

Nottinghamshire and Derbyshire Traction Act, 1952

15 & 16 GEO. 6 & 1 ELIZ. 2 Ch. xlv

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CHAPTER xlv

An Act to authorise the Nottinghamshire and Derbyshire Traction Company to discontinue their trolley vehicle services to redefine the objects of the Company to amend or repeal certain enactments relating to the undertaking of the Company to confer further powers upon the Company and for other purposes.

[1st August 1952.]

WHEREAS the Nottinghamshire and Derbyshire Traction Company (in this Act referred to as "the Company") were incorporated by the Nottinghamshire and Derbyshire Tramways Act 1903 by their then name of the Nottinghamshire and Derbyshire Tramways Company and under the powers contained in the Nottinghamshire and Derbyshire Tramways Acts 1903 to 1922 constructed and acquired certain tramways in the counties of Nottingham and Derby:

And whereas by the Nottinghamshire and Derbyshire Traction Act 1928 the Company were authorised to abandon their said tramways and under the powers contained in the Nottinghamshire and Derbyshire Traction Acts and Order 1903 to 1947 (in this Act referred to as "the existing enactments") the Company run services of trolley vehicles on the routes thereby authorised and also exercise running powers over part of the trolley vehicle system of the lord mayor aldermen and citizens of the city of Nottingham:

And whereas the Company are also authorised by the existing enactments to provide and do provide services of public service vehicles subject to the provisions of Part IV of the Road Traffic Act 1930 as amended by subsequent Acts.

And whereas the needs for public road transport on the said routes would be better met by services of public service vehicles and the Company are willing and able to provide or arrange for

the provision of such services and it is expedient that they should be authorised to discontinue the services of trolley vehicles provided by them as aforesaid :

And whereas it is expedient that certain provisions of the existing enactments which were originally enacted with reference to the tramway or trolley vehicle systems of the Company should cease to apply or have effect with respect to public service vehicles operated by the Company and that other provisions of the existing enactments should be amended or repealed as in this Act provided :

And whereas it is expedient that the other powers in this Act contained should be conferred upon the Company and that the other provisions contained in this Act should be enacted :

And whereas the purposes of this Act cannot be effected without the authority of Parliament :

May it therefore please Your Majesty that it may be enacted and be it enacted by the Queen'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 :—

Short and
collective titles.

1.—(1) This Act may be cited as the Nottinghamshire and Derbyshire Traction Act 1952.

(2) The Nottinghamshire and Derbyshire Traction Acts and Order 1903 to 1947 and this Act may be cited together as the Nottinghamshire and Derbyshire Traction Acts and Order 1903 to 1952.

Interpretation.

2.—(1) In this Act unless there be something in the subject or context repugnant to such construction—

“ the Act of 1928 ” means the Nottinghamshire and Derbyshire Traction Act 1928 ;

“ the Act of 1930 ” means the Road Traffic Act 1930 ;

“ the Act of 1936 ” means the Nottinghamshire and Derbyshire Traction Act 1936 ;

“ the Act of 1948 ” means the Companies Act 1948 ;

“ apparatus ” has the same meaning as in the Act of 1928 ;

“ the Company ” means the Nottinghamshire and Derbyshire Traction Company ;

“ contract carriage ” “ public service vehicle ” “ road service licence ” and “ trolley vehicle ” have the same respective meanings as in the Act of 1930 ;

“ the corporation ” means the lord mayor aldermen and citizens of the city of Nottingham and county of the same city ;

“ the corporation’s trolley vehicle route ” means that part of the trolley vehicle system of the corporation over which running powers are exercised by the Company in pursuance of section 10 (As to tramways of Nottingham Corporation leased to Company) of the Act of 1928 ;

“ enactment ” includes any public general local or private Act and any Order having the force of an Act ;

“ the existing enactments ” means the Nottinghamshire and Derbyshire Traction Acts and Order 1903 to 1947 ;

“ local authority ” and “ statutory undertakers ” have the same respective meanings as in the Local Government Act 1933 ;

“ the Minister ” means the Minister of Transport ;

“ purchasing authority ” means any local authority or statutory undertakers who have entered into an agreement with the Company under subsection (4) of section 4 (Disposal of apparatus) of this Act for the purchase of redundant apparatus in situ ;

“ redundant apparatus ” means in relation to any trolley vehicle route upon which the service of trolley vehicles has been discontinued under the provisions of section 3 (Discontinuance of trolley vehicle services) of this Act any apparatus provided in connection with that trolley vehicle route (not being apparatus required in connection with any other trolley vehicle route upon which a service of trolley vehicles is still in operation) ;

“ road ” means a highway and includes any part of a highway ;

“ road authority ” means with reference to any road or part of a road in under or over which any apparatus provided by the Company is situated the authority company or person exercising the functions of maintenance and repair of such road or part of a road ;

“ the trolley vehicle routes ” means the routes upon which the Company are by the existing enactments authorised to work and run trolley vehicles and includes—

(a) the corporation’s trolley vehicle route ; and

(b) any turning point provided in connection with any of the said routes ;

and “ trolley vehicle route ” means any of the trolley vehicle routes or any part thereof.

(2) Any reference in this Act to any enactment shall be construed as a reference to that enactment as applied extended amended or varied by or by virtue of any subsequent enactment including this Act.

Discontinuance
of trolley
vehicle
services.

3. Notwithstanding anything in section 20 (Company to provide reasonable service) of the Act of 1928 the Company may discontinue the service of trolley vehicles provided by them on any trolley vehicle route and upon the discontinuance of any such service the provisions of the said section 20 section 39 (Service for labouring classes) and of section 42 (Restricting running of omnibuses in competition) of the said Act shall cease to have effect in so far as they relate to the trolley vehicle route upon which the service of trolley vehicles has been so discontinued:

Provided that—

(i) the Company shall not discontinue the service of trolley vehicles on any trolley vehicle route (other than the corporation's trolley vehicle route) unless and until they shall have satisfied the appropriate licensing authority for public service vehicles that on and after the date on which the said service is discontinued such passenger road transport services as are reasonably required in the public interest will be provided in substitution for the said service by—

(a) services of public service vehicles run by the Company; or

(b) services of public service vehicles whether run by a company body or person with whom the Company have entered into an agreement under section 9 (Working agreements) of this Act or by such company body or person and the Company jointly;

or by both such classes of services;

(ii) not less than seven days before discontinuing the service of trolley vehicles on any trolley vehicle route in the administrative counties of Nottingham and Derby or either of them the Company shall give notice in writing to the road authority specifying the route in respect of which it is intended to discontinue the service and the intended date of discontinuance and giving particulars of any apparatus provided in connection with that trolley vehicle route which will be required in connection with the operation of any other trolley vehicle route.

Disposal of
apparatus.

4.—(1) Subject to the provisions of this section the Company—

(a) may at any time after the service of trolley vehicles upon any trolley vehicle route has been discontinued under the provisions of the last foregoing section of this Act take up and remove any redundant apparatus; and

(b) shall within a period not exceeding two years from the date upon which any such service has been so discontinued or such longer period not exceeding seven years from the said date as the Minister may on an application by the Company allow take up and remove the redundant apparatus (other than any cable or junction box laid or placed underground) ;

and any redundant apparatus taken up and removed by the Company under this subsection may be sold or otherwise disposed of as the Company think fit.

(2) Any redundant apparatus being a cable or a junction box which at the expiration of the period allowed under paragraph (b) of the last foregoing subsection for its taking up and removal has not been taken up and removed shall become the property of the road authority who may leave in situ or take up remove and sell or otherwise dispose of the same or any part thereof as they think fit.

(3) (a) The Company shall upon removing any redundant apparatus which is situate in or under any road reinstate and make good the surface of the road with all reasonable dispatch and to the reasonable satisfaction of the road authority.

(b) So long as the road is open or broken up the Company shall cause the place where the road is open or broken up to be fenced and guarded and to be lighted in such manner as to give proper warning to the public during the hours of darkness as defined in section 1 of the Road Transport Lighting Act 1927.

(c) The Company shall give to the road authority not less than twenty-nine days' notice in writing of their intention to remove any such redundant apparatus as aforesaid specifying the apparatus so to be removed and after the expiration of such notice shall proceed to remove such apparatus with reasonable dispatch :

Provided that if the road authority shall within twenty-one days of the receipt of the said notice give notice in writing that they elect to execute the whole or any part of the reinstatement and making good of the surface of the road—

(i) the Company's obligations under paragraph (a) of this subsection to reinstate and make good the surface of the road shall cease to extend to so much of the reinstatement and making good as the road authority elect by such notice to execute and in lieu thereof the Company shall pay to the road authority an amount equal to the cost reasonably incurred by the road authority in executing the works carried out by them in pursuance of their notice including all reasonable expense of superintendence ;

- (ii) the Company's obligations under paragraph (b) of this subsection to fence guard and light the road shall cease as from the date on which the road authority commence to execute the works specified in their notice but if the said works are not commenced by the road authority with reasonable dispatch the road authority shall pay to the Company an amount equal to the cost reasonably incurred by the Company after the date on which the works should have been commenced in fencing guarding and lighting the road to which the notice relates.

(4) Notwithstanding anything in subsection (1) of this section the Company and any local authority or statutory undertakers within whose district or limits of supply (as the case may be) any redundant apparatus is situated may enter into and carry into effect agreements for the sale by the Company to and the purchase by the local authority or the statutory undertakers of the redundant apparatus in situ on such terms and conditions as may be agreed between the parties to the agreement:

Provided that—

- (i) no statutory undertakers shall be entitled to purchase any redundant apparatus under this subsection except for use by those undertakers for the purposes of their undertaking ;
- (ii) the Company shall serve notice on the road authority and in any case where the road is a county road and the county council are not the road authority on the county council of any agreement for the sale in situ of any redundant apparatus provided in connection with a trolley vehicle route and if the road authority within fifty-six days from the date on which the notice has been served upon them serve a counter-notice upon the purchasing authority and upon the Company objecting to the retention in under or over the road of any redundant apparatus to which the agreement relates a dispute shall be deemed to have arisen between the authority serving the counter-notice and the purchasing authority and the sale shall not become effective in respect of the apparatus which is the subject of such objection unless the objection is withdrawn or is overruled by the arbitrator appointed as hereinafter provided ;
- (iii) in any case where notice is served on the county council under the last foregoing paragraph of this proviso the road authority shall notify the county council if they do not intend to serve a counter-notice in accordance with the said paragraph and in any such case the

county council may after consultation with the road authority serve the counter-notice and in that event the provisions of the said paragraph shall have effect as if the county council were the road authority.

(5) (a) Any redundant apparatus which the Company have agreed to sell in situ and in respect of which either no counter-notice has been served under paragraph (ii) of the proviso to the last foregoing subsection or if such a counter-notice has been served the objection of the authority serving the counter-notice has been withdrawn or has been overruled by the said arbitrator shall as from the date on which the sale of that apparatus becomes effective be deemed to have been placed or erected by the purchasing authority in the exercise of their functions or of their statutory powers (as the case may be).

(b) Any redundant apparatus which the Company have agreed to sell under the last foregoing subsection but the sale of which does not become effective by reason of an objection to its retention being upheld or otherwise becoming effective shall as from the date on which the objection was upheld or otherwise became effective become subject to the provisions of paragraph (b) of subsection (1) of this section and for the purposes of the application of the said paragraph to that apparatus the said date shall be deemed to be the date on which the service of trolley vehicles upon the trolley vehicle route to which that apparatus related was discontinued.

(6) If a counter-notice is served under paragraph (ii) of the proviso to subsection (4) of this section no proceedings shall be taken in respect of the failure of the Company to take up and remove in accordance with paragraph (b) of subsection (1) of this section any redundant apparatus to which the counter-notice relates during the period between the date on which the counter-notice was so served and that on which the matter was disposed of whether as a result of the award of the arbitrator appointed as aforesaid or of the withdrawal of the objection of the authority serving the counter-notice or of the said objection becoming effective otherwise than by an award of the said arbitrator.

(7) Nothing in this section shall prejudice or affect the option granted to the Postmaster-General by paragraph (j) of subsection (1) of section 16 (Use of tramway posts by Postmaster-General) of the Nottinghamshire and Derbyshire Tramways Act 1911 as applied by section 26 (Application to trolley vehicles of certain provisions of existing Acts) of the Act of 1928 to retain and pay for any redundant apparatus subject to the terms and conditions laid down in the said paragraph.

(8) Any dispute or difference which may arise between the Company and a road authority under subsection (3) of this section or which is deemed to have arisen between a purchasing

authority and an authority serving a counter-notice under subsection (4) of this section shall be referred to and determined by an arbitrator to be appointed by agreement between the parties thereto or in default of agreement on the application of either party after notice in writing to the other by the President of the Institution of Civil Engineers and subject as aforesaid the provisions of the Arbitration Act 1950 shall apply to such arbitration:

Provided that in any case where a dispute or difference is deemed to have arisen between a purchasing authority and an authority serving a counter-notice under subsection (4) of this section and after the expiration of a period of three months from the date on which it is deemed to have arisen an arbitrator has not been appointed and no application has been made to the President of the Institution of Civil Engineers for the appointment of an arbitrator the Company may make an application in that behalf and for the purposes of this subsection any such application by the Company shall be deemed to be an application by one of the parties to the dispute or difference.

(9) (a) In this section "the county council" means in relation to a trolley vehicle route in the administrative county of Nottingham the council of that county and in relation to a trolley vehicle route in the administrative county of Derby the council of that county.

(b) For the purposes of this section the provision of street lighting by statutory undertakers carrying on an electricity undertaking shall notwithstanding any enactment relating to those undertakers be deemed to be a purpose for which they are authorised to carry on their undertaking.

As to removal
of apparatus
in certain
circumstances.

5.—(1) Notwithstanding anything in the last foregoing section of this Act—

(a) if a purchasing authority subsequently ceases to require the use of any redundant apparatus which under the provisions of their agreement with the Company has been retained in situ the purchasing authority shall upon being so required by the road authority with all reasonable dispatch take up and remove such apparatus and the provisions of subsection (3) of the said section shall apply to the taking up and removal of any such apparatus as if the purchasing authority were the Company;

(b) (i) if owing to the construction of a new road or to some other road improvement it is agreed between the owner and the road authority or in default of agreement settled by arbitration as hereinafter appearing that any lighting standard has become an obstruction the road

authority may require the owner to remove it and also to comply with their reasonable requirements as to re-erecting it elsewhere ;

(ii) on being required to remove a lighting standard in accordance with the provisions of the last foregoing paragraph the owner shall proceed with all reasonable dispatch and shall reinstate and make good to the reasonable satisfaction of the road authority the surface of the part of the road in or under which the lighting standard was situated and if it is re-erected on a road (whether the same or some other road) the surface of that road and the provisions of subsection (3) of the said section shall apply to the taking up and removal of any such apparatus as if the purchasing authority were the Company ;

(c) any dispute or difference which may arise between an owner and a road authority under this section shall be referred to and determined in accordance with subsection (8) of the last foregoing section of this Act as if it were a dispute or difference between the Company and a road authority.

(2) In this section—

“ lighting standard ” means a post pole or standard being redundant apparatus retained in situ for the purpose of providing street lighting by virtue of an effective agreement under subsection (4) of the said section and “ owner ” means in relation to any lighting standard the purchasing authority who have purchased that lighting standard under such an agreement as aforesaid.

6.—(1) As from the date on which the services of trolley vehicles on all the trolley vehicle routes are discontinued under the powers of section 3 (Discontinuance of trolley vehicle services) of this Act the Company shall be deemed to be incorporated for the purpose of running public service vehicles and providing services of such vehicles subject to the provisions of Part IV of the Act of 1930 and such of the provisions of the existing enactments as are inconsistent with the provisions of this section shall cease to have effect in relation to the Company and to their undertaking. Objects of Company.

(2) Subject to the provisions of this Act all property (both real and personal) held by the Company before the said date for the purposes of their trolley vehicle undertaking shall as from that date be deemed to be held for the purposes of their public service vehicle undertaking.

(3) For the purposes of their public service vehicle undertaking the Company may—

- (i) provide purchase and hire (but shall not manufacture) public service vehicles and other vehicles and provide purchase and hire any spare parts and accessories for such vehicles and any things which may be necessary for or incidental to the working thereof; and
- (ii) purchase by agreement take on lease and hold lands and buildings and erect on any lands belonging to or leased by them depots buildings and sheds and provide such plant appliances and conveniences as may be requisite or expedient for the establishment running equipment maintenance and repair of their public service vehicles and other vehicles and may use and adapt any of their existing trolley vehicle depots buildings and sheds for the purposes of their public service vehicle undertaking:

Provided that the Company shall not cause or permit any nuisance on any such lands.

Fares and charges.

7. The Company may demand and take for passengers carried by their public service vehicles (other than contract carriages) such fares as are not inconsistent with the conditions (if any) as to fares attached to any road service licences under which the services of the said public service vehicles are for the time being provided and for contract carriages such sums as they think fit.

Conveyance of luggage etc.

8. The Company may if they think fit carry on their public service vehicles passengers' luggage and parcels not exceeding fifty-six pounds in weight and dogs in the care of passengers and may demand and take for any such luggage parcels and dogs such charges as they may think fit.

Working agreements.

9.—(1) The Company and any other company body or person may enter into and carry into effect agreements for the working user management and maintenance of any service of public service vehicles which either of the contracting parties are authorised to provide.

(2) Any agreement under subsection (1) of this section may (without prejudice to the generality of the powers conferred by the said subsection) provide for all or any of the following matters:—

- (a) the working user management and maintenance of any vehicles lands depots buildings sheds and property provided in connection with any such services of public service vehicles as aforesaid by any of the contracting parties and the right to provide and use the same and to demand and take the fares and charges authorised in respect of such services;

- (b) the supply by any of the contracting parties under and during the continuance of the agreement of vehicles and conveniences in connection therewith necessary for the purposes of such agreement and the employment of officers and servants ;
- (c) the interchange accommodation conveyance and delivery of traffic arising on or coming from or destined for any service of public service vehicles of the contracting parties ;
- (d) the payment collection and apportionment of the fares and charges and other receipts and the division of the profits arising from any such service of public service vehicles.

10. The Company may provide cloakrooms and rooms or sheds for the storage of bicycles tricycles and other vehicles at any depot or building used by them in connection with their public services vehicles and the Company may make charges for the use of such cloakrooms rooms and sheds and for the deposit of articles and things and bicycles tricycles and other vehicles therein but shall not use for the purpose any part of the highway. Cloakrooms
etc.

11.—(1) The Company may at any time after they have discontinued the services of trolley vehicles on all the trolley vehicle routes sell and transfer all or any of the assets to which this section applies to any other company body or person on such terms and conditions as may be agreed between the Company and such other company body or person: Power of sale.

Provided that nothing in this section shall prejudice or affect the operation of section 4 (Disposal of apparatus) of this Act.

(2) The assets to which this section applies are any vehicles lands buildings and other property held or used in connection with the undertaking of the Company and include the goodwill appertaining to the Company's activities.

12.—(1) In the event of the sale under the provisions of the last foregoing section of this Act of the whole of the assets to which that section applies the Company shall continue to exist only for the purpose of winding up their affairs and for that purpose the Company shall be deemed to be a Company to which section 278 of the Act of 1948 applies and to have passed a special resolution for a members' voluntary winding up but sections 143 and 342 of that Act shall not apply. Winding up
of Company.

(2) It shall not be necessary for the directors to make any such declaration as is referred to in section 283 of the Act of 1948 but subject to the provisions of this section the Company shall be wound up under and in accordance with the provisions of the Act of 1948 applicable to a members' voluntary winding

up as if such declaration had been made but the provisions of subsections (3) (4) (5) and (6) of section 290 of the Act of 1948 shall not apply.

(3) The Company shall within one month after the sale of the assets to which the last foregoing section of this Act applies give notice by advertisement in the London Gazette of the provisions of this section as to the voluntary winding up of the Company and the publication of the said advertisement shall be deemed to be compliance with the requirements of section 279 of the Act of 1948.

(4) Within three months after the sale of the assets to which the last foregoing section applies the Company shall convene and hold a general meeting for the appointment of one or more liquidators for the purpose of winding up their affairs and distributing their assets pursuant to section 285 of the Act of 1948 and may fix the remuneration to be paid to the liquidator or liquidators but section 305 of the Act of 1948 shall not apply.

(5) The provisions relating to notice of general meetings contained in Table A of the First Schedule to the Act of 1948 shall notwithstanding anything in any enactment relating to the Company apply to any meetings of the Company convened by the liquidator or liquidators of the Company.

Amendment
and repeal of
existing
enactments.

13.—(1) As from the passing of this Act section 11 (Incorporation of provisions of the Act of 1928) of the Act of 1936 shall be read and have effect as if there were omitted therefrom the words “and with the substitution of ‘public service vehicles’ for ‘omnibuses’” and the expression “omnibus” where used in any of the existing enactments shall not be construed as meaning or including a public service vehicle.

(2) Section 32 (Power to local authorities to purchase undertaking) and subsection (9) of section 33 (Power to run omnibuses) of the Act of 1928 are hereby repealed.

Saving for
town and
country
planning.

14. This Act shall be deemed to be an enactment passed before and in force at the passing of the Town and Country Planning Act 1947 for the purposes of subsection (4) of section 13 and subsection (1) of section 118 of that Act.

Saving for
Road Traffic
Acts.

15. Nothing in this Act shall be in derogation of the provisions of Part IV of the Road Traffic Act 1930 or of Part IV of the Road Traffic Act 1934.

Costs of Act.

16. All costs charges and expenses of and incidental to the preparing for obtaining and passing of this Act or otherwise in relation thereto shall be paid by the Company.

Table of Statutes referred to in this Act

Short title	Session and chapter
Nottinghamshire and Derbyshire Tramways Act 1903	3 Edw. 7. c. ccii.
Nottinghamshire and Derbyshire Tramways Act 1911	1 & 2 Geo. 5. c. lxxxviii.
Road Transport Lighting Act 1927	17 & 18 Geo. 5. c. 37.
Nottinghamshire and Derbyshire Traction Act 1928	18 & 19 Geo. 5. c. xciii.
Road Traffic Act 1930	20 & 21 Geo. 5. c. 43.
Local Government Act 1933	23 & 24 Geo. 5. c. 51.
Road Traffic Act 1934	24 & 25 Geo. 5. c. 50.
Nottinghamshire and Derbyshire Traction Act 1936	26 Geo. 5. & 1 Edw. 8. c. xxviii.
Town and Country Planning Act 1947	10 & 11 Geo. 6. c. 51.
Companies Act 1948	11 & 12 Geo. 6. c. 38.
Arbitration Act 1950	14 Geo. 6. c. 27.

PRINTED BY HENRY GEORGE GORDON WELCH, C.B.E.

Controller of Her Majesty's Stationery Office and Queen's Printer of Acts of Parliament

Ch. xlv

*Nottinghamshire and Derbyshire
Traction Act, 1952*

15 & 16 GEO. 6
& 1 ELIZ. 2

LONDON : PUBLISHED BY HER MAJESTY'S STATIONERY OFFICE

Price 9d. net

PRINTED IN GREAT BRITAIN

(77582)