

**THE TRAMWAYS ACT, 1870 (33 & 34
VICT. CAP. 78,) WITH INTRODUCTION,
NOTES, THE BOARD OF TRADE
RULES, AND FORMS OF BYE-LAWS AND
PROVISIONAL ORDER; ALSO WITH A LIST
OF TRAMWAYS, AND INDEX**

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The Tramways Act, 1870 (33 & 34 Vict. Cap. 78,) with Introduction, Notes, the Board of Trade Rules, and Forms of Bye-Laws and Provisional Order; Also with a List of Tramways, and Index by Geo. I. Phillips

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GEO. I. PHILLIPS

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BY
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P R E F A C E.

THE object of the Author is to supply, in a concise and convenient form, a practical handbook on the law relating to Tramways. Having experienced the difficulties and disadvantages attending the want of such a manual, he trusts that this small volume may be found useful to those interested and connected with the Construction and Management of Tramway undertakings.

G. I. P.

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INTRODUCTION.

IT is proposed in this Introduction to epitomise very briefly the principal provisions of the Act, and to add a few remarks as to the rating of Tramway undertakings.

The construction, working, and management of Tramways in this country are regulated principally by one general Act of Parliament, viz. the Tramways Act of 1870. This Act is divided into three parts. Part I. relates to the mode of proceeding to obtain Provisional Orders, and commences at Section 4, which authorises the local authority of any district, or any person, corporation, or company (with the consent of the road authority for the district), to obtain a Provisional Order authorising the construction of a Tramway, but such consent may in certain cases be dispensed with by the Board of Trade (Section 5). The proceedings to be taken to apply for such Provisional Order are defined, which application, and any objection thereto, the Board of Trade shall consider and make a Provisional Order (Section 8) or not as it considers necessary, such order, if made, to be in the form prescribed. Section 9 makes regulations as to the construction of the Tramways, and the space to intervene between the line of tramway and the footpath is to be 9 ft. 6 in., but where there is no opposition less than that distance may be allowed (see *Edinburgh Street Tramways Company v. Black*. See p. 7, *post*). Section 10 provides that the nature of traffic on a tramway and the tolls shall be specified in the Order, and the costs of the Order are to be paid by the promoters. A deposit of four pounds per cent. of the estimated cost

of the construction of the Tramway is to be made before the lodging of the Provisional Order, which Order is to be duly published and finally confirmed by Parliament. Section 15 provides for the incorporation in the Provisional Order of the provisions of the Lands Clauses Act. The Board of Trade has power to revoke, amend, extend, or vary any Provisional Order on the application of the promoters (s. 16), and Section 17 authorises joint undertakings.

The powers given by the Provisional Order are to be in force for the time prescribed; and if the work is not completed within the specified time the powers shall cease unless further time for completion be allowed by the Board of Trade (s. 18).

When the Tramway has been completed by a local authority they have, with the consent of the Board of Trade, power to lease the right of user of the Tramway, or may leave such Tramway open to be used by the public; and have power of demanding and taking in respect of such user tolls and charges authorised, but the authority itself is prohibited from running carriages upon such Tramway, and from demanding tolls and charges in respect of the user of such carriages. A notice of the intention to grant a lease must be published as prescribed, and any such lease must not be for a longer term than twenty-one years, but at the end of any demise a further term may be granted by the local authority (s. 19).

The expenses of the local authority as promoters of a Tramway incurred in obtaining and carrying into effect the Provisional Order are to be defrayed by a local rate, and powers of borrowing for this purpose are given and defined (s. 20). Section 21 gives the Metropolitan Board of Works power to create stock under the Metropolitan Board of Works (Loans) Act, 1869, for a like purpose, but

that authority was abolished by the Local Government Act, 1888 (51 and 52 Victoria, Chapter 41), Section 40, sub-Section 8; and by sub-Section 9 of the same Section the powers of the defunct authority were transferred to the London County Council, and therefore that authority now has this power.

Instead of a Provisional Order, as provided by Part I. of the Act, a Special Act may be obtained authorizing the construction of a Tramway.

The second Part relates to the construction of Tramways, and this Part and Part III. apply to every Tramway authorised by any Provisional Order or Special Act of Parliament, and must be incorporated in every such Provisional Order or Special Act (s. 22).

Section 23 provides that the term "Special Act" shall include Provisional Orders.

Tramways must be constructed on a gauge of four feet eight and a half inches, unless otherwise ordered by the Special Act, and the custom is to have a much narrower gauge; the uppermost surface of the rail must be on a level with the surface of the road, and must be inspected and certified fit for traffic on behalf of the Board of Trade before opened for public use (s. 25).

The promoters have power to break up any street or road for the purpose of making, forming, laying down, maintaining and renewing any Tramway, as provided by Part I. of the Act of 1870, but must not at any one time open or break up roads for more than one hundred yards at one spot, and a space of a quarter of a mile must intervene between any two such openings, the work to be done under the superintendence, and to the reasonable satisfaction, of the Local Road Authority and Bridge authorities where necessary, and of the owners of other Tramways whose line it is proposed to cross, unless after seven