

Act No. 30, 1912.

An Act to consolidate the Acts relating to  
Government Railways and Tramways. [26th  
November, 1912.]

GOVERNMENT  
RAILWAYS.  
—

**B**E 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:—

PART I.

REPEAL AND INTERPRETATION.

**1.** This Act may be cited as the "Government Railways Act, 1912," and is divided into Parts, as follows:—

Short title and  
division.  
No. 6, 1901, s. 1.  
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By-laws, &c.

**2.** (1) The Acts mentioned in the First Schedule to this Act are, to the extent therein expressed, hereby repealed.

(2) This Act shall be read and construed as if it had passed before the Industrial Disputes Act, 1908, and the Industrial Arbitration Act, 1912.

(3) All persons appointed or retained under the Acts hereby repealed, and holding office at the time of the passing of this Act, shall continue in office as if this Act had been in force when they were appointed, and they had been appointed hereunder, and this Act shall apply to them accordingly.

(4) All rules, regulations, by-laws, and scales of tolls or of charges made or continued under the authority of any Act hereby repealed, and being in force at the time of the passing of this Act, shall be deemed to have been made under the authority of this Act. (5)

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(5) All free passes granted under the authority of any Act hereby repealed, and being current at the time of the passing of this Act, shall be deemed to have been granted hereunder.

**3.** In this Act, unless the context or subject-matter otherwise indicates or requires—

- (a) "Chief Commissioner" means Chief Commissioner for Railways and Tramways appointed or deemed to be appointed under this Act. Definitions. No. 6, 1901, s. 3. No. 7, 1906, s. 8.
- (b) "Assistant Commissioner of Railways" means Assistant Commissioner of Railways appointed or deemed to be appointed under this Act. Ibid. s. 5.
- (c) "Assistant Commissioner of Tramways" means Assistant Commissioner of Tramways appointed or deemed to be appointed under this Act. Ibid. s. 5.
- (d) "Commissioners" means the Commissioners appointed or deemed to be appointed under this Act, and "Commissioner" means one of such Commissioners.
- (e) "Justice" means any justice of the peace.
- (f) "Magistrate" means any justice who is a police or stipendiary magistrate, or any justice lawfully acting as his deputy or in his place.
- (g) "Officer" means any officer, clerk, servant, or other person employed by the Chief Commissioner to assist in the execution of this Act.
- (h) "Postmaster-General" means the Postmaster-General of the Commonwealth.
- (i) "Prescribed" means prescribed by regulations or by-laws made under this Act.
- (j) "Railway" means any railway by this Act vested in the Chief Commissioner, and includes any tramway vested in or under the control of the Chief Commissioner.
- (k) "Vessel" includes any ship, barge, lighter, and boat howsoever propelled.

**PART II.**

**THE RAILWAY COMMISSIONERS.**

**DIVISION 1.—***Constitution, appointment, and tenure of office.*

**4.** The authority to carry out this Act shall be the Chief Commissioner appointed as hereinafter provided. The Chief Commissioner shall be a body corporate by the name of the "Chief Commissioner for Railways and Tramways," and by that name shall have perpetual succession and a common seal, and be capable of suing and being sued, and, subject

Authority and power of Chief Commissioner, No. 7, 1906, s. 4.

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subject to the provisions hereinafter contained, shall have power to take, purchase, sell, lease, and hold lands, goods, chattels, and other property for the purposes of this Act. But no sale or lease of any such lands, except as provided in section eighteen, shall have any force or effect until the same has been approved by the Governor.

All courts, judges, and persons acting judicially shall take judicial notice of the common seal of the Chief Commissioner affixed to any document or notice, and shall presume that such seal was duly affixed.

Appointment of  
Commissioners.  
No. 6, 1901, s. 5.  
No. 7, 1906, s. 5.

**5.** (1) The Governor shall from time to time appoint a Chief Commissioner, an Assistant Commissioner of Railways, an Assistant Commissioner of Tramways.

Each such Commissioner shall, subject to this Act, hold office for seven years from the date on which his appointment takes effect.

Vacancies.

(2) On the occurrence of any vacancy in the office of a Commissioner, the Governor shall appoint a person to the vacant office, whose term of office shall be for his predecessor's unexpired term of office.

Appointees eligible  
for reappointment.

(3) All persons appointed under the authority of this section shall, at the expiration of their respective terms of office, be eligible for reappointment for a like term of seven years.

Deputy  
Commissioners.

(4) In case of the illness, suspension, or absence of any Commissioner, the Governor may appoint some person to act as the deputy of such Commissioner during such illness, suspension, or absence; and every person so appointed shall, while so acting, have all the powers and perform all the duties of such Commissioner.

If under this subsection one of the Assistant Commissioners is appointed to act as deputy of the Chief Commissioner, or of the other Assistant Commissioner, the Governor may appoint a deputy of such first-mentioned Assistant Commissioner.

References to  
Commissioners in  
other Acts, &c.  
*Ibid.* s. 8.

**6.** In any Act other than this Act, and in any regulations or by-laws thereunder, references to the Commissioners, as defined in the hereby repealed Act No. 6, 1901, shall be read as references to the Chief Commissioner.

Removal of Chief  
Commissioner.  
No. 6, 1901, s. 6.  
No. 7, 1906, s. 6.

**7.** (1) The Chief Commissioner may be suspended from his office by the Governor for misbehaviour or incompetence, but shall not be removed from office except as hereinafter provided. The Minister shall cause to be laid before Parliament a full statement of the grounds of suspension within seven days after such suspension if Parliament is in session and actually sitting, and when Parliament is not in session or not actually sitting, within seven days after the commencement of the next session or sitting.

The Commissioner so suspended under this section shall be restored to office unless each House of Parliament, within twenty-one

days

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days from the time when such statement has been laid before it, declares by resolution that the Commissioner ought to be removed from office, and if each House of Parliament within the said time so declares, the Commissioner shall be removed by the Governor accordingly.

(2) The Governor, on the recommendation of the Chief Commissioner, may suspend or remove from office the Assistant Commissioner of Railways, or the Assistant Commissioner of Tramways. Removal of Assistant Commissioners. No. 7, 1906, s. 6 (2).

**8.** (1) A Commissioner shall be deemed to have vacated his office— Vacation of office by Commissioner. No. 6, 1901, s. 7. No. 7, 1906, s. 8.

- (a) if he engages, during his term of office, in any employment outside the duties of his office; or
- (b) if he becomes insolvent, or applies to take the benefit of any Act for the relief of insolvent debtors, or compounds with his creditors, or makes an assignment of his salary for their benefit; or
- (c) if he absents himself from duty for a period of fourteen consecutive days except on leave granted by the Governor (which leave he is hereby authorised to grant), or becomes incapable of performing his duties; or
- (d) if he becomes in any way concerned or interested in any contract or agreement made by or on behalf of the Chief Commissioner; or in anywise participates or claims to be entitled to participate in the profit thereof, or in any benefit or emolument arising therefrom.

(2) If any Commissioner becomes in any way concerned or interested in any such contract or agreement, or in anywise participates or claims as aforesaid, he shall be guilty of a misdemeanour, and be liable to a penalty not exceeding five hundred pounds, or to imprisonment for any term not exceeding three years, or to both such punishments. Penalty.

**9.** The Commissioners shall respectively receive salaries not exceeding the following yearly rates:—The Chief Commissioner, three thousand pounds; the Assistant Commissioner of Railways, one thousand five hundred pounds; the Assistant Commissioner of Tramways, one thousand five hundred pounds. Salaries of Commissioners. Ibid. s. 7.

*DIVISION 2.—Conduct of business.*

**10.** (1) The Assistant Commissioner of Railways shall assist the Chief Commissioner in his management of the Government Railways and all matters relating thereto, and shall be under the control of the Chief Commissioner. Assistant Commissioner of Railways. Ibid. s. 9.

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Assistant  
Commissioner of  
Tramways.

(2) The Assistant Commissioner of Tramways shall assist the Chief Commissioner in his management of the Government Tramways and all matters relating thereto, and shall be under the control of the Chief Commissioner.

General  
management.

(3) At the request of the Chief Commissioner the said Assistant Commissioners shall advise him as to matters affecting the general management of the Government Railways and Tramways.

DIVISION 3.—*Property.*

Government  
railways, &c., vested  
in Chief  
Commissioner.  
No. 6, 1901, s. 14.  
No. 7, 1906, s. 8.

**11.** For the purposes of this Act, there shall be vested absolutely in the Chief Commissioner, and, in respect of land, for an estate in fee-simple—

- (a) all railways and tramways, and all rolling-stock heretofore constructed or acquired by or on behalf of His Majesty, pursuant to any Act in force for the time being authorising the construction of railways, rolling-stock, or tramways, and all railways and tramways hereafter to be so constructed or acquired, upon transfer of the same to such Chief Commissioner in the prescribed manner;
- (b) all piers, wharfs, jetties, stations, yards, and buildings connected or used in connection with such railways, tramways, and rolling-stock, being on Crown land or land acquired for or on behalf of His Majesty;
- (c) the land, being Crown land or land acquired or which may be acquired for or on behalf of His Majesty over or upon which such piers, wharfs, jetties, stations, yards, and buildings have been, or may hereafter be constructed or erected;
- (d) the Crown land or land acquired for or on behalf of His Majesty included within the boundary fences of all such railways or tramways;
- (e) all land outside such fences acquired by or on behalf of His Majesty, under any Act authorising the taking or acquiring of land for railway or tramway purposes;
- (f) all Crown and other lands taken under the authority of any Act authorising the taking of land for railway or tramway purposes;
- (g) all wires, instruments, and other telegraphic or telephonic apparatus used in connection with the railways or tramways vested in the Chief Commissioner by this Act or any Act hereby repealed.

Railway property  
not subject to rates,  
&c.  
No. 6, 1901, s. 15.  
No. 7, 1906, s. 8.

**12.** No rates, tax, or assessment shall be made, charged, or levied upon any railway, or upon any pier, wharf, jetty, station, yard, building, works, or other property vested in the Chief Commissioner, unless the contrary is expressly provided in any Act.

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**13.** All moneys appropriated by Parliament for the maintenance or management of the railways by this Act vested in the Chief Commissioner, and for all purposes in connection therewith, shall be expended under the control and management of the Chief Commissioner.

Expenditure of money appropriated by Parliament.  
No. 6, 1901, s. 16.  
No. 7, 1906, s. 8.

**14.** All moneys payable to the Chief Commissioner, under this or any other Act, shall be collected and received by him on account of, and shall be paid into, the Consolidated Revenue; and the provisions of the Audit Act, 1898, and of any other Act relating to the collection and payment of public moneys and the audit of the public account, shall, save as in this Act otherwise expressly provided, apply to the Chief Commissioner and to all officers.

Audit Act to apply to Chief Commissioner.  
No. 6, 1901, s. 17.  
No. 7, 1906, s. 8.

*DIVISION 4.—Powers of Chief Commissioner.*

*(i) Certain special powers.*

**15.** The Chief Commissioner shall be the authority to decide on the position, character, and suitability of all stations, station platforms, gate-houses, station-yards, sheds, piers, wharfs, jetties required for or in connection with any railway hereafter to be constructed, and although such railway may not be constructed by him, or of any other building, siding, platform, or work for the accommodation of the passengers, stock, or goods to be carried on such railway.

Powers of Chief Commissioner over lines in construction.  
No. 6, 1901, s. 18.  
No. 7, 1906, s. 8.

**16.** The Chief Commissioner may—

- (a) appoint places as depôts for the receipt and delivery of parcels or passengers' luggage to be forwarded to or received from any railway;
- (b) contract with any person for the carriage of such parcels, or of passengers' luggage to and from any railway station or depôt;
- (c) instead of loading or unloading goods on or from any truck, shed, or vessel by temporary day labour, invite public tenders on such terms and conditions as he thinks fit for the performance of such work, for a period not exceeding one year; and may accept the lowest eligible tender, or invite fresh tenders, and may make a contract with the person whose tender is accepted.

Powers of Chief Commissioner respecting depôts and contracts for loading or unloading goods.  
No. 6, 1901, s. 19.  
No. 7, 1906, s. 8.

**17.** The Chief Commissioner may apply in writing to the Minister for additional stores, plant, material, rolling-stock, stations, sheds, and other accommodation which, in his opinion, may be required to enable him to meet the traffic requirements, or ensure the efficient working of the railways.

Chief Commissioner may requisition for rolling-stock, &c.  
No. 6, 1901, s. 20.  
No. 7, 1906, s. 8.

**18.** The Chief Commissioner may lease any refreshment-room, shed, office, shop, stall, coal gears, sites for storage or for erecting sheds, right of entrance into any station by any public vehicle, right of advertising, or other convenience or appurtenance to any of the railways for any term not exceeding five years on such conditions and at such rent as he may determine.

Chief Commissioner may lease refreshment rooms, &c.  
No. 6, 1901, s. 21.  
No. 7, 1906, s. 8.

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Bringing dangerous goods on the railway.

No. 6, 1901, s. 22.

No. 7, 1906, s. 8.

**19.** (1) No person shall be entitled to carry, or to require the Chief Commissioner to carry, upon any railway, any aqua-fortis, oil of vitriol, gunpowder, lucifer matches, or any goods whatsoever which, in the judgment of the Chief Commissioner or his officers, may be of a dangerous nature.

Chief Commissioner may require parcels to be opened.

(2) The Chief Commissioner may refuse to take any parcel which he may suspect to contain goods of a dangerous nature, or may require any parcel to be opened, so that the nature of the contents may be ascertained.

Working of telegraphs.

No. 6, 1901, s. 23.

No. 7, 1906, s. 8.

**20.** (1) The several lines of telegraphic communication belonging to the Chief Commissioner, or which are worked under the direction, or on behalf of the Chief Commissioner may, subject to any law of the Commonwealth Parliament, be used by him—

(a) for the transmission of messages in relation to the working of the railways; and

(b) so far as is consistent with the due and efficient working of the railways, for the transmission of messages by the public.

(2) All such messages as last aforesaid shall be transmitted by the officers, on behalf of the Chief Commissioner as agent of the Postmaster-General, and there shall be demanded and received, in respect of such last-mentioned messages, such fees, rates, and dues as may for the time being be lawfully demanded or received by the Postmaster-General, in respect of lines of telegraphic communication under his control.

Messages for the public.

(3) Save as aforesaid, the Chief Commissioner shall not transmit or permit the transmission of messages on behalf of the public through his wires.

Payment by Postmaster-General.

(4) The sum to be paid by the Postmaster-General to the Chief Commissioner for the transmission of messages as aforesaid, may be either a lump sum or a percentage on the gross sum received by the Postmaster-General from the Chief Commissioner, in respect of such transmission, or may be determined in such other way as may be agreed upon between the Postmaster-General and the Chief Commissioner.

(ii) *Contractual powers.*

Commissioner may make contracts with Postmaster-General.

No. 6, 1901, s. 25.

**21.** The Chief Commissioner may enter into, alter, and rescind contracts and agreements with the Postmaster-General, with respect to—

(a) the receipt, carriage, and conveyance of letters, newspapers, and parcels; and

(b) any other matter or thing in relation to the postal service;

(c) the working of any of the lines of telegraphic communication of the Postmaster-General by the Chief Commissioner; and

(d) generally with respect to telegraphs and the transmission of telegraphic messages.

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**22.** (1) The Chief Commissioner in his corporate name may contract—

- (a) for the execution of any work authorised by this or any other Act to be executed by him; or
- (b) for furnishing materials or labour; or
- (c) for providing locomotive engines or other motive or tractive power; or
- (d) for any other matters or things whatsoever necessary for enabling him to carry the purposes of such Act into full effect; in such manner and upon such terms for such sum and under such stipulations, conditions, and restrictions as the Commissioner thinks proper.

General contractual powers of Chief Commissioner. No. 6, 1901, s. 24. No. 7, 1906, s. 8.

(2) Every such contract shall be in writing, and shall specify—

- (a) the work to be done;
- (b) the materials to be furnished;
- (c) the price to be paid for the same;
- (d) the time within which the work is to be completed, and the materials to be furnished; and
- (e) the penalties to be suffered in case of non-performance thereof.

Contracts to be in writing.

Every such contract may, if the Chief Commissioner thinks fit, comprise several works, and may in every case specify the person to whose satisfaction the work or works is or are to be completed, or the material furnished, and the mode of determining any dispute which may arise concerning, or in consequence of, such contract.

(3) Provided that the Chief Commissioner shall not, without the consent of the Governor, enter into any contract in any case where—

- (a) the contract is for the supply, either directly or indirectly, from places outside New South Wales of materials, locomotive engines, or other motive or tractive power; and
- (b) the contract exceeds the sum of twenty thousand pounds.

Proviso.

**23.** The Chief Commissioner may compound and agree with any person who has entered into any contract in pursuance of or under the authority of this Act, or against whom any action or suit is brought for any penalty contained in any such contract, or in any bond, or other security for the performance thereof, or for or on account of any breach or non-performance of any such contract, bond, or security, for such sum of money or other consideration as the Chief Commissioner thinks proper.

Chief Commissioner may compound for breach of contracts. No. 6, 1901, s. 27. No. 7, 1906, s. 8.

(iii) *Tolls.*

**24.** (1) The Chief Commissioner may carry and convey upon the railways all such passengers and goods as are offered for that purpose, and may demand reasonable tolls and charges in respect thereof.

Chief Commissioner may demand tolls. No. 6, 1901, s. 28. No. 7, 1906, s. 8.

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Tolls to be charged equally under like circumstances.

(2) Subject to the provisions of this Act, all such tolls shall, at all times, be charged equally to all persons, and after the same rate, whether per ton, per mile, or otherwise, in respect of all passengers and of all goods or carriages of the same description, and conveyed or propelled by a like carriage or engine passing over the same portion of the line of railway and under the same circumstances; and no reduction or advance in any such tolls shall be made, either directly or indirectly, in favour of or against any particular company or person travelling upon or using the railway.

Tolls to be paid as directed.  
No. 6, 1901, s. 29.  
No. 7, 1906, s. 8.

**25.** The tolls shall be paid to such persons, and at such places, upon or near to the railways, and in such manner, and under such regulations as the Chief Commissioner shall appoint.

In default of payment of tolls, goods, &c., may be detained and sold.  
No. 6, 1901, s. 30.  
No. 7, 1906, s. 8.

**26.** If, on demand, any person fails to pay the tolls due in respect of any carriage or goods, the Chief Commissioner may—

- (a) detain and sell such carriage, or all or any part of such goods;
- (b) if the same have been removed from the railway premises, detain and sell any other carriages or goods within such premises belonging to the person liable to pay such tolls;

and, in either case, out of the moneys arising from the sale, retain the tolls payable as aforesaid, and all charges and expenses of such detention and sale, rendering the surplus (if any) of the moneys arising by such sale, and such of the carriages or goods as shall remain unsold, to the person entitled thereto; or

- (c) recover any such tolls by action at law.

Account of lading, &c., to be given.  
No. 6, 1901, s. 31.

**27.** Every person, being the owner or having the care of any carriage or goods passing or being upon any railway, shall on demand give to the collector of tolls, at the places where he attends for the purpose of receiving goods or of collecting tolls, for the part of the railway on which such carriage or goods may have travelled or be about to travel, an exact account in writing signed by him of—

- (a) the number or quantity of goods conveyed by any such carriage;
- (b) the point on the railway from which such carriage or goods have set out or are about to set out;
- (c) the point where the same are intended to be unloaded or taken off the railway.

If such goods are liable to the payment of different tolls, then such owner or other person shall specify the respective numbers or quantities thereof liable to each or any of such tolls.

Penalty for not giving account, &c.  
*Ibid.* s. 32.  
No. 7, 1901, s. 8.

**28.** If any such owner or person, as in the last-preceding section mentioned, in contravention of the requirements thereof—

- (a) fails to give an account; or
- (b) fails to produce his way-bill or bill of lading to such collector, or other officer of the Chief Commissioner, demanding the same; or
- (c) gives a false account; or
- (d)

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(d) unloads or takes off any part of his lading or goods at any other place than is mentioned in such account, with intent to avoid the payment of any tolls payable in respect thereof; he shall, for every such offence, forfeit to the Chief Commissioner a sum not exceeding ten pounds for every ton of goods, or for any parcel not exceeding one hundredweight, and so in proportion for any less quantity of goods than one ton, or for any parcel exceeding one hundredweight (as the case may be) upon any such carriage; and such penalty shall be in addition to the toll to which such goods may be liable.

**29.** If any dispute arises—

- (a) concerning the amount of the tolls due to the Chief Commissioner; or
- (b) concerning the charges occasioned by any detention or sale under the provisions herein contained;

the same shall be settled by a magistrate or two justices, and the Chief Commissioner may, in the meanwhile, detain the goods or retain the proceeds of the sale thereof.

**30.** (1) If any differences arise between any toll collector or other officer of the Chief Commissioner and any owner of or person having the charge of any carriage passing or being upon any railway, or any goods conveyed or to be conveyed by such carriage, respecting the weight, quantity, quality, or nature of such goods, such collector or other officer may lawfully detain such carriage or goods, and examine, weigh, gauge, or otherwise measure the same.

(2) Upon such measuring or examination—

- (a) if such goods appear to be of greater weight or quantity, or of other nature than was stated in the account given thereof, the person who gave such account shall pay, and the owner of such carriage or the respective owners of such goods shall also, at the option of the Chief Commissioner, be liable to pay the costs of such measuring and examining;
- (b) if such goods appear to be of the same or less weight or quantity than, but of the same nature as was stated in such account, the Chief Commissioner shall pay such costs, and he shall also pay to such owner of or person having charge of such carriage, and to the respective owners of such goods, such damage (if any) as appears to any magistrate or two justices, on a summary application to him or them for that purpose, to have arisen from such detention.

**31.** If at any time it is made to appear to any magistrate or two justices, upon the complaint of the Chief Commissioner, that any such detention, measuring, or examining of any carriage or goods as hereinbefore mentioned was without reasonable ground, or was vexatious on the part of such collector or other officer, such magistrate or justices shall assess the costs of such detention and measuring, and the damage occasioned thereby, and shall order the collector or other officer to pay the same.

Disputes.

No. 6, 1901, s. 33.

No. 7, 1906, s. 8.

Differences as to weights, &c.

No. 6, 1901, s. 34.

No. 7, 1906, s. 8.

Payment of costs.

Vexatious detentions.

No. 6, 1901, s. 35.

No. 7, 1906, s. 8.

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Special tolls, &c.  
No. 6, 1901, s. 36.  
No. 7, 1906, s. 8.

**32.** Notwithstanding anything in this Act contained, the Chief Commissioner may frame a special scale of tolls or charges for the conveyance of specific classes of produce or merchandise:

Provided that the same charges shall apply alike to all persons using the railways.

**DIVISION 5.—Duties of Chief Commissioner.**

(i) *Certain special duties.*

Duties of Chief Commissioner in respect to the railways, &c.

No. 6, 1901, s. 37.  
No. 7, 1906, s. 8.

**33.** The Chief Commissioner shall maintain the railways and all works in connection therewith in a state of efficiency, and shall carry persons, animals, and goods without negligence or delay; and in respect of the carriage of persons, animals, and goods, the Chief Commissioner shall be a common carrier.

Chief Commissioner to make inspections of railways.  
No. 6, 1901, s. 38.  
No. 7, 1906, s. 8.

**34.** (1) The Chief Commissioner shall at all times cause to be made a careful inspection of the condition of the railways under his control.

Repairs and alterations.

(2) Whenever it appears to the Chief Commissioner that for the purpose of maintaining the traffic on any existing line—

- (a) a partial reconstruction, or a partial duplication, or any other addition to, or extension of, the roadway of any existing line, or part of any such line, or any bridge, viaduct, or other work; or
- (b) the laying of new rails; or
- (c) any other repair or alteration of any line or work vested in him;

is necessary, he shall undertake, execute, and carry out any of the works aforesaid so far as may be required for such purpose.

Traffic during repairs.

(3) During any reconstruction, repair, or alteration, the passenger and goods traffic may be conducted along temporary roadways, or otherwise, as the Chief Commissioner may deem best for the public interest and safety.

Chief Commissioner not to give undue preferences, &c.

No. 6, 1901, s. 39.  
No. 7, 1906, s. 8.

**35.** The Chief Commissioner shall not afford or give any undue or unreasonable preference or advantage to any particular person, or to any particular description of traffic, in any respect whatsoever; nor shall he subject any particular person, or any particular description of traffic, to any undue or unreasonable prejudice or disadvantage in any respect whatsoever.

Chief Commissioner to afford all reasonable facilities for interchange of traffic, &c.

No. 6, 1901, s. 40.  
No. 7, 1906, s. 8.

**36.** Subject to the provisions of this Act, the Chief Commissioner shall afford all reasonable, proper, and equal facilities for the interchange of traffic between the respective lines of railway vested in him, and for the receiving, forwarding, and delivery of passengers and goods to and from such lines.

Adjustment of weights and measures on railways.

No. 6, 1901, s. 41.  
No. 7, 1906, s. 8.

**37.** The Chief Commissioner shall cause all weights, measures, scales, balances, steelyards, beams, and other weighing-machines in use upon any of the railways, or on any of the stations, piers, wharfs, or jetties

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jetties vested in the Chief Commissioner, to be from time to time adjusted by some officer appointed by the Chief Commissioner, either on comparison with authorised copies of the standard weights and measures made under the Act in force for the time being relating to weights and measures, or otherwise, as the case may be; but, save as aforesaid, nothing in the said Act contained shall apply to the railways or to any station, pier, wharf, or jetty vested in the Chief Commissioner.

(ii) *Statements and reports.*

**38.** Before the second reading in the Legislative Assembly of any bill authorising the construction of new lines of railway, the Chief Commissioner shall transmit to the Minister a statement under his seal showing his estimate of the traffic on each proposed new line, and any other returns likely to be derived therefrom, and the Minister shall, before such second reading, lay the same upon the table of the Assembly.

Chief Commissioner to prepare estimate of traffic.

No. 6, 1901, s. 42.  
No. 7, 1906, s. 8.

**39.** (1) In the first month in each quarter of every year the Chief Commissioner shall report in writing to the Minister—

Chief Commissioner's quarterly report to Minister.

No. 6, 1901, s. 43.  
No. 7, 1906, s. 8.

- (a) the state of the traffic returns, with the approximate cost and earning of trains per ton, per train mile, in respect of goods and passengers respectively, carried during the past quarter; and
- (b) the general condition of the lines and accommodation for the traffic; and
- (c) the special rates (if any) which have been made, and the reasons for making such rates; and
- (d) the appointments and removals of officers, with the circumstances attending each case.

(2) Such reports shall be laid before Parliament, if Parliament is in session, and if not, then within seven days after the commencement of the next ensuing session.

Reports to be laid before Parliament.

**40.** The Chief Commissioner shall prepare—

- (a) an annual report of his proceedings, and an account of all moneys received and expended during the preceding year.

Chief Commissioner's annual report to Parliament.

No. 6, 1901, s. 44.  
No. 7, 1906, s. 8.

Such annual report shall be laid before both Houses of Parliament in the month of January in each year if Parliament is then sitting, otherwise within one month after the commencement of the next ensuing session.

- (b) estimates, in such form as the Governor may direct, of receipts and expenditure for each period of twelve months ending on the thirtieth day of June in each and every year.

**41.** The Chief Commissioner shall in each annual report include a list of all officers admitted to the service since the date of the former annual report, and likewise a list of all officers who may have left the service during the like period, giving date of appointment, positions and rates of pay to which appointed, and date and cause of leaving in each case.

List of officers.

No. 6, 1901, s. 45.  
No. 7, 1906, s. 8.

## PART III.

## CONSTRUCTION OF TRAMWAYS.

Chief Commissioner  
may construct  
certain lines of  
tramways.

No. 6, 1901, s. 46.  
No. 7, 1906, s. 8.

**42.** Subject to the provisions of the Public Works Act, 1900, or any Acts amending the same, the Chief Commissioner may construct tramways for conveying passengers and their luggage along any route within the city of Sydney and the suburbs thereof which may be approved by the Governor, notwithstanding anything to the contrary contained in or implied by the Sydney Corporation Act, 1902, or any Acts amending the same, the Local Government Act, 1906, or any other Act whatsoever.

Other tramways.  
No. 6, 1901, s. 47.  
No. 7, 1906, s. 8.

**43.** Subject as aforesaid, the Chief Commissioner may construct tramways for the purposes aforesaid from points along the line of any railway to places distant not more than fifty miles therefrom, or from any other point or place whatsoever, to any quarry or other workings, for the purpose of procuring materials for the construction or maintenance of any tramway authorised by this Part of this Act, or for any other purpose whatsoever, whenever the Governor determines to construct the same.

Plans to be laid  
before Parliament.

In every such case, copies of the plans and books of reference of the route which such tramway is intended to follow shall be from time to time prepared and laid before Parliament; and whenever such plans and books of reference have been approved by a resolution of both Houses, the Chief Commissioner, subject to the determination of the Governor, may commence and complete such tramway with all proper works and conveniences connected therewith in accordance with such resolutions.

Entry upon streets  
and other  
thoroughfares.

No. 6, 1901, s. 48.  
No. 7, 1906, s. 8.

**44.** The Chief Commissioner, for the purposes of this Part of this Act shall have all necessary rights of ingress and egress in, to, and over the surface of any street, road, highway, or thoroughfare, proclaimed, reserved, or dedicated for the use of the public, or subject to any public easement, over which any such tramway passes as are required for the construction, repair, completion, and use thereof:

Provided that nothing herein contained shall impair or be held to impair the lawful authority of the municipal council of the city of Sydney, or of the council of any municipality, or of any other corporation, company, or person, to make all entries, and exercise all other powers necessary for the construction, maintenance, and preservation of gasworks, waterworks, sewerage-works, and other works lawfully constructed underground in such streets, roads, highways, or thoroughfares along which any such tramway passes.

Resumption of  
lands.

No. 6, 1901, s. 49.  
No. 7, 1906, s. 8.

**45.** Subject to the provisions of the next following section, the Chief Commissioner, for the purposes of this Part of this Act, shall have all necessary rights to enter upon and resume the lands and grounds of any person whomsoever, subject to the same conditions in respect of compensation

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compensation, and to all other provisions and regulations as under the provisions of the Public Works Act, 1900, or any Acts amending the same, are applicable to the resumption of land for railway purposes.

**46.** The gauge of any tramway constructed under this Part of this Act shall not exceed four feet eight and one-half inches. Gauge. No. 6, 1901, s. 50.

**47.** The tramways shall in every case, and throughout their course, be laid at or about the general level of the streets and highways along which they are to be constructed; but the Chief Commissioner may, with the consent of or by mutual agreement with the municipal council in which is vested the control and management of any street or highway, alter and improve the levels thereof. Levels. Ibid. 51. No. 7, 1906, s. 8.

Provided that all reasonable expenses incurred in the re-formation of the said streets or roads so altered and improved shall be borne by the Chief Commissioner, unless otherwise agreed upon.

**48.** The Chief Commissioner shall maintain in perfect order and repair the said tramways and the pavements of the same between the rails of the said tramways, and for the space of one foot and six inches on either side of such rails. Maintenance of roads. No. 6, 1901, s. 52. No. 7, 1906, s. 8.

**49.** The Chief Commissioner shall immediately repair any damage which may, during or by reason of the construction of the said tramways, be occasioned to any sewer, or drain, or gas or water main, and shall also repair all damages which may be occasioned by the working of the said tramways. Chief Commissioner to repair damages. No. 6, 1901, s. 53. No. 7, 1906, s. 8.

**50.** The Chief Commissioner may erect buildings or other structures for the purposes of the said tramways, and may construct lines of approach thereto. Chief Commissioner may erect buildings. No. 6, 1901, s. 54. No. 7, 1906, s. 8.

PART IV.

TRACTION, AND MOTOR OMNIBUSES.

**51.** The Chief Commissioner may use locomotive engines and other motive or tractive power, and may draw or propel thereby carriages and waggons upon the railways. Motive power. No. 6, 1901, s. 55. No. 7, 1906, s. 8.

**52.** The Chief Commissioner may use, either in addition to or in substitution for any existing system of traction on tramways, any system of electric traction of which he may approve, and may construct, maintain, repair, and use all works necessary for such system of electric traction. Chief Commissioner may use electric traction. No. 6, 1901, s. 56. No. 7, 1906, s. 8.

**53.** The Chief Commissioner, for the purposes of the next preceding section—

- (a) shall have all such rights of ingress and egress to, from, and over the surface of any road on which any tramway is now or may hereafter be laid, as are required for the construction, maintenance, repair, and use of any such works; and
- (b)

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(b) may from time to time open up the surface of any road for the purpose of constructing, maintaining, and repairing works beneath the level of such road, and may erect, support, and maintain above the level of and across any such road, such wires and other electric apparatus as are, in his opinion, necessary for the efficient use and maintenance of electric traction on such tramways:

Provided always that the powers given by this and the next preceding section shall be used so as to interfere as little as may be reasonably possible with traffic and public convenience, that all works commenced shall be expeditiously carried out, and that adequate provision shall be made at all times for the public safety during the construction, maintenance, and repair of any works authorised by this and the said section.

Persons damaging works.  
No. 6, 1901, s. 58.

**54.** Every person who wilfully cuts or otherwise severs any wire or cable, or so damages any part of the works connected with any such system of electric traction as to break the electric circuit or cause leakage or loss of the current, shall be deemed guilty of a misdemeanour.

Chief Commissioner may construct, &c., and run motor omnibuses.  
No. 13, 1905, s. 2.

**55.** The Chief Commissioner may construct, purchase, or lease motor omnibuses, and may run such omnibuses on those roads which may be approved by the Governor.

Statutory traffic regulations to apply.  
*Ibid.* s. 3.

**56.** The provisions of any Act for the regulation of traffic, except so far as they relate to the regulation and licensing of public vehicles, shall apply to such motor omnibuses.

Interpretation.  
No. 6, 1901, s. 59.

**57.** In this Part—

“ Road ” means any public or private road, highway, street, square, lane, court, or passage.

“ Works ” includes any stations, posts, pillars, brackets, excavations, wires, cables, or other things in any way used in connection with electric traction on tramways.

## PART V.

## FREE PASSES.

Persons entitled to free passes.  
No. 6, 1901, s. 60.  
No. 7, 1906, s. 8.

**58.** Each of the persons hereinafter mentioned shall be entitled to receive from the Chief Commissioner, and to hold and use, a free pass, which shall authorise the holder to travel free on all railways, but which shall in no case be transferable, namely,—

(a) Every member of the Legislative Council,—

(i) every pass issued to a member of such council shall be issued in the name of the person entitled to the same;

(ii)



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- (ii) every such pass shall be forthwith returned to the Chief Commissioner by the holder thereof or his agent or personal representative on his ceasing to be a member of such Council.
- (b) Every member of the Legislative Assembly,—
- (i) the free pass to be issued to such member shall be issued to him in the name of the electorate which he has been elected to represent;
- (ii) every such pass shall be returned to the Chief Commissioner by the member holding the same if the seat of such member shall have been rendered vacant by his resignation or other act having the effect of vacating his seat in the Legislative Assembly, under the law in force for the time being, so soon as his successor shall have been elected;
- (iii) the passes issued by the Governments of other States or Colonies to members of the respective Parliaments of those States or Colonies shall be recognised and held to admit the holders thereof to travel upon the railways of New South Wales;
- (iv) any free pass for life or for any fixed period granted prior to the passing of the Government Railways Act of 1888, shall not be affected by these provisions.
- (c) Officers of Parliament,—  
the Chief Commissioner may, with the approval of the Governor, issue from time to time, on application, passes, available for a period not exceeding one month, to such officers of Parliament as have been heretofore accorded that privilege.
- (d) Every person who has held any of the offices enumerated in the Second Schedule. Second Schedule hereto, and whether before or after, or partly before or partly after, the commencement of this Act; every such pass shall be issued in the name of the person entitled, and shall be available during the term of his life, and shall bear on the face of it the name in full of the person to whom it is granted.
- (e) Any person of distinction visiting the State, or officially engaged in some public duty which renders it necessary for him to travel by railway, or who may have rendered some important public service to the State;  
no such pass shall be issued for a period exceeding one month.
- 59.** Every free pass issued under the last preceding section shall, in respect to the holder of such pass and his personal representatives, be accompanied by and entail the like rights, remedies, obligations, and liabilities (except in respect of the payment of money therefor) as if the said pass had been a ticket issued to such holder for a money consideration. Rights and liabilities under free passes. No. 6, 1901, s. 61.

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Fraudulent use of  
free passes.  
No. 6, 1901, s. 62.

**60.** If any person, not being one of the persons entitled under the provisions of this Act to claim, hold, and use a free pass on the railways—

(a) travels, or attempts to travel, by virtue of any such free pass;  
or

(b) at any time exhibits, or shows, or carries any such free pass, pretending to be the rightful possessor thereof;

he shall be guilty of a misdemeanour.

## PART VI.

## INVESTIGATION OF ACCIDENTS.

Accidents to be  
reported to the  
Minister.

*Ibid.* s. 63.

No. 7, 1906, s. 8.

**61.** Whenever, upon or about any railway, or any works, building, or place of any kind whatsoever, used or connected with any railway, any such accident as hereinafter specified takes place in the course of working such railway, viz.,—

(a) any accident attended with loss of life or personal injury to any person; or

(b) any collision where one of the trains is a passenger train; or

(c) any passenger train or portion thereof accidentally leaving the rails; or

(d) any accident of a kind not comprised in the foregoing descriptions, but which has caused or might have caused loss of life or personal injury;

the Chief Commissioner shall—

(e) cause the earliest information by telegraph, post, or otherwise to be forwarded to the Minister; and

(f) appoint such officer or officers as he may think fit to hold an inquiry into the matter; and

(g) as soon as practicable after such inquiry send to the Minister full information of the accident and the report of such officers.

Governor may direct  
formal investigation.  
No. 6, 1901, s. 64.

**62.** Where it appears to the Minister, either before or after the commencement of any such inquiry, that a more formal investigation of the accident, and of the causes thereof, and of the circumstances attending the same, is expedient, he shall notify the same to the Governor, and the Governor may, by order, direct such investigation to be held.

Provisions with  
respect to  
investigation.

*Ibid.* s. 65

**63.** With respect to such investigation, the following provisions shall have effect:—

(a) The Governor may, by the same or any subsequent order, direct a District Court judge, magistrate, or other person or persons, named

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- named in the same or any subsequent order, to hold such investigation, with the assistance of the assessors named in the order.
- (b) The person or persons holding any such formal investigation (hereinafter referred to as the court) shall hold the same in open court, in such manner, and under such conditions as he or they think most effectual for ascertaining the causes and circumstances of the accident, and enabling him or them to make the report in this section mentioned.
- (c) The court shall, for the purposes of such investigation, have all the powers of a court of petty sessions acting in the exercise of its ordinary jurisdiction; and
- (i) may enter and inspect any place or building, the entry and inspection whereof appears to such court requisite for the said purpose;
- (ii) may, by summons under their hand, require the attendance of all such persons as the court thinks fit to call, and examine the same, and may require answers or returns to such inquiries as the court thinks fit to make;
- (iii) may require and enforce the production of all books, papers, and documents which the court considers important;
- (iv) may administer an oath, and require any person examined to make and sign a declaration of the truth of the statements made by him in his examination.
- (d) Every person so summoned, not being a person engaged in the railway service, or otherwise connected with it, shall be allowed such expenses as would be allowed to a witness attending on subpoena before the Supreme Court; and in case of dispute as to the amount to be allowed, the same shall be referred by the court to the Prothonotary of the Supreme Court, who, on request by the court, shall ascertain and certify the proper amount of such expenses.
- (e) No answers or declarations of any person examined under this section shall be admissible in evidence in any proceeding against such person other than a prosecution for perjury, or for giving or making false answers or declarations.
- (f) The court, after holding an investigation concerning any accident, shall make a report to the Governor stating the causes of the accident, and all the circumstances attending the same, and any observations thereon, or on the evidence, or on any matters arising out of the investigation, which the court thinks right to make.

## PART VII.

## BY-LAWS.

By-laws.

No. 6, 1901, s. 66.

No. 7, 1906, s. 8.

**64.** The Chief Commissioner may make by-laws for all or any of the subjects or matters hereinafter mentioned, and may impose penalties not exceeding twenty pounds upon any person committing a breach of any of such by-laws—

- (1) for fixing the amount of fares for the conveyance of passengers, and the charges for the carriage of animals, goods, and parcels, and the circumstances and conditions under which the Chief Commissioner will make special rates for the carriage of goods in quantities;
- (2) for preventing the commission of any nuisance in or upon the carriages, or in any of the stations, buildings, piers, wharfs, or jetties vested in the Chief Commissioner;
- (3) for preventing the emptying of sewage or drainage on to any of the railways, or on to any lands, stations, buildings, piers, wharfs, or jetties vested in the Chief Commissioner;
- (4) for regulating the exercise of the several powers vested in any pier-master, wharfinger, or berthing master;
- (5) for regulating the admission of vessels to any pier, wharf, or jetty hereinbefore mentioned, and their removal from the same, and for the good order and government of such vessels, whilst at such pier, wharf, or jetty;
- (6) for regulating the use of any such pier, wharf, or jetty;
- (7) for regulating the shipping, unshipping, landing, warehousing, stowing, depositing, and removing of all goods from or at any such station, building, pier, wharf, or jetty;
- (8) for regulating the conduct of all persons (not being any officer under the control of the Superintendent of Navigation, or of the Sydney Harbour Trust Commissioners, or any officer of the Department of Harbours and Rivers) while upon or in any such station, building, pier, wharf, or jetty, or while employed at or near the same;
- (9) for regulating, subject to the approval of the Superintendent of the Department of Navigation, the use of fires and lights within or on board any vessel being at any such pier, wharf, or jetty;
- (10) for preventing damage or injury to any vessel or goods at any such station, building, pier, wharf, or jetty;
- (11) for regulating the duties and conduct of porters, cabmen, carmen, draymen, and carriers (not being officers of the Chief Commissioner) employed at any such station, building, pier, wharf, or jetty, and fixing the charges to be paid to them for carrying any passengers goods, articles, or things from or to the same;

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- (12) for fixing the amount of tolls to be paid by any vessel using any such pier, wharf, or jetty, or any crane, the property of the Chief Commissioner; and for fixing the amount of tolls to be paid on goods brought to or taken from any vessel using any such pier, wharf, or jetty, by lighter or other vessel;
- (13) for fixing the amount of tolls upon animals and goods received or delivered upon or from any such pier, wharf, or jetty;
- (14) for regulating generally the travelling or traffic upon, or using or working of the railways, and of the stations, buildings, piers, wharfs, and jetties hereinbefore mentioned; and for the good government and maintenance of order thereon;
- (15) for specially regulating the conduct of the traffic during any reconstruction or repair of any railway or tramway;
- (16) for regulating the terms and conditions upon which special trains will be run;
- (17) for regulating the admission of the public to any of the railways, and to any of the stations, buildings, piers, wharfs, or jetties hereinbefore mentioned; and for fixing a charge therefor, or for dispensing with the same on certain days or for certain times;
- (18) for regulating the use of stamps as prepayment upon parcels;
- (19) for regulating the sale of tickets at places, other than railway stations, and the conditions under which such tickets shall be sold;
- (20) for fixing demurrage charges, where goods are to be loaded into or discharged from trucks by owners, consignors, or consignees;
- (21) for fixing the charges for warehousing goods, and the charges to be paid in respect of parcels and luggage left for transit or for care or custody, and the conditions upon which they respectively will be received;
- (22) for regulating the disposal of unclaimed goods;
- (23) for imposing conditions upon which passengers' luggage will be carried;
- (24) for preventing or regulating bathing or fishing in, or shooting over or upon, any reservoir or tank connected with any of the railways;
- (25) for regulating the carriage of corpses, and for prohibiting the carriage or conveyance of the bodies of persons who have died from any contagious disease;
- (26) for prohibiting the carriage or conveyance of diseased animals, and preventing them from coming upon any station or premises;
- (27) for preventing damage or injury to railway stations, buildings, piers, wharfs, jetties, premises, carriages, gates, fences, or any property whatever;

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- (28) for the issue of free passes on the railways;
- (29) for regulating public or private traffic across any of the said railways, on the level thereof, and for preventing animals from trespassing on any of the railways;
- (30) for altering or repealing any by-laws made heretofore with regard to the railways;
- (31) for regulating the manner in which public notices shall be advertised, and generally with regard to advertising in newspapers and elsewhere;
- (32) for facilitating and regulating the insurance of persons travelling on the lines of railway, by any accident insurance company now or hereafter to be formed.

By-laws to be approved and published.  
No. 6, 1901, s. 67.  
Publication of by-laws.  
No. 6, 1901, s. 68.  
No. 7, 1906, s. 8.

**65.** No such by-law shall have any force or effect unless it has been approved by the Governor, and has been published for at least three clear days in the Gazette.

**66.** The Chief Commissioner shall cause the substance of such by-laws, and a list of any tolls, fares, and charges from time to time imposed thereby, to be painted upon or to be printed and affixed to boards in large and legible characters, and shall cause such boards to be exhibited in some conspicuous place in or on every station, pier, jetty, wharf, or other place where such tolls, fares, or charges, or any of them are payable, and according to the nature and character of such by-laws respectively, so as to give public notice thereof; and shall cause every such board from time to time to be renewed, if destroyed or defaced.

Evidence of publication.  
No. 6, 1901, s. 69.

**67.** (1) The exhibiting on boards of the substance of such by laws and lists of tolls, fares, and charges, shall be deemed to have been complied with if it is proved that, at the time of any alleged breach, a board was exhibited in accordance with the provisions of the next preceding section at the station, pier, wharf, jetty, or other place where tolls, fares, or charges were payable nearest to the place where such breach took place.

Production of Gazette.

(2) The production of the Gazette containing such by-law shall be evidence that such by-law has been duly made and confirmed, and that it is still in force.

Summary interference in certain cases of breach of by-law.  
*Ibid.* s. 70.

**68.** When the breach of any by-law would be attended with danger or annoyance to the public, or hindrance to any of the officers in the lawful use of any of the railways, or of any pier, wharf, jetty, station, yard, or building, such officers or any of them may summarily interfere to obviate or remove such danger, annoyance, or hindrance, and that without prejudice to any penalty incurred by the breach of such by-law.

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PART VIII.

APPOINTMENT, PROMOTION, DISCIPLINE IN AND REGULATION OF THE RAILWAY SERVICE.

DIVISION 1.—Examiners.

69. The Governor may appoint for each branch of the railway service competent persons to be examiners of candidates for permanent employment in such branch and of officers who are candidates for promotion to the higher grades in such service: Governor to appoint examiners. No. 6, 1901, s. 71.

Provided that such examiners shall not hold office longer than three years from the date of appointment, but shall be eligible for reappointment.

DIVISION 2.—Appointment.

70. (1) The Chief Commissioner shall appoint or employ such officers to assist in the execution of this Act as he thinks necessary, and every officer so appointed shall hold office during pleasure only. Chief Commissioner to appoint staff. Ibid. s. 72. No. 7, 1906, s. 8.

(2) The Chief Commissioner shall pay such salaries, wages, and allowances to officers as Parliament appropriates for that purpose. Salaries.

(3) No officer appointed under this section shall engage in any employment outside the duties of his office. Staff not to engage in other duties.

71. (1) Whenever the Chief Commissioner requires additional permanent officers he shall give public notice thereof three times in a Sydney daily paper. Notice of examination for permanent employment. No. 6, 1901, s. 73. No. 7, 1906, s. 8.

(2) Such notice shall state the qualifications required and the branches for which such additional officers are required, and shall also state the time and place of examination. Terms of notice.

(3) the Chief Commissioner shall so arrange the times and places when and where candidates are to comply with the conditions of employment provided in this Act, and to undergo examination, that persons residing in country districts shall have reasonable facilities for being examined in the district in which they reside. Arrangements with respect to country candidates.

72. (1) All persons employed in the railway service, except supernumeraries, shall be deemed to be employed in a permanent office. Permanent employment. No. 6, 1901, s. 74. No. 7, 1906, s. 8.

(2) No person shall be employed in the railway service as a supernumerary for a longer period in all than six months in any one year, except persons employed as day labourers; and no person who has been so employed shall be again employed as a supernumerary until a period of six months has elapsed from the termination of the period during which he was so employed. Supernumerary employment.

(3) The Chief Commissioner shall cause to be kept a special record of all appointments of supernumeraries, and of the circumstances under which their services were deemed necessary, of the periods during

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which they were respectively employed, and of the payments received by them respectively; and a copy of such record shall be sent to the Minister at the end of every three months.

Certificate.  
No. 6, 1901, s. 75.

**73.** No person shall be appointed as an additional permanent officer who has not obtained from the examiners a certificate of fitness, which they are hereby empowered to issue.

Order of precedence  
for appointment,  
how determined.  
*Ibid.* s. 76.  
No. 7, 1906, s. 8.

**74.** (1) If a greater number of candidates than are required by the Chief Commissioner for appointment obtain certificates from the examiners, the Chief Commissioner shall appoint as many persons as are required in such grades and to such situation as he may consider best.

Excess certificated  
candidates.

(2) The persons in excess of the number required by the Chief Commissioner shall be eligible for appointment for a period of twelve months then next ensuing from the date of such determination without further examination.

Nature of  
appointments.  
No. 6, 1901, s. 77  
No. 7, 1906, s. 8.

**75.** (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.

Confirmation of  
appointments.

(2) After the period of such probation, and upon production of a certificate of fitness from the officer at the head of the branch in which such probationer was employed, and upon proof to the satisfaction of the Chief Commissioner that all the provisions of this Act have been complied with, such appointments may be confirmed by the Chief Commissioner.

Appointments  
without  
examination.

(3) The Chief Commissioner shall, notwithstanding, have the power to appoint to any position or grade, if he thinks fit, without examination as aforesaid, persons of known ability not engaged in the railway service; but no such appointment shall be made unless the Chief Commissioner has previously certified under his seal to the Governor that there is no person in the railway service fit and qualified to be promoted to such appointment, and shall have obtained his sanction to such appointment.

*DIVISION 3.—Promotion.*

Promotions.  
No. 6, 1901, s. 79  
No. 7, 1906, s. 8.

**76.** (1) When any vacancy occurs in any branch of the railway service not open for competitive examination as hereinafter provided, 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 Chief Commissioner.

Cause to be shown.

(2) No officer shall be passed over without being allowed to show cause, in the prescribed manner, to the Chief Commissioner, whose decision upon the matter shall be final.

Competitive  
examination.  
No. 6, 1901, s. 80.  
No. 7, 1906, s. 8.

**77.** (1) Whenever promotions to the higher grades of the railway service are to be made, the Chief Commissioner shall cause competitive examinations to be held by the examiners.

(2)



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(2) The names of the candidates who have satisfied the examiners that they possess the necessary qualifications shall be registered by the Chief Commissioner, in a book kept for that purpose, in the order of their merit.

Successful candidates to be registered.

(3) No promotions to the offices open to competitive examination shall be made except from the persons whose names are so registered, and in the order of such registration, taking the name first registered and following in regular order.

Promotions.

*DIVISION 4.—Suspension and dismissal.*

**78.** The Chief Commissioner may remove any officer.

Removal of officers. No. 6, 1901, s. 81. No. 7, 1906, s. 8.

**79.** If any person employed by the Chief Commissioner—

(a) exacts, or takes, or accepts on account of anything done by virtue of his office or in relation to the functions of the Chief Commissioner, any fee or reward whatsoever other than the salary, rewards, or allowances allowed or sanctioned by Parliament; or

Officer taking fees to lose his office and to be guilty of a misdemeanour. No. 6, 1901, s. 82. No. 7, 1906, s. 8.

(b) is in anywise concerned or interested in any bargain or contract made by or on the behalf of the Chief Commissioner, otherwise than as a member only, but not as a director or officer, of any registered, incorporated, or joint stock company with whom any such bargain or contract may be made;

he shall be removed from office, and shall be incapable of being afterwards employed by the Chief Commissioner, and shall also be guilty of a misdemeanour.

**80.** If any officer is convicted of any felony or infamous offence, or becomes bankrupt, or applies to take the benefit of any Act for the relief of insolvent debtors, or by any deed or other writing, compounds with his creditors, or makes an assignment of his salary for their benefit, he shall be deemed to have vacated his office.

Forfeiture of office in certain cases. No. 6, 1901, s. 83.

**81.** The Chief Commissioner may discontinue the offices of or appoint other persons in the room of such officers as are removed, or die, or resign, or vacate their offices under the provisions of the last preceding section:

Powers of Chief Commissioner on vacation of offices. *Ibid.* s. 84. No. 7, 1906, s. 8.

Provided that when any officer has vacated his office by reason of any such pecuniary embarrassment as aforesaid, if he proves to the satisfaction of the Chief Commissioner that such embarrassment has not been caused or attended by any fraud, extravagance, or dishonorable conduct, he may reinstate such officer in his former or any other inferior position in the railway service.

Proviso.

**82.** Whenever any officer in any branch of the railway service is guilty of misconduct or of breaking any rule, by-law, or regulation of the railway service, the officer at the head of such branch may in the prescribed manner—

Officers guilty of misconduct. No. 6, 1901, s. 85.

(a) dismiss or suspend him;

(b)

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(b) fine him in a sum not exceeding five pounds;  
 (c) reduce him in rank, position, or grade, and pay;  
 but every such officer so dealt with may appeal in the manner herein after provided.

Officers guilty of misconduct, how dealt with.

No. 6, 1901, s. 86.

**83.** (1) Any officer in charge of a railway station may temporarily suspend at such station any officer of inferior rank, position, or grade to his own, until the officer at the head of such suspended officer's branch has dealt with such suspension.

(2) The board constituted in the next Division of this Part may investigate and deal with any charge brought against any officer for the breach of any rule, by-law, or regulation, or for misconduct, and may suspend such officer; or, if he has been already suspended, may further suspend him for a period not exceeding six months, without salary or wages, or may inflict a fine to be deducted from his pay, or may dismiss him.

Offenders not subject to dismissal for refusing to work on Sunday.

*Ibid.* s. 87.

**84.** (1) No officer shall be liable to dismissal or any disability for refusing, on conscientious grounds, to work on any Sunday except in cases of necessity.

(2) Such officer shall be subject to a proportionate reduction in his salary or wages on account of such refusal:

Provided that this provision shall not apply to any officer whose duties do not require him to work on Sunday.

*DIVISION 5.—Appeals.*

Commissioners shall hear appeals.

No. 7, 1906, s. 4.

**85.** The Chief Commissioner and either one of the Assistant Commissioners shall together hear and determine all those appeals which under this Division of this Part of this Act may be made to the Commissioners, and the Chief Commissioner shall have a second or casting vote in deciding such appeals.

Appeals concerning promotions.

No. 6, 1901, s. 88.

No. 7, 1906, s. 4.

**86.** (1) The Commissioners, as provided in the preceding section, shall hear and determine any appeal made by an officer against the adoption or confirmation of the advice or decision of the officer at the head of his branch with regard to his right to promotion, and may confirm or modify such decision, or make such order as they think fit; and their decision shall be final.

(2) Every such appeal shall be heard within thirty days from the date of the appeal being lodged with the Commissioners.

Board for hearing appeals.

No. 6, 1901, s. 89.

No. 7, 1906, s. 8.

**87.** (1) Every other appeal which may be made by an officer under this Part of this Act shall be made to a board, which shall consist of the Secretary to the Chief Commissioner, the Chief Accountant, the Chief Mechanical Engineer, the Engineer-in-Chief for Existing Lines, the Chief Traffic Manager, and one officer to be appointed by the Governor.

(2) Such last-mentioned officer shall be elected by ballot of the officers, and his name shall be submitted to the Governor for appointment as aforesaid, and he shall hold office on the said board for a term of three years.

Elective member of board.

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- 88.** (1) Three members of the said board shall form a quorum. Quorum.  
No. 6, 1901, s. 90.  
 (2) All powers of the board may be exercised by a majority of the members present at any meeting, and in case of an equality of votes the chairman of the meeting shall have a second or casting vote. Exercise of powers.  
 (3) The members present at each meeting of the board shall appoint one of their number to act as chairman at such meeting. Chairman.
- 89.** 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. Disqualification.  
*Ibid.* s. 91.
- 90.** It shall be the duty of the secretary to the Chief Commissioner to convene all meetings of the board, and to keep a record of all proceedings thereof and decisions arrived at. Records.  
*Ibid.* s. 92.  
No. 7, 1906, s. 8.
- 91.** Every appeal to the board shall be lodged with the said secretary within seven days of the date of the decision appealed against, and shall be heard by the board within thirty days from the date of it being so lodged. Times for lodging  
and hearing appeals.  
No. 6, 1901, s. 93.
- 92.** (1) At the hearing of an appeal by or charge against any officer, any member of the board may administer an oath to every witness at such hearing. Members of board  
may administer  
oaths.  
*Ibid.* s. 94.  
 (2) The appellant or person charged shall be entitled to have all witnesses examined on oath, and also to be represented by a barrister, solicitor, or agent, who may examine witnesses and address the board on his behalf. Persons may be  
represented.  
 (3) The board may confirm or modify any decision appealed against, or make any such order thereon as they think fit. Powers of board.
- 93.** (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 accused may, within seven days after being informed of such decision, appeal therefrom to the Commissioners. Effect of decision of  
board.  
*Ibid.* s. 95.  
 (2) Thereupon the Commissioners, as provided in section eighty-five, may hear, and may confirm, modify, or otherwise determine such appeal, and such determination shall be final and conclusive. In the hearing of such appeals, the appellant shall have the like rights and privileges as he had before the board, and the Commissioners may administer an oath to every witness at such hearing. Appeal from board  
to Commissioners.

*DIVISION 6.—Officers in positions of trust.*

- 94.** (1) Before any person entrusted with the custody and control of moneys, whether as collector or other officer of the Chief Commissioner, enters upon his office, the Chief Commissioner shall take sufficient security from him for the faithful execution of his office. Chief Commissioner  
to take security  
from officers  
entrusted with  
money.  
*Ibid.* s. 96.  
No. 7, 1906, s. 8.  
 (2) Such security may be that of any incorporated company or guarantee society approved by the Chief Commissioner in the prescribed manner. **95.**

Delivery of matters  
in possession or  
custody of officers.  
No. 6, 1901, s. 97.  
No. 7, 1906, s. 8.

**95.** If—

- (a) any collector of tolls or other officer employed by the Chief Commissioner is discharged or suspended from his office, or dies, absconds, or absents himself; and
- (b) such collector or other officer, or the wife, widow, or any of the family or representatives of any such collector or other officer, refuses or neglects, after seven days' notice in writing for that purpose, to deliver up to the Chief Commissioner or to any person appointed by him for that purpose, any station, dwelling-house, office, or other buildings, with its appurtenances, or any books, papers, or other matters belonging to the Chief Commissioner, in the possession or custody of any such collector or officer at the occurrence of any such event as aforesaid;

then, upon application being made by the Chief Commissioner to any justice, such justice may order any constable, with proper assistance, to enter upon such station or other building, and remove any person found therein, and take possession thereof, and of any such books, papers, or other matters, and to deliver the same to the Chief Commissioner or to any person appointed by such justice for that purpose.

Officers to account  
on demand.  
No. 6, 1901, s. 98.  
No. 7, 1906, s. 8.

**96.** (1) Every officer shall, from time to time, when required by the Chief Commissioner, make out and deliver to him, or to any person appointed by him for that purpose, a true and perfect account in writing, under his hand, of all moneys received by him on behalf of the Chief Commissioner, or by virtue of his employment.

Terms of account.

(2) Such account shall state how, and to whom, and for what purpose, such moneys have been disposed of; and, together with such account, such officer shall deliver the vouchers and receipts for such payments.

Payment.

(3) Every such officer shall pay to the Chief Commissioner, or to any person appointed by him to receive the same, all moneys which appear to be owing from him upon the balance of any such account.

Officers failing to  
account.  
No. 6, 1901, s. 99.  
No. 7, 1906, s. 8.

**97.** (1) If any such officer fails—

- (a) to render such account; or
- (b) to produce and deliver up all the vouchers and receipts relating to the same in his possession or power; or
- (c) to pay the balance thereof when required; or
- (d) within three days after being thereunto required, to deliver up to the Chief Commissioner, or to any person appointed by him to receive the same, all papers and writings, property, effects, matters, and things in his possession or power relating to the execution of this Act or belonging to the Chief Commissioner;

then, on complaint thereof being made to a justice, such justice shall summon such officer to appear before a magistrate, at a time and place to be set forth in such summons to answer such charge.

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(2) Upon the appearance of such officer, or in his absence, upon proof that such summons was personally served upon him or left at his last known place of abode, such magistrate may hear and determine the matter in a summary way, and may adjust and declare the balance owing by such officer. Procedure.

(3) If it appears, either upon confession of such officer, or upon evidence, or upon inspection of the account, that any public moneys which should be paid over to the Chief Commissioner are in the hands of such officer, or owing by him, such magistrate may order such officer to pay the same. Order may be made.

**98.** If any such officer, on being so brought before such magistrate and being required so to do, refuses to make out such account in writing, or to produce and deliver to the magistrate the several vouchers and receipts relating thereto, or to deliver up any books, papers, or writings, property, effects, matters, or things in his possession or power belonging to the Chief Commissioner, such magistrate may commit such offender to gaol, there to remain until he delivers up all the vouchers and receipts (if any) in his possession or power relating to such accounts, and all books, papers, writings, property, effects, matters, and receipts (if any) in his possession or power relating to such Commissioner, or which should be delivered up by such officer. Officers refusing to account or deliver up books, &c. No. 6, 1901, s. 100. No. 7, 1906, s. 8.

**99.** (1) If the Chief Commissioner, or any person authorised by the Chief Commissioner, makes oath before a justice that he has good reason to believe, upon grounds to be stated in the deposition, and does believe, that it is the intention of any such officer as aforesaid to abscond, or that he has absconded, such justice may issue a warrant in the first instance for the apprehension of such officer to be brought before any magistrate. Where officer about to abscond, a warrant may be issued in the first instance. No. 6, 1901, s. 101. No. 7, 1906, s. 8.

(2) No person executing such warrant shall keep such officer in custody longer than twenty-four hours, or such longer period as may be rendered necessary by the distance of the place of apprehension from the residence of the nearest or most convenient justice, without bringing him before some justice, who shall either discharge such officer, if he thinks there is no sufficient ground for his detention, or order him to be detained in custody so as to be brought before a magistrate, at a time and place to be named in such order, unless such officer gives bail to the satisfaction of such justice for his appearance before such magistrate to answer the said complaint. Detention of officer.

(3) No such proceeding against, or dealing with, any such officer shall deprive the Chief Commissioner of any remedy which he might otherwise have against such officer or any surety of such officer. Sureties not to be discharged.

*DIVISION 7.—Miscellaneous provisions.*

**100.** The officer at the head of any branch of the railway service may, if he thinks fit, certify that in his opinion any officer in his branch is entitled to a gratuity or to a payment for overtime work; but no gratuity or payment for overtime work shall be paid upon such certificate without the authority of the Chief Commissioner. Gratuities and overtime payments. No. 6, 1901, s. 102. No. 7, 1906, s. 8.

**101.**

Record of particulars  
of railway service to  
be kept.

No. 6, 1901, s. 103.

No. 7, 1906, s. 8.

**101.** The Chief Commissioner shall—

- (a) keep a record of all officers in the railway service, and shall record therein the rank, position, or grade, the length of service, salaries, and such other particulars with regard to such officers as he thinks fit;
- (b) cause entries to be made in such record of deaths, dismissals, resignations, promotions, and reductions;
- (c) in the month of June, in each and every third year, from the year one thousand nine hundred, publish in the Gazette a list of persons employed in the railway service up to the thirty-first day of December of the preceding year.

Regulations.

No. 6, 1901, s. 104.

No. 7, 1906, s. 8.

**102.** The Chief Commissioner shall make regulations—

- (a) for prescribing the qualifications required of all candidates for permanent employment in each of the various branches of the railway service, and, if necessary, in each grade of such branches;
- (b) for the examination of candidates and the granting of certificates to them;
- (c) for determining the nature or character and extent of examinations or tests, according to the requirements of each of the higher grades in the railway service, which officers in the lower grades desiring to compete for and to be promoted to such higher grades shall undergo;
- (d) for regulating the relative rank, position, or grade in the duties and conduct of the officers in each of the various branches of the railway service; and for determining which of such grades shall be deemed the higher and lower grades, respectively, in such railway service;
- (e) for regulating the duties to be performed by officers in the railway service, and the discipline to be observed in the performance of such duties, the granting of leave of absence from time to time, and arranging for the performance of duties during holidays, and for affixing to breaches of such regulations according to the nature of the offences, such penalties as by this Act are authorised;
- (f) for regulating and determining the scale on which officers in the various grades of the railway service shall insure their lives;
- (g) for the hearing and determining of appeals;
- (h) for altering or repealing any rules or regulations made before the passing of this Act with regard to railways or tramways;
- (i) for fixing the ages at which officers shall retire in the different branches of the railway service.

All such regulations, when confirmed by the Governor, shall have the same force and effect as if they had been contained in this Act:

Provided

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Provided that no such regulation which in any way alters or annuls any privileges or immunities which officers have previously enjoyed, or dealing in any way with hours of work or wages, shall have any force or effect until the same has been published in the Gazette one week.

Certain regulations to be confirmed.

**103.** Nothing in this Act shall be held to in any way interfere with the right of any officer to sue the Chief Commissioner in any court of law, and this Act expressly reserves to every officer the right so to sue should he so desire.

Right to sue.  
No. 6, 1901, s. 105.  
No. 7, 1906, s. 8.

**104.** The Chief Commissioner shall not have power to agree with officers to contract themselves out of the provisions of any Act of Parliament, or to compel them to forego any civil rights to which any Act of Parliament entitles them.

Contractual limits.  
No. 6, 1901, s. 106.  
No. 7, 1906, s. 8.

**105.** The Chief Commissioner shall not be deemed to be exempt from liability to any action which might be brought against an employer under the Employers Liability Act of 1897.

Employers Liability Act of 1897.  
No. 6, 1901, s. 107.  
No. 7, 1906, s. 8.

**106.** In all public inquiries and investigations into the cause of any accident, the officers shall have the right to be represented by one of their number, or by any person whom they may select to represent their interests at such inquiry.

Officers may be represented.  
No. 6, 1901, s. 108.

**107.** Nothing in this Act shall prejudice or affect any officer in the railway or tramway service who has been a contributor to the Superannuation Account in respect of his right to any compensation or retiring allowance under the provisions of the Civil Service or any other Act, or to any other rights, privileges, and immunities thereunder.

Saving of rights.  
*Ibid.* s. 109.  
No. 7, 1906, s. 8.

PART IX.

SUPERANNUATION ALLOWANCES AND GRATUITIES.

**108.** Superannuation allowances and gratuities became payable on and after the first day of November, one thousand nine hundred and ten.

Superannuation.  
No. 11, 1910, s. 1.

**109.** In this Part of this Act, unless the context requires another meaning:—

Definitions.  
*Ibid.* s. 2.

- (a) "Emoluments" does not include forage, equipment, or travelling allowances.
- (b) "Officer" means officer, clerk, servant, or other person employed permanently by the Chief Commissioner to assist in the execution of this Act, or of the Acts hereby repealed.
- (c) "Salary" includes wages.
- (d) "Superannuation allowances" and "gratuities" means superannuation allowances and gratuities payable under this Part of this Act.

(e)

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- (e) "Service" means service, whether permanent or temporary, under the railway or tramway service of New South Wales.
- (f) "The board" means the board constituted under the provisions of this Part of this Act.

This Part of this Act shall not apply to any officer who, on the first day of October, one thousand nine hundred and ten, was a contributor to the superannuation account under the Civil Service Act of 1884.

The board.  
No. 11, 1910, s. 3.

**110.** The board shall consist of seven persons, namely,—three appointed by the Governor for a term of five years; three elected for a term of three years, of whom two shall be elected by the officers in the railway service, and one by the officers in the tramway service, under regulations made under this Part of this Act; and the Chief Commissioner, who shall ex officio be chairman of the board.

Any vacancy in the members so appointed or elected shall be filled by appointment or election as aforesaid, as the case may be. Any person elected shall hold office for the unexpired term of office of the person whose vacancy he fills.

Deduction from salaries.  
*Ibid.* s. 4.

**111.** On the days appointed for payment of the salary and emoluments of any officer, a deduction shall be made from such salary and emoluments of a sum not exceeding one and one-half per centum thereof.

Government Railways Superannuation Account.  
*Ibid.* s. 5.

**112.** (1) The amounts so deducted shall be placed to the credit of a special account in the Treasury, to be called the Government Railways Superannuation Account.

There shall also, on appropriation by Parliament, be annually placed to the credit of the said account, from the Consolidated Revenue Fund, such moneys as may be required to meet claims under this Part of this Act.

(2) Moneys at credit of the said account shall be applied in paying superannuation allowances, gratuities, and refunds, and making other payments authorised by this Part of this Act.

Persons to whom superannuation allowances are payable.  
*Ibid.* s. 6.

- 113.** A superannuation allowance is payable to an officer—
- (a) who is over sixty years of age and has retired after ten years' or longer service; or
- (b) who is under sixty years of age, and has, after ten years' or longer service, been compelled to retire through infirmity of body or mind not caused by intemperate habits, such infirmity being duly certified to the satisfaction of the board as likely to be permanent; or
- (c) who is under sixty years of age, and whose services have been dispensed with after ten years' or longer service, by reason that his office has been abolished, and no other officer, whether in the railway or tramway, or in any other branch of the public service has been found for him at not less than five-sixths of his salary.

**114.**



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**114.** A superannuation allowance shall be payable each year for the rest of the life of the officer.

Period and amount of allowance.

No. 11, 1910, s. 7.

Such allowance shall, subject to this Part of this Act, amount to one-sixtieth of an average taken of the annual salaries and emoluments of the officer during his term of service, multiplied by the number of complete years of his service, but shall not exceed two-thirds of the average of such annual salary and emoluments.

**115.** Any officer who held any office in the service on the first day of October, one thousand nine hundred and ten, shall, notwithstanding his not having contributed by way of deduction from his salary and emoluments during his past services to the Government Railways Superannuation Account, be entitled to the superannuation allowances and gratuities herein provided, subject to such an annual abatement as on the certificate of an actuary appointed by the board is equivalent to one and one-half per centum on the total salaries and emoluments received by such officer prior to the said date; or the officer may, at his option, pay, in one sum or by the prescribed instalments extending over three years, a sum equivalent to one and one-half per centum on such total salaries and emoluments; and subject to such payment he shall be entitled to his superannuation allowance without abatement.

Allowances to officers in service at commencement of this Part of this Act.

*Ibid.* s. 8.

**116.** A gratuity not exceeding two months' salary at the then rate for each complete year of service, and not less than six months' salary shall be payable to any officer who is incapacitated from the further discharge of his duties by reason of bodily injuries received in the course of his duty, and who retires from the service. If, before payment of the gratuity, such officer dies from such injury, the gratuity shall be payable to his widow, or, if he does not leave a widow, to his personal representatives, to be administered as part of his estate.

Gratuities to officer incapacitated.

*Ibid.* s. 9.

**117.** A gratuity not exceeding one month's salary at the then rate for each complete year of service shall be payable to any officer—

Gratuities to officer compelled to retire.

*Ibid.* s. 10.

(a) who is under sixty years of age, and after less than ten years' service has been compelled to retire through infirmity of body or mind, not caused by intemperate habits, such infirmity being duly certified to the satisfaction of the board as likely to be permanent; or

(b) whose services have been dispensed with otherwise than for an offence, and who is not entitled to a superannuation allowance.

**118.** When an officer is reported unfit to perform his duties by reason of any infirmity of body or mind, the Chief Commissioner may appoint three duly qualified medical practitioners to examine and report upon his condition, and may also direct the head of the department or branch in which he is employed to report on the manner in which his duties have been performed. If on such reports it appears to the board to be for the public interest, he may retire upon the superannuation allowance provided by this Part of this Act.

Reports on officers unfit to perform their duties.

*Ibid.* s. 11.

**119.**

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Medical examination of officers receiving allowances or gratuities.

No. 11, 1910, s. 12.

**119.** (1) When an officer who has retired from the service through infirmity of body or mind is in receipt of a superannuation allowance or has received a gratuity, he shall submit himself for medical examination as and when required by the board; and, if he makes default in complying with such requirement, any superannuation allowance or gratuity shall cease to be payable during such default.

Where health of officer is restored.

(2) If, in the opinion of the board, the health of any such officer has become so restored as to enable him to perform his duties, the Chief Commissioner may require him to resume such duties, or to undertake any other duties in the service for which he is qualified, at his former salary, and thereupon any superannuation allowance granted to such officer shall cease to be payable. But, in the event of the recurrence of his infirmity, the officer shall be entitled to his superannuation allowance, together with any increase in the same to which he would be entitled from additional length of service.

If any such officer who has received a gratuity fails to resume or undertake such duties when so required, the board may recover from him, as a Crown debt, the amount of such gratuity, and pay the same into the Government Railways Superannuation Account.

Refund where officer dies in the Service.

*Ibid.* s. 13.

**120.** Where an officer dies whilst in the service, his widow, or, if he does not leave a widow, his personal representatives, shall be entitled to a refund of the deductions made from his salary and emoluments under this Part of this Act, together with interest at the rate prescribed on the amounts of such deductions from the dates when they were respectively made.

Refund where officer dies shortly after retirement.

*Ibid.* s. 14.

**121.** If an officer retires upon a superannuation allowance and dies within six months after such retirement, his representatives may receive a sum which is equal to the difference between the actual amount of superannuation allowance received by him and the total deductions made under this Part of this Act in respect of his salary and emoluments.

Refund where officer voluntarily retires.

*Ibid.* s. 15.

**122.** Where an officer voluntarily retires after service for fifteen years or longer, he shall, on a certificate of good conduct being furnished to the board, be entitled to a refund of the deductions made from his salary and emoluments under this Part of this Act, but without any interest thereon.

Limit of amount of allowance or gratuity.

*Ibid.* s. 16.

**123.** No officer shall receive or be entitled to any superannuation allowance or gratuity in respect of so much of his salary and emoluments as is in excess of eight hundred pounds per annum; and no officer shall be liable to a deduction under this Part of this Act from so much of his salary and emoluments as is in excess of that amount.

Payments to be certified by board.

*Ibid.* s. 17.

**124.** Moneys payable under this Part of this Act shall be certified by the board.

Where officer dismissed for misconduct.

*Ibid.* s. 18.

**125.** Any officer dismissed from the service for misconduct shall forfeit all rights to superannuation allowances or gratuities. But if he was dismissed for a cause which, in the opinion of the board, did  
not

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not amount to serious misconduct, he may receive a refund of such portion of the deduction made from his salary as the board may think fair under all the circumstances.

**126.** Where an officer has, in pursuance of section seventy-eight of the Government Railways Act, 1901, effected a policy of insurance for the payment of money on his death, or on his attaining a certain age, and such policy was in force on the first day of October, one thousand nine hundred and ten, and such officer has, before the first day of January, one thousand nine hundred and eleven, elected to transfer such policy to a person named by the board, and has requested the board to continue the payments of the premiums under the said policy, the board shall, on and after such transfer, cause to be duly paid the premiums on such policy, and shall hand over to the officer or to his personal representatives to be administered as part of his estate, any sums received on maturity of the policy, less the amount of the premiums, with interest thereon at the rate of three and a half per centum per annum from the respective dates of payment.

Surrender or transfer of officer's policy of insurance. No. 11, 1910, s. 19.

**127.** The determination of the board as to—

- (a) whether a deduction shall be made from the salary and emoluments of an officer;
- (b) the period of service of an officer;
- (c) whether an officer has been dismissed from the service for misconduct;

Certain determinations of board to be final. *Ibid.* s. 20.

shall be final and conclusive.

**128.** A superannuation allowance shall not be capable of being assigned or charged, and shall not be liable to be seized or sold under any process of law. Any gratuity payable under this Part of this Act to the representatives of a deceased officer shall not be assets for the payment of his debts.

Allowances may not be assigned or charged. *Ibid.* s. 21.

**129.** The Governor may make regulations for carrying out the provisions of this Part of this Act.

Regulations. *Ibid.* s. 22.

Such regulations shall be published in the Gazette, and shall take effect from the date of such publication.

Such regulations shall be laid before both Houses of Parliament within fourteen days after publication if Parliament is in session, and, if not, then within fourteen days after the commencement of the next session. But if either House of Parliament passes a resolution at any time within fifteen sitting days after such regulations have been laid before such House disallowing any regulation, such regulation shall thereupon cease to take effect.

## PART X.

## PENALTIES AND PROCEDURE.

Fraudulent travelling.  
No. 6, 1901, s. 110.  
No. 7, 1906, s. 8.

**130.** (1) Whosoever—

- (a) travels or attempts to travel in any carriage employed on any railway without having previously paid his fare, and with intent to avoid payment thereof; or
  - (b) having paid his fare for a certain distance, knowingly and wilfully proceeds in any such carriage beyond such distance, without previously paying the additional fare for the additional distance, and with intent to avoid payment thereof; or
  - (c) knowingly and wilfully refuses or neglects, on arriving at the point to which he has paid his fare, to quit such carriage; or
  - (d) knowingly and wilfully travels or attempts to travel in any carriage, of a superior class to that which his ticket entitles him to use, with intent to avoid payment of the additional fare;
- shall, for every such offence, forfeit to the Chief Commissioner a sum not exceeding forty shillings.

Detention of offenders.

(2) If any person is discovered either in the act of or after committing or attempting to commit any such offence, all officers and other persons on behalf of the Chief Commissioner, and all constables and gaolers, may lawfully apprehend and detain such person until he can conveniently be taken before some justice, or until he is otherwise discharged in due course of law.

Dangerous goods.  
No. 6, 1901, s. 111.  
No. 7, 1906, s. 8.

**131.** If any person sends by any railway any aqua-fortis, oil of vitriol, gunpowder, lucifer matches, or any goods whatsoever which, in the judgment of the Chief Commissioner, or his officers, may be of a dangerous nature, without distinctly marking the nature of such goods on the outside of the package containing the same, or otherwise giving notice in writing at the time of sending the same to the bookkeeper or other officer of the Chief Commissioner with whom the same are left, he shall forfeit to the Chief Commissioner a sum not exceeding fifty pounds for every such offence.

Disobedience of person summoned as witness.  
No. 6, 1901, s. 112.

**132.** (1) If any person without reasonable excuse, proof whereof shall lie on him, does any of the following things, namely,—

- (a) having been summoned and having had the expenses (if any) to which he is entitled tendered to him, fails to attend as a witness before a court holding an investigation under this Act; or
  - (b) fails, when required by such court, in pursuance of this Act, so to do, to make any answer or give any return, or to produce any document, or to make or sign any declaration; or
  - (c) prevents or impedes such court in the execution of its duty;
- he shall, for every such offence, incur a penalty not exceeding ten pounds:

Provided

*Government Railways (No. 2).*

Provided that, in the case of a failure to give any return or produce any document, the said penalty shall not exceed ten pounds for every day that such failure continues.

(2) Where the offence consists of preventing or impeding as aforesaid, any member of such court, or any person called by him to his assistance, may seize and detain the offender until he can be conveniently taken before a magistrate or two justices to be dealt with according to law. Arrest.

**133.** (1) If any person employed upon the railway or in repairing and maintaining the works of the said railway— Persons employed on railways guilty of misconduct.

- (a) is found drunk whilst so employed upon the said railway; or No. 6, 1901, s. 113.
- (b) commits any offence against any of the regulations or by-laws of the Chief Commissioner; or No. 7, 1906, s. 8.
- (c) wilfully, maliciously, or negligently does any act, or is guilty of any omission of duty, whereby the life or limb of any person passing along or being upon such railway, or the works thereof, respectively, is or might be injured or endangered, or whereby the passage of any engine, carriage, or trains is or might be obstructed or impeded; No. 24, 1909, s. 28.

any railway officer or agent, or any special constable duly appointed, and all such persons as any of them may call to his assistance, may seize and detain such person so offending, or any person counselling, aiding, or assisting in such offence, and convey him with all convenient despatch before any magistrate, or two justices of the peace, without any other warrant or authority than this Act, to be dealt with according to law.

(2) Every person so offending as aforesaid, and every person counselling, aiding, or assisting therein, shall, upon conviction, upon a complaint in writing, be imprisoned, with or without hard labour, for any term not exceeding six months, or shall forfeit any sum not exceeding fifty pounds. Penalty.

**134.** If any person—

- (a) wilfully obstructs any person acting under the authority of the Chief Commissioner in the lawful exercise of his power; or Obstructions and trespasses.
- (b) pulls up or removes any poles or stakes driven into the ground for the purpose of setting out any line of railway, or defaces or destroys any marks made for the same purpose; or No. 6, 1901, s. 114.
- (c) wilfully obstructs or impedes any officer or agent of the Government or of the Chief Commissioner in the execution of his duty upon any railway, or upon or in any of the stations or other works or premises connected therewith; or No. 7, 1906, s. 8.
- (d) wilfully trespasses upon any such railway or any of the stations or other works or premises connected therewith;

such person, and all others aiding or assisting in the commission of any such offence, shall forfeit to the Chief Commissioner a sum not exceeding twenty pounds for every such offence.

**135.**

Other obstructions.  
No. 6, 1901, s. 115.  
No. 7, 1906, s. 8.

**135.** (1) If any person—

- (a) throws any gravel, stones, or rubbish, or any matter or thing upon any part of a railway; or
- (b) drives or permits to wander, stray, or be driven upon any such railway, or the approaches thereto, any horse, ass, sheep, swine, or other beasts or cattle of any kind; or
- (c) does any other act, matter, or thing to obstruct the free passage of any such railway, or any part thereof;

such person and all others aiding or assisting in the commission of any such offence, shall forfeit and pay for every such offence any sum not exceeding fifty pounds.

Procedure.  
No. 24, 1909, s. 28.

(2) The penalty for every such offence may be recovered before any magistrate, or two justices of the peace, on complaint to him or them, for that purpose exhibited by any person on behalf of the Chief Commissioner.

Publication of penalties.  
No. 6, 1901, s. 116.  
No. 7, 1906, s. 8.

**136.** (1) The Chief Commissioner shall publish the short particulars of the several offences for which any penalty is imposed by this Act, or by any by-laws of the Chief Commissioner, affecting other persons than officers, and of the amount of every such penalty, and shall cause such particulars to be painted on a board, or printed upon paper and pasted thereon, and shall cause such board to be hung up or affixed in some conspicuous part of the principal place of business of the Chief Commissioner.

Local penalties.

(2) When any such penalties are of local application, the Chief Commissioner shall cause such boards to be affixed in some conspicuous place in the neighbourhood to which such penalties are applicable or have reference.

Particulars to be renewed.

(3) Such particulars shall be renewed as often as the same or any part thereof are obliterated or destroyed.

(4) No such penalty shall be recoverable unless the requirements of this section have been complied with.

Penalty for defacing boards used for publication.  
No. 6, 1901, s. 117.

**137.** If any person pulls down or injures any board put up or affixed, as required by this Act, for the purpose of publishing any by-law or penalty, or obliterates any of the letters or figures thereon, he shall forfeit for every such offence, a sum not exceeding five pounds, and shall defray the expenses attending the restoration of such board.

Arrest of offenders.  
*Ibid.* s. 118.  
No. 24, 1909, s. 28.

**138.** Any railway officer or agent, and all persons called by him to his assistance, may seize and detain any person who has committed any offence against the provisions of this Act, and whose name and residence are unknown to such officer or agent, and may convey him with all convenient despatch before some magistrate, or two justices of the peace, without any warrant or other authority than this Act; and such magistrate, or two justices of the peace, shall proceed with all convenient despatch to the hearing and determining of the complaint against such offender.

**139.**

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**139.** Every penalty or forfeiture imposed by this Act, or by any by-law or regulation made in pursuance thereof, the recovery of which is not otherwise provided for, may be recovered in a summary manner before any magistrate, or two justices of the peace, according to the Acts in force for the time being regulating summary proceedings before justices.

Penalties to be summarily recovered.  
No. 6, 1901, s. 119.  
No. 24, 1909, s. 28.

**140.** If any person inflicts, through any act, neglect, or default whereby he has incurred any penalty imposed by this Act, any damage upon any railway or other property vested in the Chief Commissioner, he shall be liable to pay such damage in addition to such penalty, and the amount of such damage shall be determined by the magistrate or justices.

Damage to be made good in addition to penalty.  
No. 6, 1901, s. 120.  
No. 7, 1906, s. 8.

**141.** (1) Where in this Act any question of compensation, expenses, charges, damages, or other matter is referred to the determination of a magistrate or two justices, any justice may, upon the application of either party, summon the other party to appear before a magistrate or two justices at a time and place to be named in such summons.

Method of proceeding before justices in question of damages, &c.  
No. 6, 1901, s. 121.

(2) Upon the appearance of such parties, or, in the absence of any of them, upon proof of due service of the summons, such magistrate or justices may hear and determine such question.

Proceedings on appearance.

(3) The costs of every such inquiry shall be in the discretion of such magistrate or justices, and he or they shall determine the amount thereof.

Costs.

**142.** Any summons, notice, writ, process, or document required to be served on the Chief Commissioner pursuant to any Act, by-law, or regulation, may be served upon the solicitor to the Chief Commissioner.

Service upon Chief Commissioner.  
No. 6, 1901, s. 122.  
No. 7, 1906, s. 8.

**143.** All actions against the Chief Commissioner, or against any person for anything done or purporting to have been done under this Act, shall be commenced within one year after the act complained of was committed.

Limitation of actions against the Chief Commissioner.  
No. 6, 1901, s. 123.  
No. 7, 1906, s. 8.

**144.** (1) No action shall be commenced against the Chief Commissioner or any person for anything done, or purporting to have been done, by them or him under this Act, until one month, at least, after a notice in writing of such intended action has been delivered to them or him, or left at their or his usual place of business, or at the office of the Solicitor for Railways, by the party intending to commence such action, or by his attorney or agent.

Notice of action.  
No. 6, 1901, s. 124.  
No. 7, 1906, s. 8.

(2) Such notice shall clearly and explicitly state the cause of action and the court in which the same is intended to be brought, and upon the back thereof shall be endorsed the name and place of abode of the party so intending to sue, and also the name and place of abode or of business of the attorney or agent, if such notice was served by such attorney or agent.

Terms of notice.

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- Defects in notice.** (3) A notice under this section shall not be deemed invalid by reason of any defect or inaccuracy therein, unless the judge before whom the action is tried is of opinion that the defendant in the action has been prejudiced in his defence by such defect or inaccuracy.
- General issue.** (4) The defendant in every such action may plead the general issue, and at the trial thereof give this Act and the special matter in evidence.
- Limitation of compensation in respect of personal injuries.** **145.** In any action, either under the Compensation to Relatives Act of 1897 or otherwise, against the Chief Commissioner, as a carrier of passengers, in respect of injuries sustained after the twenty-second day of October, one thousand eight hundred and ninety-six, by any person while being carried upon any railway vested in the Chief Commissioner, or while being in or upon or about any station, yard, land, or premises vested in or used by him, no larger sum than two thousand pounds shall be recoverable.
- Tender of amends.** **146.** (1) If any person has committed any irregularity, trespass, or other wrongful proceeding in the execution of this Act, or by virtue of any power or authority hereby given, and if before action brought in respect thereof such person makes tender of sufficient amends to the person injured, such last-mentioned person shall not recover in any such action.
- Payment into court.** (2) If no such tender has been made, the defendant may, by leave of the court where such action is pending, at any time before issue joined, pay into court such sum of money as he thinks fit, and thereupon such proceedings shall be had as in other cases where defendants are allowed to pay money into court.



*Jury.*

SCHEDULES.

FIRST SCHEDULE.

Reference to Act.	Title or short title.	Extent of repeal.
No. 6, 1901 ...	Government Railways Act, 1901 ...	The whole.
No. 4, 1902 ...	Government Railways (Commissioner's Salary) Act, 1901.	The whole.
No. 13, 1905 ...	Government Motor Omnibus Act, 1905... ..	The whole.
No. 7, 1906 ...	Railway Commissioners Appointment Act, 1906	The whole.
No. 24, 1909 ...	Justices (Amendment) Act, 1909 ... ..	Section 28.
No. 11, 1910 ...	Railway Service Superannuation Act, 1910 ...	The whole.

SECOND SCHEDULE.

Section 58.

Offices entitling persons to free passes for life—

1. The position of—
  - (a) Head of an administration, or of Prime Minister, held for two years consecutively or in the aggregate;
  - (b) Member of the Executive Council, so held for four years.
2. The office of—
  - (a) Chief Justice, held for three years;
  - (b) Lieutenant Governor, held for one year;
  - (c) President of the Legislative Council, held for one year;
  - (d) Speaker of the Legislative Assembly, held for one year.