

**GOVERNMENT RAILWAYS AND TRANSPORT
(AMENDMENT) ACT.**

Act No. 19, 1950.

An Act to make further provision in respect of <sup>George VI,
No. 19, 1950.</sup> appeals by, annual leave of, and superannuation payments to officers of the Department of Railways and of the Department of Road Transport and Tramways; for these and other purposes to amend the Government Railways Act, 1912, the Transport Act, 1930, and certain other Acts; and for purposes connected therewith.
[Assented to, 15th May, 1950.]

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 and Transport (Amendment) Act, 1950." Short title and citation.
- (2) The Government Railways Act, 1912, as amended by subsequent Acts and by this Act, may be cited as the Government Railways Act, 1912-1950.
- (3) The Transport Act, 1930, as amended by subsequent Acts and by this Act, may be cited as the Transport Acts, 1930-1950.
- (4) The Ministry of Transport Act, 1932, as amended by subsequent Acts and by this Act, may be cited as the Ministry of Transport Act, 1932-1950.
- (5) The Transport (Division of Functions) Act, 1932, as amended by subsequent Acts and by this Act, may be cited as the Transport (Division of Functions) Acts, 1932-1950.

2.

Government Railways and Transport (Amendment) Act.

No. 19, 1950. **2.** (1) The Government Railways Act, 1912, is amended—

of Act No.
30, 1912.

Sec. 76.
(Promo-
tions.)

(a) (i) by inserting in subsection two of section seventy-six after the words “The Commissioner shall” the words “in the case of such salaried officers or classes of salaried officers as may be prescribed”;

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

(3) (a) This subsection shall apply only to officers not being salaried officers or officers within classes of salaried officers prescribed as provided in subsection two of this section.

(b) Where a decision has been made by the Commissioner to promote an officer to fill any vacancy in any branch of the railway service and such officer is not the officer next in rank, position, or grade, notice in writing of such decision shall be given, as soon as practicable after such decision is made, to any officer who is to be passed over. Such decision shall not be carried into effect until the expiration of the time for lodging an appeal to the Appeals Board constituted under this Act and if an appeal is lodged within such time the decision shall not be carried into effect until the appeal is heard and determined by the Appeals Board.

Sec. 76A.
(Promo-
tions
committee.)

(b) by omitting from paragraph (c) of subsection one of section 76A the words “the officers of that branch” and by inserting in lieu thereof the words “such salaried officers or classes of salaried officers of that branch as may be prescribed and”;

Sec. 87.
(Appeal to
board.)

(c) (i) by omitting from paragraph (a) of subsection one of section eighty-seven the words “or Police Magistrate” wherever occurring and by inserting in lieu thereof the words “Magistrate or a barrister or solicitor of five years’ standing”;

(ii)

(ii) by omitting from the same paragraph the **No. 19, 1950.** words "a term of five years" and by inserting in lieu thereof the words "such term not exceeding five years as may be specified in the instrument of appointment";

(iii) by omitting from paragraph (b) of the same subsection the words "and tramway";

(d) by omitting from section ninety-one the words **Sec. 91.** "seven days of the date of the decision appealed **(Times for lodging and hearing appeals.)** against" and by inserting in lieu thereof the words "fourteen days after notice in writing of the decision to be appealed against has been given to the appellant";

(e) (i) by inserting in subsection one of section 100A **Sec. 100A.** after the words "Every officer shall" the **(Annual leave, extended leave and retiring leave of officers.)** words "in respect of the first twelve months of actual service completed by him";

(ii) by omitting from the same subsection the word "each" and by inserting in lieu thereof the word "such";

(iii) by inserting in the same subsection after the word "State" the following paragraph:—

"Any officer who has completed one year of actual service (hereinafter referred to as the first year of actual service) whether such service was completed before or after the first day of January, one thousand nine hundred and forty-nine, shall be entitled to at least three weeks' leave on full pay in respect of each twelve months of actual service after such date or the date on which he completes the first year of actual service, whichever is the later, in addition to bank and public holidays observed throughout the State."

(iv)

No. 19, 1950.

(iv) by inserting next after the same subsection the following new subsection:—

(1A) Where an officer becomes entitled to any additional leave for good conduct or continuous shift work in respect of any year of actual service such officer shall, notwithstanding the provisions of subsection one of this section, be entitled only to leave on full pay in respect of such year for such number of days which when added to the additional leave referred to in this subsection does not exceed three weeks.

(f) by inserting in section 101A after the word "officer" the words "prescribed as a salaried officer or within a prescribed class of salaried officers";

(g) by omitting paragraph (a) of section one hundred and thirteen and by inserting in lieu thereof the following paragraph:—

(a) who being a male is over sixty years of age or being a female is over fifty-five years of age and in either such case has retired after ten years' or longer service; or;

(h) by omitting from the proviso to subsection one of section one hundred and fourteen the words "retires after the commencement of the Government Railways (Amendment) Act, 1945, such allowance shall" and by inserting in lieu thereof the words "has retired at any time before or retires after the commencement of the Government Railways and Transport (Amendment) Act, 1950, such allowance shall, as on and from the twenty-eighth day of May, one thousand nine hundred and fifty, and";

(i) by inserting next after section one hundred and fourteen the following new section:—

114A.
Increase in
super-
annuation
allowances.

114A. (1) Where any superannuation allowance calculated in accordance with the provisions of this Part of this Act is at the commencement of

of this section payable to, or after such commencement becomes payable to, any officer under this Part of this Act, such allowance shall, as from such commencement or as from the date upon which such officer becomes entitled to such allowance, as the case may be, be increased by one-quarter.

(2) This section shall take effect as on and from the twenty-eighth day of May, one thousand nine hundred and fifty.

(j) by omitting from section one hundred and twenty-two the words "after service for fifteen years or longer".

Sec. 122.
(Refund
where officer
voluntarily
retires.)

(2) (a) The amendments made by paragraphs (a), (b) and (f) of subsection one of this section shall commence upon a day to be appointed by the Governor and notified by proclamation published in the Gazette.

(b) The amendment made by paragraph (h) of subsection one of this section shall take effect as on and from the twenty-eighth day of May, one thousand nine hundred and fifty.

(c) The amendments made by paragraphs (g) and (j) of subsection one of this section shall take effect as on and from the first day of June, one thousand nine hundred and fifty.

3. (1) The Transport Act, 1930, as amended by subsequent Acts, is amended by omitting section one hundred and four and by inserting in lieu thereof the following sections:—

Amendment
of Act No.
18, 1930.
Subst. sec.
104, new
secs. 104A,
104B.

104. (1) When any vacancy occurs in any branch of the service of the Commissioner for Road Transport and Tramways not open to competitive examination as provided for in the regulations, it shall be filled, if possible, by the promotion of some officer next in rank, position or grade to the vacant office; and no such officer shall be passed over unless the head of his branch, in writing, so advises the Commissioner:

Promotions.
cf. Act No.
30, 1912,
s. 76.

Provided

No. 19, 1950.

Provided that when a vacancy occurs in any branch and written applications are invited from officers in all branches to fill such vacancy, only those officers who make written applications for appointment within such time as may be prescribed in any notice advertising such vacancy, shall be considered for appointment thereto; and the head of the Staff Branch shall advise the Commissioner in writing of the name of the senior suitable applicant and the name or names, if any, of the officer or officers to be passed over.

(2) For the purposes of this Act the Commissioner shall determine officers to be regarded as heads of branches and may vary such determination from time to time.

(3) Where the head of the branch or the head of the Staff Branch advises the Commissioner as provided in subsection one of this section, he shall set out his reasons for such advice, together with the name and position of seniority of any officer who, in his opinion, should be passed over.

The Commissioner shall in the case of such salaried officers or classes of salaried officers as may be prescribed refer the proposal as to the filling of the vacancy to a promotions committee constituted under this Act.

The promotions committee shall inquire into the claims to the promotion in question of all officers proposed to be passed over and shall report to the head of the branch or the head of the Staff Branch, as the case may be, its opinion thereon.

The head of the branch or the head of the Staff Branch, as the case may be, shall forward such report, together with any recommendation he sees fit to make, to the Commissioner with all convenient despatch.

(4) (a) This subsection shall apply only to officers not being salaried officers or officers within classes of salaried officers prescribed as provided in subsection three of this section.

(b)

(b) Where a decision has been made ~~No. 19~~ 1950* by the Commissioner for Road Transport and Tramways to promote an officer to fill any vacancy in any branch of the service and such officer is not the officer next in rank, position, or grade, notice in writing of such decision shall be given as soon as practicable after such decision is made to any officer who is to be passed over. Such decision shall not be carried into effect until the expiration of the time for lodging an appeal to the Appeal Board constituted under section one hundred and fourteen of this Act and if an appeal is lodged within such time, the decision shall not be carried into effect until the appeal is heard and determined by such Appeal Board.

104A. (1) A promotions committee shall consist ~~of~~ ^{Promotions committee.}

~~cf. Act No.~~
30, 1912,
s. 76A.

- (a) a chairman who shall be appointed by the Commissioner;
- (b) an officer of the branch in which the vacancy occurs nominated by the head of such branch;
- (c) an officers' representative who shall be selected by or on behalf of such salaried officers or classes of salaried officers of the branch in which the vacancy occurs as may be prescribed and in the manner prescribed.

(2) Meetings of a promotions committee shall be convened by the chairman.

(3) At a meeting of a promotions committee the chairman and each member shall have one vote and the decision of the majority shall be the decision of the committee.

(4) When considering any matter referred to it a promotions committee may take evidence or obtain information in such manner as seems to it best calculated to enable it to reach a just conclusion.

No. 19, 1950.

Reference of certain matters to promotions committee.
cf. Act No. 30, 1912, s. 101A.

104B. The Commissioner may refer to a promotions committee constituted under this Act any matter concerning the seniority, grading or classification of any officer prescribed as a salaried officer or within a prescribed class of salaried officers.

The promotions committee shall inquire into any matter referred to it under this section and shall furnish a report and recommendation to the Commissioner.

(2) Subsection one of this section shall commence upon a day to be appointed by the Governor and notified by proclamation published in the Gazette.

Further amendment of Act No. 18, 1930.

Sec. 110.
(Officers guilty of misconduct — how dealt with.)

4. (1) The Transport Act, 1930, as amended by subsequent Acts, is further amended—

(a) (i) by inserting next after subsection one of section one hundred and ten the following new subsection:—

(1A) Where an officer has been temporarily suspended under subsection one of this section, and the officer at the head of his branch has not imposed any punishment in respect of the matter, the officer so suspended may appeal to the Appeal Board against his temporary suspension.

(ii) by omitting from subsection two of the same section the words “upon reference to it by the Board”;

(b) by omitting section one hundred and twelve;

(c) by omitting sections one hundred and thirteen, one hundred and fourteen and one hundred and fifteen and by inserting in lieu thereof the following sections:—

Sec. 112.
(Board to hear appeals.)
Subst. secs. 113-115 and new secs. 115A-115F.

Appeals concerning promotions.
Act No. 30, 1912, s. 86.

113. Where a decision has been made by the Commissioner for Road Transport and Tramways to promote an officer to fill any vacancy in any branch of the service administered by him and

and such officer is not the officer next in rank, No. 19, 1950. position or grade any officer in the branch who has been passed over may appeal to the Appeal Board.

114. (1) Every appeal which may be made by an officer under this Part of this Act shall be heard and determined by an Appeal Board which shall consist of—

- (a) a chairman, who shall have the qualifications of a stipendiary magistrate or a barrister or solicitor of five years' standing, or, where the chairman is absent from the meetings of the board, a vice-chairman who shall have the qualifications of a stipendiary magistrate or a barrister or solicitor of five years' standing, each of whom shall be appointed to the office by the Governor and shall hold such appointment for such term not exceeding five years as may be specified in the instrument of appointment;
- (b) such officer of the service administered by the Commissioner for Road Transport and Tramways as the Commissioner authorises to sit on the board at the hearing of the appeal, not being an officer of the branch to which the appellant belongs; and
- (c) an officer included in the branch to which the appellant belongs, and who has been elected for that purpose in the prescribed manner.

(2) The board shall cause to be given to an appellant at least seven days' notice of the hearing of his appeal.

(3) The fees and expenses of the board shall be paid by the Commissioner out of the General Fund.

Government Railways and Transport (Amendment) Act.

No. 19, 1950.

Voting at meetings of Appeal Board.

Act No. 30, 1912, s. 88.

Disqualification.

Ibid. s. 89.

Records.

Ibid. s. 90.

Times for lodging and hearing appeals.

Ibid. s. 91.

Appeals against punishment.

Ibid. s. 91A.

115. (1) At any meeting of such board each member present shall have one vote, and the decision of the majority in number of such members shall be the decision of the board.

(2) The board shall, unless the chairman otherwise directs, sit in Sydney for the hearing of appeals.

115A. No member of the board shall take part in the hearing of any appeal by or ~~charge against~~ any officer in the branch of which such member is the head.

115B. It shall be the duty of the secretary to the board to convene all meetings of the board, and to keep a record of all proceedings thereof and decisions arrived at.

115C. Every appeal to the board shall be lodged with the said secretary within fourteen days after notice in writing of the decision to be appealed against has been given to the appellant and shall be heard by the board within thirty days from the date of it being so lodged.

115D. In the case of an appeal against punishment imposed the appellant shall on application be entitled to be supplied by the Commissioner without cost to himself with copies of all statements or reports which have been submitted to the Commissioner in connection with the incident or incidents which formed the basis for the punishment against which he is appealing.

Such copies shall, where practicable, be so supplied at least three days before the hearing of the appeal.

No proceedings, civil or criminal, shall lie or be allowed against the Commissioner, or against the person who has made any statement or report a copy of which is so supplied, for or in relation to any matter contained in such statement or report which is or is alleged to be defamatory.

115E. (1) The chairman or vice-chairman of the board shall require every person to give his evidence on oath or declaration, and may on behalf of the board issue any summons requiring the attendance of witnesses; and if any person so summoned does not attend, or refuses to take an oath, or make a declaration, or refuses to give evidence, he shall be liable to a penalty not exceeding fifty pounds.

(2) The appellant or person charged shall be entitled to be represented by a barrister, solicitor, or agent, who may examine witnesses and address the board on his behalf.

(3) The board may confirm or modify any decision appealed against, or make any such order thereon as they think fit.

115F. (1) Every decision of the board shall be final and conclusive unless punishment is thereby imposed involving dismissal, or reduction of rank, position, grade, or pay, in which event the appellant may, within seven days after being informed of such decision, appeal therefrom to the Commissioner.

(2) Thereupon the Commissioner may hear, and may confirm, modify, or otherwise determine such appeal, and such determination shall be final and conclusive. In the hearing of such appeal, the appellant shall have the like rights and privileges as he had before the board, and the Commissioner may administer an oath to every witness at such hearing.

(d) (i) by inserting in subsection one of section one hundred and twenty-three after the words "Every officer shall" the words "in respect of the first twelve months of actual service completed by him";

(ii) by omitting from the same subsection the word "each" and by inserting in lieu thereof the word "such";

(iii)

Sec. 123.
(Annual
leave,
extended
leave and
retiring
leave
of officers.)

No. 19, 1950.

(iii) by inserting in the same subsection after the word "State" the following paragraph:—

Any officer who has completed one year of actual service (hereinafter referred to as the first year of actual service) whether such service was completed before or after the first day of January, one thousand nine hundred and forty-nine, shall be entitled to at least three weeks' leave on full pay in respect of each twelve months of actual service after such date or the date on which he completes the first year of actual service, whichever is the later, in addition to bank and public holidays observed throughout the State.

(iv) by inserting next after the same subsection the following new subsection:—

(1A) Where an officer becomes entitled to any additional leave for good conduct or continuous shift work in respect of any year of actual service such officer shall notwithstanding the provisions of subsection one of this section be entitled only to leave on full pay in respect of such year for such number of days which when added to the additional leave referred to in this subsection does not exceed three weeks.

Sec. 222.
(Employees
guilty of
miscon-
duct.)

(e) by inserting in paragraph (a) of subsection one of section two hundred and twenty-two after the word "drunk" the words "or under the influence of intoxicating liquor or any drug";

Sec. 263.
(Regula-
tions
to be made
on recom-
mendation
of board.)

(f) by inserting next after paragraph (d) of section two hundred and sixty-three the following new paragraph:—

(da) as to appeals which the Appeal Board may consider to be frivolous;

(2) (a) The persons who, immediately before the commencement of this section, were the members of the Appeal Board, shall, upon such commencement, constitute the Appeal Board referred to in section one hundred and fourteen of the Transport Acts, 1930-1950.

(b)

(b) All matters or proceedings pending or part No. 19, 1950 heard before the Appeal Board immediately before the commencement of this section may be continued before and determined by the Appeal Board as constituted by this Act.

5. (1) The Government Railways Act, 1912, as Further amendment of Act No. 30, 1912. amended by subsequent Acts, is further amended by omitting section one hundred and forty-five.

Sec. 145.
(Limitation of compensation in respect of personal injuries.)

(2) The Transport Act, 1930, as amended by subsequent Acts, is further amended by omitting section Further amendment of Act No. 18, 1930. two hundred and thirty-four.

Sec. 234.
(Limit of compensation.)

(3) The Ministry of Transport Act, 1932, as Amendment of Act No. 3, 1932. amended by subsequent Acts, is amended by omitting section eighteen.

Sec. 18.
(Limit of amount which may be recovered against Board of Commissioners.)

(4) The Transport (Division of Functions) Act, Amendment of Act No. 31, 1932. 1932, as amended by subsequent Acts, is amended by omitting section twenty-nine.

Sec. 29.
(Limit of amount which may be recovered against Commissioners.)