessees, to detain and sell any other carriages on such tramway or premises belonging to such licensee, and out of the moneys arising from such sale, to retain the tolls payable as aforesaid, and all charges and expenses of such detention and sale, rendering the overplus (if any) of such moneys, and such of the carriages as shall remain unsold, to the person entitled thereto.

Licensees to give account of passengers carried by them.

28. Every licensee shall, on demand, give to an officer or servant authorized in that behalf by the promoters entitled to be paid tolls by such licensee, an exact account in writing, signed by such licensee, of the number of passengers conveyed by any and every carriage used by him on the tramways.

Licensees not giving account of passengers carried liable to penalty.

29. If any such licensee fails to give such account to such officer or servant demanding the same as aforesaid, or if any such licensee, with intent to avoid the payment of any tolls; gives a false account, he shall for every such offence forfeit to the promoters, or to their lessees entitled to be paid tolls by such licensee, a sum not exceeding ten dollars¹, and such penalty shall be in addition to any tolls payable in respect of the passengers carried by any such carriage.

Disputes as to amount of toll to be settled by justices.

30. If any dispute arise concerning the amount of the tolls due to the promoters from any licensee, or concerning the charges occasioned by any detention or sale of any carriage, under the provisions herein contained, the

¹ Pursuant to s. 8 of the Acts Republiation Act, 1967, as amended, references to amounts of money expressed in decimal currency have been substituted for references to amounts of money expressed in the old currency.

same shall be settled by any two or more justices of the peace, and it shall be lawful for the promoters in the meanwhile to detain the carriage, or, if the case so require, the proceeds of the sale thereof.

31. Every licensee shall be answerable for any trespass or damage done by his carriages or horses, or by any of the servants or persons employed by him, to or upon the tramway, or to or upon the property of any other person, and without prejudice to the rights of action against the licensee or any other person, every such servant or other person may lawfully be convicted of such trespass or damage before any two or more justices, either by the confession of the party offending, or by the oath of some credible witness; and, upon such conviction, every such licensee shall pay to the promoters, lessees, or persons injured, as the case may be, the damage to be ascertained by such justices, so that the same do not exceed one hundred dollars¹.

Owners of carriages liable for damage done by their servants, etc.

DISCONTINUANCE OF TRAMWAYS

32^a. If, at any time after the opening of any tramway in any district for traffic, the promoters discontinue the working of such tramway, or of any part thereof, for the space of three calendar months (such discontinuance not being occasioned by circumstances beyond the control of such promoters, for which purpose the want of sufficient funds shall not be considered a circumstance beyond their control), and such discontinuance is proved to the satisfaction of the road authority, the Governor, on the recommendation of such road authority, if he think fit, may, by order, declare that the powers of the promoters in respect of such tramway, or the part thereof so discontinued, shall from the date of such order be at an end, and thereupon the said powers of the promoters shall cease and determine. Where any such order has been made, the road authority of such district may, at any time after the expiration of two months from the date of such order, under the authority of a certificate to that effect by the Governor, remove the tramway, or part of the tramway, so discontinued, and the promoters shall pay to the road authority the cost of such removal, and of the making good of the road by the road authority, such cost to be certified by the clerk for the time being, or by some other authorized officer, of the road authority, whose certificate shall be final and conclusive; and if the promoters fail to pay the amount so certified within one calendar month after delivery to them of such certificate, or a copy thereof, the road authority may, without any previous notice to the promoters (but without prejudice to any other remedy for the recovery of the amount), sell and dispose of the materials of the tramway, or part of tramway, removed, either by public auction or private sale, and for such sum or sums, and to such person or persons, as the road authority may think fit, and may, out of the proceeds of such sale, pay and reimburse themselves the amount of the cost certified as aforesaid, and of the cost of sale, and the balance, if any, of the proceeds of the sale shall be paid over by the road authority to the promoters.

Tramways to be removed in certain cases.

INSOLVENCY OF PROMOTERS

33. If, at any time after the opening of any tramway in any district for traffic, it appears to the road authority of such district that the promoters of such tramway are insolvent, so that they are unable to maintain such tramway, or work the same with advantage to the public, and such road authority makes a representation to that effect to the Governor, he may direct an inquiry by a referee into the truth of the representation; and, if the referee shall find that the promoters are so insolvent as aforesaid, the Governor may, by order,

Proceedings in case of insolvency of promoters.

¹ Pursuant to s. 8 of the Acts Republication Act, 1967, as amended, references to amounts of money expressed in decimal currency have been substituted for references to amounts of money expressed in the old currency.

² See Act No. 28 of 1958, s. 10.

declare that the powers of the promoters shall, at the expiration of three calendar months from the making of the order, be at an end, and the powers of the promoters shall cease and determine at the expiration of the said period, and thereupon such road authority may remove the tramway in like manner and subject to the same provisions as to the payment of the costs of such removal, and to the same remedy for the recovery of such costs in every respect as in cases of removal under the next preceding section.

REMOVAL OR MODIFICATION OF TRAMWAYS

Provision for removal or modification of dangerous or inconvenient tramways.

34¹. If, after the tramways shall have been for one year opened for public traffic, it shall be represented in writing to the Governor by the road authority of any district in which the tramways are laid that, in the opinion of such road authority, the tramways, or some specified part thereof, are, or is, dangerous or inconvenient to the public, and ought to be removed or modified, the following provisions shall come into force—

- I. The Governor may, by order under his hand, require the promoters to remove or modify the tramways or the part thereof specified as aforesaid:
- II. If the promoters, within one calendar month after the service of such order, shall give notice in writing under their common seal to the Governor, that they desire that the question as to the necessity or expediency of the removal or modification ordered shall be referred to the decision of a referee to be appointed by the Governor, the question shall be referred accordingly; and upon the application either of the promoters or of the road authority, the Governor shall appoint some impartial person as referee and the award of the referee with reference to the question referred to him shall be final and conclusive as against all parties, and by his award he may, if he think fit, direct the removal or modification of the tramways:
- III. Within six calendar months after service upon the promoters of the order of the Governor directing the removal or modification of the tramways, or if the promoters shall have given notice as aforesaid of their desire that the question as to the necessity or expediency of such removal or modification should be referred, then, within six calendar months after the publication of the award of any referee appointed by the Governor directing the removal or modification of the tramways, or within such earlier time (if any) as may be limited by such order or award, the promoters shall remove or modify the tramways pursuant to the directions contained in such order or award, and shall make good the road in which the tramways removed or modified were or are situate to the reasonable satisfaction of the road authority thereof: Provided that if any modification which the company may be required to make in the tramways by any such order or award shall be beyond their then existing powers, the promoters shall, as soon as conveniently may be, apply to Parliament for the necessary powers to make such modification, and the provisions contained in the next following subsection shall not have effect until the expiration of three calendar months after the Bill to be introduced into Parliament by the promoters in compliance with this provision shall have become law, unless such Bill shall be rejected by Parliament or withdrawn:

¹ See Act No. 28 of 1958, s. 10.

- iv. If the promoters fail to remove or modify the tramways in accordance with such order or award, as the case may be, or to make good the road in manner aforesaid, the removal, modification, or making good may be effected by the road authority of the district in which such tramways are situate, and the amount of the cost thereof, certified by the clerk or secretary for the time being of such road authority (which certificate shall be final and conclusive with reference thereto) shall, on demand, be repaid by the promoters to the road authority:
- v. If the promoters fail to pay the amount so certified within one calendar month after delivery to them of the certificate or a copy of the certificate of the clerk or secretary of the road authority, the road authority (without prejudice to any other remedy which they may have for the recovery of the amount) may sell and dispose of any materials of the tramways removed or modified which may remain in their hands, either by public auction or private sale, for such price as the road authority shall think fit, and may, out of the proceeds of such sale, pay and reimburse themselves the amount of the costs certified as aforesaid, and all charges and expenses of and incidental to such sale, and the balance (if any) of the proceeds of such sale shall be paid by the road authority to the promoters.

TOLLS

35. The promoters of a tramway authorized by any special Act may demand and take, in respect of such tramway, tolls and charges not exceeding the sums specified in such special Act, subject and according to the regulations therein specified. A list of all the tolls and charges authorized to be taken shall be exhibited in a conspicuous place inside each of the carriages used upon the tramways, and it shall appear by such list to whom and where such tolls and charges are payable.

Tolls, &c.

36. The tolls and charges authorized by the special Act to be taken, and which shall be demanded by the promoters, shall be paid to such persons, and at such places upon or near the tramways, and in such manner and under such regulations as the promoters shall by notice to be annexed to the list of tolls appoint.

Mode of payment of tolls and charges.

37. Every passenger travelling upon the tramways may take with him his ordinary personal luggage without any charge being made for the carriage thereof, but so that the weight of such luggage shall not exceed twenty-eight pounds.

Passengers may take luggage.

BY-LAWS

38. Subject to the provisions of the special Act and this Act, the road authority of any district in which the tramway is laid down may from time to time make regulations as to the following matters—

By-laws by road authority.

The rate of speed to be observed in travelling upon the tramway:

The distances at which carriages using the tramway shall be allowed to follow one after the other:

The stopping of carriages using the tramway:

To limit the number of passengers to be carried in each carriage:

The traffic on the road in which the tramway is laid:

The use of distinguishing marks or colours on carriages.

Promoters may make certain regulations.

The promoters of any tramway may from time to time make regulations—

For preventing the commission of any nuisance in or upon any carriage, or in or against any premises belonging to them:

For regulating the travelling in or upon any carriage belonging to them.

And for better enforcing the observance of all or any of such regulations, it shall be lawful for such road authority and promoters respectively to make by-laws for all or any of the aforesaid purposes, and from time to time repeal or alter such by-laws and make new by-laws, provided that such by-laws be not repugnant to law or to the special Act, and such by-laws shall have no force or effect until they shall have been confirmed by the Governor and notices of such confirmation shall have been published in the *Government Gazette*:

No such by-laws shall be submitted to the Governor to be confirmed until after they have been published for four consecutive weeks in the *Government Gazette*, and have been laid before Parliament for fourteen days.

Penalties may be imposed in by-laws.

39. Any such by-law may impose reasonable penalties for offences against the same not exceeding four dollars¹ for each offence, with or without further penalties for continuing offences, not exceeding for any continuing offence one dollar¹ for every day during which the offence continues; but all by-laws shall be so framed in every case as to allow of part only of the maximum being ordered to be paid.

Promoters may summarily interfere in certain cases.

40. If the infraction or non-observance of such by-laws be attended with danger or annoyance to the public, or hindrance to the promoters in the lawful use of the tramways, it shall be lawful for the promoters summarily to interfere to obviate or remove such danger, annoyance, or hindrance, and that without prejudice to the penalty incurred by the offender.

Governor may disallow by-laws.

41. It shall be lawful for the Governor at any time to notify to the promoters his disallowance of any by-laws then in force, at the time at which the same shall cease to be in force; and no by-laws which shall be so disallowed shall have any force or effect after the time fixed by the notice of such disallowance, saving in so far as any penalty may have been then already incurred under the same: Provided that a copy of such notice shall be published in the *Government Gazette*, and the time of disallowance fixed by such notice shall not be earlier than fourteen days after the date of the first publication of such notice.

Gazette to be evidence of by-laws.

42. The production of a copy of the *Government Gazette*, purporting to contain a copy of any by-laws of the promoters, or of the road authority, and the confirmation thereof by the Governor, or a notice of the disallowance by the Governor of any by-laws of the promoters, or the road authority, shall in all cases and for all purposes be deemed to be conclusive evidence that such by-laws have been duly made and confirmed or disallowed, in manner therein appearing.

Power to road authority to license drivers, conductors, etc.

43. The road authority shall have the like power of making and enforcing rules and regulations and of granting licences with respect to all carriages using the tramways, and to all drivers, conductors, and other persons having charge of or using the same, and to the standings for the same: Provided that with

¹ Pursuant to s. 8 of the Acts Republication Act, 1967, as amended, references to amounts of money expressed in decimal currency have been substituted for references to amounts of money expressed in the old currency.

regard to any fees payable for or in respect of such licences the agreement between the road authority and the promoters may provide for the payment of a commuted sum by the promoters to the road authority in lieu of such fees, and in that case all such licence fees shall in accordance with such agreement be payable to the promoters: Provided that no licence fee charged in respect of any carriage shall exceed two dollars ten cents¹ per annum, or in respect of any driver, conductor, or any such person aforesaid fifty cents¹ per annum, and such licence fee shall be divided equally between the road authorities.

ACCOUNTS, DEPOSITS, DIVIDENDS, BORROWING, ETC.

44^a. The promoters, if a corporation, prior to engaging any treasurer, collector, receiver, or other officer to be entrusted with the collection or custody of any moneys in connection with or for the use of the tramways by the special Act authorized, shall receive from such officer a bond with sufficient sureties conditioned in such an amount as the executive body of the corporation may deem sufficient, as security for the faithful execution of his office.

Security from treasurer, collector, etc.

45^a. The promoters, if a corporation, shall cause to be kept full and accurate accounts of all moneys received and expended under the provisions of the special Act, and shall cause such accounts to be balanced once at least in every year.

Accounts to be kept.

46^a. The promoters, if a corporation, shall, once at least in every year, cause such accounts to be submitted to an auditor or auditors, to be appointed by the members of the corporation; and such auditor or auditors shall, for the purpose of assisting him or them in the preparation of a full, true, and impartial report, be supplied by the directors of the corporation with all books, accounts, memoranda, and vouchers relating in anywise to the affairs of the promoters.

Accounts to be audited.

47^a. The remuneration of such auditor or auditors shall be fixed by the promoters at the time of his or their appointment, and shall be payable out of the funds of the promoters.

Remuneration of auditors.

48^a. The promoters, if a corporation, shall also, once in every year at the least, cause to be prepared an account in abstract of the total amount realised by the said fees, tolls, charges, and other payments hereby authorized to be made, and also of all outgoings, debts, expenses, and liabilities incurred by or on behalf of the promoters for the past year, under the several and distinct heads of receipts and expenditure, together with a statement of the balance of the account, duly audited, which statement shall be signed and certified by such auditor or auditors and by the chairman of the directors of the corporation; and the promoters shall cause to be transmitted one copy of such account, free of charge, to the Auditor-General, on or before the thirty-first day of January in every year.

Abstract of account to be annually transmitted to Auditor-General.
S. 48 amended by 2246, 1935, s. 4 (2nd Sched.).

49^a. In the event of the promoters not forwarding such account at the time hereinbefore provided, they shall forfeit and pay a sum or penalty of one dollar¹ for every day during which the said account is withheld from the Auditor-General.

Penalty.
S. 49 amended by 2246, 1935, s. 4 (2nd Sched.).

¹ Pursuant to s. 8 of the Acts Republication Act, 1967, as amended, references to amounts of money expressed in decimal currency have been substituted for references to amounts of money expressed in the old currency.

² See Act No. 28 of 1958, s. 10.

PART II

Auditor-General to file abstract.
S. 50 amended by 2246, 1935, s. 4 (2nd Sched.).

50¹. The said account shall, after due inspection by the Auditor-General, be filed by him in his office, and shall be open to the inspection of the public at all reasonable hours on payment of the sum of ten cents².

Deposit to be impounded as security for completion of line.
S. 51 amended by 2246, 1935, s. 4 (2nd Sched.).

51¹. Whenever a sum, being one-twentieth or other percentage of the estimate in respect of the tramway authorized by the special Act, has been deposited in the Treasury of the State, the said sum so deposited as aforesaid in respect of the application for the special Act shall not be paid or transferred to or on the application of the person or persons depositing the same, or their successors or representatives, unless the promoters shall, previously to the expiration of the period limited by this Act for completion of the tramway by the special Act authorized to be made, either open the said tramway for the public conveyance of passengers or prove to the satisfaction of the Minister of Works³ that the said promoters, if a corporation, have paid up one-half of the amount of the capital by the special Act authorized to be raised by means of shares, and have expended for the purposes of the special Act a sum equal in amount to such one-half of the said capital; if the tramway shall be so completed within the time so limited as aforesaid, or if the promoters being a corporation shall have paid up one-half of the amount of capital by the special Act authorized to be raised by means of shares, and shall have expended a sum equal in amount to one-half of the said capital, the money so deposited shall be returned to the person or persons depositing the same, or their successors or representatives; but if the said period shall expire before the promoters shall either have opened the said tramway for the public conveyance of passengers, or have given such proof as aforesaid to the satisfaction of the Minister of Works³, the said sum of money deposited as aforesaid shall be applied in the manner hereinafter specified, and the certificate of the said Minister⁴ shall be sufficient evidence of the fact as certified.

Application of deposit in compensation to parties injured.
S. 52 amended by 2246, 1935, s. 4 (2nd Sched.).

52¹. The said sum of money deposited as aforesaid shall be applicable, and, after due notice in the *Government Gazette*, shall be applied towards compensating any person whose property may have been interfered with or otherwise rendered less valuable by the commencement, construction, or abandonment of the said tramways, or any portion thereof, or who may have been subjected to injury or loss in consequence of the compulsory powers of taking property conferred upon the promoters by the special Act, and for which injury or loss no compensation, or an inadequate compensation, shall have been paid, and also in compensating all road authorities for the expenses incurred by them in taking up any tramway or materials connected therewith placed by the promoters in or on any road vested in or maintainable by such road authorities respectively, and in making good all damage caused to such roads by the construction or abandonment of such tramway, and shall be distributed as such compensation as aforesaid in such manner and in such proportions as to the Supreme Court or any Judge thereof may seem fit, and if no such compensation shall be payable, or if a portion of the said sum of money shall have been found sufficient to satisfy all just claims in respect of such compensation, then the said sum of money, or such portion thereof as may not be required as aforesaid, shall be forfeited to Her Majesty, and accordingly be paid or transferred to and form part of the revenue of the State in such manner as such Court or Judge thinks fit to order on application of the Attorney-General, or, in the discretion of the Court, if the promoters being a

¹ See Act No. 28 of 1958, s. 10.

² Pursuant to s. 8 of the Acts Republication Act, 1967, as amended, references to amounts of money expressed in decimal currency have been substituted for references to amounts of money expressed in the old currency.

³ The expression "Commissioner of Public Works" altered to "Minister of Works" pursuant to s. 7 (1) (c) of the Acts Republication Act, 1967, as amended. See also Act No. 28 of 1944, s. 2.

⁴ The expression "Commissioner" altered to "Minister" pursuant to s. 7 (1) (c) of the Acts Republication Act, 1967, as amended, see Act No. 28 of 1944, s. 2.

corporation are insolvent and an order has been made to wind up such corporation, or a receiver has been appointed, shall wholly or in part be paid or transferred to such receiver or to the liquidator or liquidators, or to the corporation, or be otherwise applied as part of the assets of the corporation for the benefit of the creditors thereof.

53¹. All moneys due to the promoters, if a corporation, by any members of such corporation, in respect of any subscription or share made or issued towards carrying such work into execution shall be recoverable by the promoters by action against the member from whom such moneys are due.

Compelling payment of subscriptions, &c.

54¹. The promoters, if a corporation, shall not have power to raise by loan or mortgage any sum or sums of money exceeding one-third part of the capital of the promoters, nor shall it be lawful for the corporation, or any person or persons acting on their behalf, to raise any sum or sums of money whatsoever, whether on loan or mortgage, unless and until an amount equal to one-half of the capital of the corporation shall have been fully paid up by the members thereof.

Restrictions as to mortgage.

55¹. Wherever the promoters are a corporation, having a capital divided into shares, and being possessed of a tramway already opened for public traffic, and the special Act authorizes a new line to be constructed, or the time for completing, or time already authorized to be extended, the promoters shall pay no dividend on their ordinary or unguaranteed capital beyond any period allowed for that purpose in the special Act until the completion of the new line, or the line already authorized, as the case may be.

Suspension of power to pay dividend till completion of tramways in certain cases.

56¹. Where the promoters are a corporation having a capital divided into shares, and have obtained an Act of Parliament authorizing them to construct a tramway, it shall not be lawful for them, except for the purpose of constructing such line, to bind themselves to pay interest on any shares which they may issue for the purpose of creating additional capital, or to guarantee any rent or dividend to any other railway or tramway company until the promoters shall have completed and opened for traffic the line which they are so authorized to construct.

Restriction of promoters from binding themselves to pay interest on additional capital and rent or dividends to another company.

57¹. Where the promoters are a corporation, having authority to raise capital for the purposes of any existing Tramway Act, it shall not be lawful for them to pay out of such capital any deposits required by any Standing Order of either House of Parliament to be made for the purpose of any application to Parliament for a Bill for the construction of another tramway.

Deposits not to be paid out of capital.

58¹. Where the promoters are a corporation, having a capital divided into shares, and have been authorized by Act of Parliament to raise capital either by means of calls on such shares or by any power of borrowing, the promoters shall not pay out of such capital any interest or dividend in respect of calls.

No interest or dividend to be paid out of capital.

OFFENCES

59. If any person wilfully obstructs any person acting under the authority of any promoters in the lawful exercise of their powers in setting out or making, forming, laying down, repairing, or renewing a tramway, or defaces or destroys any mark made for the purpose of setting out the line of the tramway, or damages or destroys any property of any promoters or licensees, he shall for every such offence be liable to a penalty not exceeding ten dollars².

Penalty for obstruction of promoters in laying out tramway.

¹ See Act No. 28 of 1936, s. 10.

² Pursuant to s. 8 of the Acts Republication Act, 1967, as amended, references to amounts of money expressed in decimal currency have been substituted for references to amounts of money expressed in the old currency.

PART II

Penalties for wilful injury or destruction to tramways, &c.

60. If any person without lawful excuse (the proof whereof shall lie on him) wilfully does any of the following things, namely—

Interferes with, removes, or alters any part of a tramway or of the works connected therewith:

Places or throws any stones, dirt, wood, refuse, or other material on any part of a tramway:

Does, or causes to be done, anything in such manner as to obstruct any carriage using a tramway, or to endanger the lives of persons therein or thereon; or

Knowingly aids or assists in the doing of any such thing—

he shall, for every such offence, be liable (in addition to any proceedings by way of indictment or otherwise to which he may be subject) to a penalty not exceeding ten dollars¹.

Penalty on passengers practising frauds on the promoters.

61. If any person travelling or having travelled in any carriage on any tramway, avoids, or attempts to avoid, payment of his fare, or if any person having paid his fare for a certain distance knowingly and wilfully proceeds in any such carriage beyond such distance and does not pay the additional fare for the additional distance, or attempts to avoid payment thereof, or if any person knowingly and wilfully refuses or neglects on arriving at the point to which he has paid his fare to quit such carriage, every such person shall for every such offence be liable to a penalty not exceeding four dollars¹.

Power to seize and detain certain offenders.

62. It shall be lawful for any officer or servant of the promoters of any tramway, and all persons called by him to his assistance, to seize and detain any person discovered either in or after committing or attempting to commit any such offence as in the next preceding section is mentioned, and whose name or residence is unknown to such officer or servant, until such person can be conveniently taken before a justice, or until he be otherwise discharged by due course of law.

PART III

PART III

MISCELLANEOUS

Penalty for bringing dangerous goods on the tramway.

63. No person shall be entitled to carry, or to require to be carried, on any tramway any goods which may be of a dangerous nature; and if any person take or send by any tramway any such goods without distinctly marking their nature on the outside of the package containing the same, or otherwise giving notice in writing to the bookkeeper or other servant with whom the same are left at the time of such sending, he shall be liable to a penalty not exceeding two hundred dollars¹ for every such offence; and it shall be lawful for such promoters or lessees to refuse to take any parcel that they may suspect to contain goods of a dangerous nature, or require the same to be opened to ascertain the fact.

Penalty for persons using tramways with carriages with flange wheels, etc. except as provided herein.

64. If any person (except under a lease from or by agreement with the promoters, or under licence as by this Act provided), uses a tramway, or any part thereof, with carriages having flange wheels, or other wheels suitable only to run on the rail of such tramway, such person shall for every such offence be liable to a penalty not exceeding forty dollars¹.

¹ Pursuant to s. 8 of the Acts Republication Act, 1967, as amended, references to amounts of money expressed in decimal currency have been substituted for references to amounts of money expressed in the old currency.

65¹. Subject to the provisions of the special Act, and to the regulations made by any by-laws under the authority thereof, all persons shall have a right to use any tramway for travelling, and for the carriage of goods thereon.

Right of the public to use tramways.

66. The promoters shall be answerable for all accidents, damages, and injuries happening through their act or default, or through the act or default of any person in their employment, by reason or in consequence of any of their works or carriages, and shall save harmless all authorities, companies, or bodies, collectively and individually, and their officers and servants, from all damages and costs in respect of such accidents, damages, and injuries.

Promoters to be responsible for all damages.

67. All tolls, penalties, and charges under this Act, or under any by-law made in pursuance of this Act, may be recovered and enforced in a summary way.

Recovery of tolls, penalties, etc.
S. 67 amended by 2246, 1935, s. 4 (2nd Sched.).

68. Notwithstanding anything in this Act contained, the promoters of any tramway shall not acquire, or be deemed to acquire, any right other than that of user of any road along or across which they lay any tramway.

Right of user only.

69. Nothing in this Act shall limit or interfere with the rights of any owner, lessee, or occupier of any mines or minerals lying under or adjacent to any road along or across which any tramway shall be laid to work such mines and minerals; nor shall any such owner, lessee, or occupier be liable to make good, or pay compensation for, any damage which may be occasioned to such tramway by the working in the usual and ordinary course of such mines and minerals.

Reservation of rights of owners, etc., of mines.

70. Nothing in this Act shall take away or affect any power which any road authority, or other authority, or the owners, undertakers, or lessees, of any railway or tramway may have by law to widen, alter, divert, or improve, any road, railway, or tramway.

Reserving power of road authorities to widen, etc., roads.

71. Nothing in this Act shall limit the powers of the road authority or police in any district to regulate the passage of any traffic along or across any road along or across which any tramways are laid down, and such authority or police may exercise their powers as well on as off the tramway, and with respect as well to the traffic of the promoters as to the traffic of other persons.

Power for road or police authorities to regulate traffic on roads.

72. Nothing in this Act, or in any by-law made under this Act, shall take away or abridge the right of the public to pass along or across every or any part of any road along or across which any tramway is laid, whether on or off the tramway, with carriages having wheels not being flange wheels, or not being wheels suitable only to run on the rail of the tramway.

Reservation of right of public to use roads.

73. Every inquiry under this Act which by this Act the Governor is empowered to make or direct, shall be made in accordance with the following provisions—

Regulating inquiries before referee appointed by the Governor.

- (1) The inquiry shall be held in public before some officer to be appointed in that behalf by the Governor, hereinafter called the referee, and whose appointment shall be by writing, which shall specify all the matters referred to him:
- (2) Ten days' notice at least shall be given by the referee to the parties upon whose representation the Governor shall have directed the

¹ See Act No. 28 of 1958, s. 10.

inquiry, of the time and place at which the inquiry is to be commenced:

- (3) The inquiry shall be commenced at the time and place so appointed, and the referee may adjourn the inquiry from time to time, as may be necessary, to such time and place as he may think fit:
- (4) The referee shall by summons, on the application of any party interested in the inquiry, require the attendance before himself, at a place and time to be mentioned in the summons, of any person to be examined as a witness before him, and every person summoned shall attend the referee and answer all questions touching the matter to be inquired into; and any person who wilfully disobeys any such summons, or refuses to answer any question put to him by such referee for the purposes of the said inquiry, shall be liable to a penalty not exceeding ten dollars¹: Provided always that no person shall be required to attend in obedience to any such summons unless the reasonable charges of his attendance shall have been paid or tendered to him, and no person shall be required in any case, in obedience to any such summons, to travel more than ten miles from his place of abode:
- (5) The referee may and shall administer an oath, or an affirmation where an affirmation in lieu of an oath would be admitted in a court of justice, to any person tendered or summoned as a witness on the inquiry:
- (6) Any person who, upon oath or affirmation, wilfully gives false evidence before the referee shall be deemed guilty of perjury:
- (7) The referee shall make his report to the Governor in writing, and shall deliver copies of the report, upon request, to all or any of the parties to the inquiry:
- (8) The referee shall have power to direct by and to whom the costs, or any part of the costs, of the inquiry shall be paid, and he shall also fix the amount thereof:
- (9) The referee shall for all purposes be deemed to be an arbitrator, and his appointment shall be deemed to be a submission to arbitration between the parties to the inquiry in respect of the matters thereby referred to him, and his report shall be deemed to be, and shall have the effect of, and be dealt with as, an award made upon such submission, and every such submission on the application of any party interested in the inquiry may be made a rule of the Supreme Court.

Service of notices.

74. Every notice by this Act required to be given by or to the promoters shall be in writing or print, or partly in writing or partly in print, and shall be signed by the promoters, street authority, or persons giving the same, or by their secretary or clerk; and such notice shall be deemed to have been duly given if left at the principal office of the promoters, street authority, or persons to whom the same shall be intended to be given, or if posted in a registered letter, prepaid, addressed to such promoters, street authority, or persons, or their secretary or clerk, at their principal office: Provided that if such notice shall be posted as aforesaid, the same shall be deemed to have been given at the last moment of the day on which the same ought to be delivered at such principal office in the ordinary course of post.

¹ Pursuant to s. 8 of the Acts Republication Act, 1967, as amended, references to amounts of money expressed in decimal currency have been substituted for references to amounts of money expressed in the old currency.

75. Every secretary, accountant, officer, clerk, or servant of the promoters, notwithstanding he may have a joint interest in the property of the promoters, shall be liable to be proceeded against criminally for any offence committed by him in respect of the property of the promoters in like manner and in all respects as if he had no such interest.

Promoters' officers liable to be proceeded against criminally.

76. Every proceeding under this or the special Act for any omission, default, offence, or act to which any penalty is attached, where no other mode of proceeding is by this Act provided, may be had and taken and be heard and determined in a summary way.

Summary proceedings. S. 76 amended by 2246, 1935, s. 4 (2nd Sched.).

77. In every case of the adjudication of a fine or pecuniary penalty under this Act, and of the non-payment thereof, any justice of the peace may commit the offender or person making default in payment to any gaol in the State for any time not exceeding three calendar months; the imprisonment to cease on payment of the sum due and the costs of such proceedings as may have been taken for the recovery thereof; but this section shall not affect any remedy under the Justices Act, 1921¹.

Justice may commit to gaol in default of payment. S. 77 amended by 2246, 1935, s. 4 (2nd Sched.).

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S. 78 repeated by 2246, 1935, s. 4 (2nd Sched.).

79. The Governor may, as to all matters and things under this Act, from time to time, make and, when made, may rescind, annul, or add to, rules with respect to any other matter or thing in respect of which it may be expedient to make rules for the purpose of carrying this Act into execution; and any rules made in pursuance of this section, and published in the *Government Gazette*, shall be deemed to be within the powers conferred by this Act, and shall be of the same force as if enacted in this Act, and shall be judicially noticed, and a copy of the *Government Gazette* wherein such rules shall appear shall be evidence thereof.

Rules for carrying Act into effect.

¹ Now Justices Act, 1921-1975.