

GOVERNMENT RAILWAYS (AMENDMENT) ACT.

Act No. 39, 1930.

An Act to confer certain further powers on the Railway Commissioners for New South Wales; to amend the Government Railways Acts, 1912-1928, in certain respects; and for purposes connected therewith. [Assented to, 25th June, 1930.]

George V.
No. 39, 1930.

BE it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

1. (1) This Act may be cited as the "Government Railways (Amendment) Act, 1930," and shall be read with the Government Railways Acts, 1912-1928, as amended by subsequent Acts.

Short title.

(2) The Government Railways Acts, 1912-1928, as so amended, is in this Act referred to as the Principal Act.

(3) The Principal Act, as amended by this Act, may be cited as the Government Railways Acts, 1912-1930.

2. The Principal Act is amended—

(a) by omitting from subsection one of section twenty-four the words "upon the railways";

(b)

Amendment of
Act No. 30,
1912.

Sec. 24 (1).
(Commissioners
may demand
tolls.)

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Sec. 16 (a) & (b).

(Powers of Commissioners respecting depots and contracts for loading or unloading goods.)

(b) (i) by omitting paragraphs (a) and (b) of section sixteen ;

(ii) by inserting at the end of the same section the following new paragraphs and subsection : —

(d) appoint places at any distance from the railway as depots at which to receive or deliver, or cause to be received or delivered, livestock, goods, parcels, and passengers' luggage, or any of them, to be forwarded to or received from the railways ;

(e) collect or cause to be collected from any place livestock, goods, parcels, and passengers' luggage, or any of them, for carriage by railway ;

(f) deliver, or cause to be delivered, at any place livestock, goods, parcels, and passengers' luggage, or any of them which have been carried by railway ;

(g) carry, or cause to be carried, wholly or partly by road livestock, goods, parcels, and passengers' luggage, or any of them, collected or received for carriage and whether or not tendered and accepted for carriage by railway, and deliver the same or cause them to be delivered at any place on the railways or outside the limits thereof ;

(h) act as the agent of the consignor for the collection of money from the consignee on the delivery of any goods, parcels, and livestock, or any of them, collected or received for carriage, and give a valid discharge for any money so collected ;

(i) construct, hire, purchase, or otherwise acquire motor or other road vehicles, and use or maintain the same, or cause them to be used or maintained, for
the

the carriage by road to or from a railway of livestock, goods, parcels, and passengers' luggage, or any of them ;

- (j) do, execute, enter into, or perform all or any such acts, contracts, or things as they think necessary or proper for any one or more of the purposes of this section ;
- (k) take or acquire, with the approval of the Governor and under and subject to the provisions of the Public Works Act, 1912, and this Act, any lands or premises which they consider necessary for any of the purposes of this section.

(2) The Commissioners shall not exercise the powers conferred by paragraph (i) of subsection one of this section of constructing or purchasing motor or other road vehicles unless they satisfy the Governor that they have not been able to make satisfactory contracts for the service to be undertaken, and the Governor approves of the exercise of the power.

- (c) by inserting next after subsection two of section twenty-four the following new subsections:—

New s. 24 (3)
(4) (5).
(Tolls.)

(3) For the purpose of securing the carriage and conveyance by the railways of livestock or goods or parcels which in the opinion of the Commissioners may not be so secured if a toll or charge at the rate prescribed is charged the Commissioners may notwithstanding the foregoing provisions of this section direct in respect of the carriage or conveyance of such livestock or goods or parcels in any particular case the charging of a toll or charge lower than the then existing rate of toll or charge so prescribed or the making or giving of any concession whether prescribed or not.

(4) Where competition with the railways by motor traffic exists the Commissioners may enter into a contract with any person to convey during such period as is specified in the contract the whole of his livestock, goods,

or

or parcels, or the proportion thereof therein specified at a special rate or charge lower than the prescribed rate or charge or at any prescribed concession rate or charge or with any prescribed rebate or concession.

(5) In case of the breach of any such contract, the Commissioners may, with the approval of the Governor, direct that an additional charge, not being in excess of one half of the prescribed charge then in force, shall be paid by the person who has made such breach, in respect of such of his livestock or goods or parcels as are from time to time consigned by him during the whole or part of the then unexpired period of the contract.

Substituted
s. 25.

- (d) by omitting section twenty-five and by inserting in lieu thereof the following new section:—

Tolls to be
paid as
directed.

(25) Tolls, fares, and charges shall be paid to such persons, at such places, and in such manner as may be prescribed or as the Commissioners may appoint.

Sec. 35.
(Undue
preference.)

- (e) (i) by inserting at the commencement of section thirty-five the words "Subject to this Act";

Sec. 39.
(Quarterly
reports.)

- (f) by omitting subsection two of section thirty-nine and by inserting in lieu thereof the following new subsections:—

(2) In the first week of every month the Commissioners shall report in writing to the Minister the cases in which their powers under subsections three and four of section twenty-four have been exercised, with the reasons for such exercise.

(3) Any reports made under this section shall be laid before both Houses of Parliament within fourteen sitting days if Parliament is in session, and if not, within fourteen sitting days after the commencement of the next session.

If either House passes a resolution of which notice has been given within fifteen sitting days after

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after the report is laid before such House, dis-
allowing any special or additional rate, or any
concession made such special or additional rate
or concession shall cease to have effect.

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- (g) by inserting at the end of paragraph (j) of section three the following words:—

A reference to a railway also includes a reference to any motor omnibus or van service or other motor vehicle or road service conducted by the Commissioners under any statutory power.

3. The Principal Act is further amended—

Further amendment of Act No. 30, 1:12.

- (a) by omitting from subsection two of section 41B the words “the first day of July, one thousand nine hundred and twenty-nine,” and by inserting in lieu thereof the words “a date to be appointed by the Governor and notified by proclamation published in the Gazette”;

Sec. 41B. (Finance.)

- (b) by inserting at the end of section 41K the following new subsection:—

Sec. 41K. (Interest on capital debt.)

(5) The provisions of this section in respect of sinking fund payments shall not be deemed to be, or to have been, in operation during the financial year ending on the thirtieth day of June, one thousand nine hundred and thirty, but shall commence and take effect as from a date to be appointed by the Governor and notified by proclamation published in the Gazette.

- (c) (i) by inserting at the end of section 41L the following subsection:—

Sec. 41L. (Loan moneys.)

(2) The provisions of paragraphs (b) and (c) of this section in respect of sinking fund contributions shall not be deemed to be, or to have been, in operation during the financial year ending on the thirtieth day of June one thousand nine hundred and thirty, but shall commence and take effect as from a date to be appointed by the Governor and notified by proclamation published in the Gazette.

(ii)

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Sec. 41p.
(Capitalisa-
tion of
interest.)

(ii) by inserting in paragraph (c) of the same section before the word "Treasurer" the word "Colonial";

(d) by inserting at the end of section 41p the following subsection:—

(2) Until such date as may be appointed in that behalf by the Governor and notified by proclamation published in the Gazette, there shall not be charged against, nor paid out of the fund, any amount by way of interest upon moneys provided for, or expended upon, lines of railway or other authorised capital works whilst under construction.

Further
amendment of
Act No. 30, 1912.

Sec. 11.
(Railways,
&c., vested in
Commis-
sioners.)

4. The Principal Act is further amended—

(a) by omitting paragraph (a) of section eleven and by inserting in lieu thereof the following new paragraph:—

(a) All railways and tramways, and all rolling stock heretofore constructed and acquired by or on behalf of His Majesty, and all railways, tramways, and rolling stock hereafter to be so constructed or acquired.

Sec. 15A.
(Closing level
crossings.)

(b) (i) by omitting from subsection one of section 15A the words "over the railways";

(ii) by inserting in the same section after the words "level crossing" and "crossing" wherever occurring the words "bridges or other means of crossing or passing over or under the railways";

Sec. 19.
(Dangerous
goods.)

(c) by omitting from subsection one of section nineteen the words "to carry upon any railway" and by inserting in lieu thereof "to receive at any depot or to carry upon any railway or otherwise";

Sec. 39.
Reports.

(d) by omitting paragraph (d) of subsection one of section thirty-nine and also the word "and" immediately preceding such paragraph;

Sec. 41.
(List of officers.)

(e) by omitting section forty-one;

Sec. 72 (3).
(Record of
employments.)

(f) by omitting subsection three of section seventy-two;

(g)

- (g) (i) by inserting in section sixty-eight after the word "railways" the words "or of any motor or other vehicle used in connection therewith, or for the collection, carriage, and delivery of goods, livestock, parcels, or passengers' luggage, or any of them"; No. 39, 1930.
Sec. 68.
(Summary interference in certain cases of breach of by-law.)
- (ii) by inserting in the same section before the word "station" the words "land, depot, premises";
- (h) by inserting at the end of section one hundred and ten the following words:— Sec. 110.
(The Super-annuation Board.)
- The Chief Commissioner may from time to time, by writing, delegate all or any of his powers and duties as a member of the board to an Assistant Commissioner, and may in like manner revoke such delegation. The delegate shall while acting under the delegation be deemed to be a member of and the chairman of the board.
- (i) by omitting from subsection one of section one hundred and thirty the words "forty shillings" and by inserting in lieu thereof the words "ten pounds in addition to any amount due as fare or difference in fare." Sec. 130.
(Fraudulent travelling.)
- (j) (i) by omitting from section one hundred and forty-five the words "as carriers of passengers"; Sec. 145.
(Limitation of compensation in respect of personal injuries.)
- (ii) by omitting from the same section the words "while being carried upon any railway vested in the Commissioners or while being in or upon or about any station, yard, land, or premises vested in or used by them";
- (k) by inserting in paragraphs (a) and (d) of section sixty-one the words "serious" before the words "personal injury"; Sec. 61.
(Accidents to be reported to the Minister.)
- (l) (i) by inserting next after paragraph one of section sixty-four the following new paragraphs:— Sec. 64.
(By-laws.)
- (1a) For regulating the terms and conditions upon which goods or livestock
- or

or parcels or passengers' luggage will be collected or received or delivered, and for fixing charges for the collection or delivery thereof.

- (1B) For regulating the terms and conditions upon which goods or livestock or parcels will be collected, received, carried, or delivered, subject to the collection of moneys on the delivery thereof, and for fixing the rate or amount of commission to be charged for the collection of such moneys or to be deducted from moneys so collected.
- (ii) by omitting from paragraph two of the same section the words "or in any of the" and by inserting in lieu thereof the words "or vehicles or in or upon any of the lands, depots, premises";
- (iii) by inserting in paragraph seven of the same section after the word "such" the words "land, depot, premises";
- (iv) by inserting in paragraph eight of the same section after the word "such" the words "land, depot, premises";
- (v) by omitting from paragraph ten of the same section the words "at any such" and by inserting in lieu thereof the words "at or upon any such land, depot, premises,"
- (vi) by omitting from paragraph eleven of the same section the words "at any such" and by inserting in lieu thereof the words "upon or at any such land, depot, premises,";
- (vii) by inserting in paragraph fourteen of the same section after the words "and of the" the words "lands, depots, premises,";
- (viii) by inserting in paragraph seventeen of the same section after the words "and to any of the" the words "lands, depots, premises,";
- (ix)

- (ix) by inserting at the end of the same section the following new paragraphs:—

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- (33) For regulating generally the use and maintenance for the purposes of this Act of motors or other road vehicles in the collection, carriage, and delivery of goods, livestock, parcels, and passengers' luggage.
- (34) For fixing and regulating the times at and manner in which payments shall be made to a judgment creditor and generally for carrying into effect the provisions of section 107A.
- (35) For prescribing any matter or thing not inconsistent with this Act which is necessary or convenient to be prescribed to give effect to any power, duty, or authority of the Commissioners under this or any other Act.

5. The Principal Act is further amended—

Further amendment of Act No. 30, 1912, s. 71.

- (a) by omitting subsection one of section seventy-one and inserting in lieu thereof the following new subsection:—

Sec. 71.
(Notice of examination for permanent employment.)

(1) Whenever the Commissioners require permanent officers for positions which cannot be filled by the transfer or promotion of officers or by the appointment of persons whose names have been noted for employment by the board of examiners in response to any advertisement, they shall give public notice thereof three times in a Sydney daily paper, and in country districts in a paper (if any) circulating in the district in which the positions are to be filled;

- (b) by omitting subsection one of section seventy-five and by inserting in lieu thereof the following new subsection:—

Sec. 75.
(Appointments.)

(1) All appointments shall be made to the lowest grade in each of the various branches of the railway service, and on probation only, for a period of six months, excepting in cases where the person appointed has, before such appointment

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appointment, been an officer, and in cases where vacancies or additional permanent positions cannot be filled as provided by section seventy-six :

Provided that before any person who has not, before his appointment, been an officer, is appointed to any grade other than the lowest in any branch, the examiners shall certify to the Commissioners that there is no officer who is qualified to fill the position and willing to accept appointment thereto.

New s. 107A.

- (c) by inserting after section one hundred and seven the following new section:—

Enforcement
of judgments.

107A. (1) Where judgment has been given by any court against any officer of, or contractor to, the Commissioners for the payment of any sum of money in respect of any dishonoured cheque or promissory note, or upon any guarantee or bond, or for rent of any land or goods, or for goods supplied, or money lent to such officer or to such contractor in connection with his contract with the Commissioners, or for wages due by such contractor in connection with such contract, the person in whose favor the judgment is given may serve on the Commissioners a copy of the judgment, certified under the hand of the registrar or other proper officer of the court by which the judgment was delivered, or in which it was obtained, and a statutory declaration stating that the judgment has not been satisfied by the judgment debtor and setting out the amount due by the judgment debtor under the judgment.

(2) Upon the service upon them of a copy of a judgment and a statutory declaration in pursuance of this section, the Commissioners shall, as soon as practicable, notify the judgment debtor in writing of the service of the copy judgment and statutory declaration and require him to state in writing, within a time to be specified by them, whether the judgment

judgment has been satisfied, and if so, to furnish evidence in support thereof, and if the judgment has not been satisfied, to state the amount then due under it.

(3) If the officer or contractor fails to prove to the satisfaction of the Commissioners that the judgment has been satisfied, the Commissioners may, from time to time, deduct from the net amount of any moneys payable to the officer or contractor such sums as are in their opinion reasonable towards the satisfaction of the judgment, and shall pay those sums to the judgment creditor :

Provided that in no case shall a deduction be made which will reduce the amount to be received by an officer to less than four pounds per week, or to less than one third of the amount which would, but for the provisions of this section, be payable to the officer, whichever is the greater.

(4) Where more than one judgment and statutory declaration are served upon the Commissioners in respect of one judgment debtor, the judgments shall be dealt with under this section in the order of service thereof upon the Commissioners.

(5) A payment made to a judgment creditor in pursuance of this section shall, as between the Commissioners and the officer or contractor, be deemed to be a payment in full in money to the extent of such payment by the Commissioners to the officer or contractor.

(6) Any person to whom a payment has been made in pursuance of this section who fails to notify the Commissioners immediately a judgment debt in respect of which the payment was made, is satisfied, shall be liable to forfeit to the Commissioners a penalty not exceeding fifty pounds.

(7) If any payment made in pursuance of this section exceeds the amount due under the judgment, the excess shall be repayable by the Commissioners to the judgment debtor,
and

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and in default of payment, may be recovered by the judgment debtor in any court of competent jurisdiction.

(8) The foregoing provisions of this section shall not apply in relation to any officer or contractor whose estate has been sequestrated either voluntarily or compulsorily for the benefit of his creditors, and who has not obtained a certificate of discharge.

(9) The remedy prescribed by this section shall not, as regards any officer or contractor, limit or affect any other remedy which may be open under the ordinary process of the law; but as regards the Commissioners such remedy shall be an exclusive one.

Sec. 87 (2).

(d) by omitting from subsection two of section eighty-seven the word "Principal" and by inserting in lieu thereof the word "this";

Sec. 109.

(e) by omitting from paragraph (b) of section one hundred and nine the words "Chief Commissioner" and by inserting in lieu thereof the words "Commissioners."

SPECIAL