

# GOVERNMENT RAILWAYS (AMENDMENT) ACT.

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Act No. 69, 1916.

An Act to make further provision for the construction and management of Government Railways and Tramways; to provide for a Chief Railway Commissioner and certain Assistant Railway Commissioners and their deputies, and for defining their powers and duties; for the closing of level-crossings; to repeal the Tramways (Carriage of Goods) Act, 1911; to amend the Government Railways Act, 1912, the Public Works Act, 1912, and other Acts; and for purposes consequent thereon or incidental thereto. [Assented to, 11th December, 1916.]

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**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:—

**1.** (1) This Act may be cited as the “Government Railways (Amendment) Act, 1916”.

It shall be read with the Government Railways Act, 1912, hereinafter referred to as the Principal Act.

(2)

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No. 69.** (2) This Act shall commence and come into force on a date to be notified by the Governor in the Gazette :  
Commence-  
ment. Provided that any appointment under this Act may be made at any time after its passing, to have effect on its commencement, or on a such later date as the Governor may, in such appointment, prescribe.
- Repeal. **2.** The Tramways (Carriage of Goods) Act, 1911, is repealed.
- Amendment  
of s. 3 of  
Principal Act. **3.** (1) In section three of the Principal Act, omit paragraphs (a), (b), and (c), and insert—  
(a) “The Chief Commissioner” means the Chief Railway Commissioner for New South Wales appointed under this Act.  
(b) “Assistant Commissioner” means Assistant Railway Commissioner for New South Wales appointed under this Act.  
(2) In paragraph (d) of the same section omit the words “or deemed to be appointed”.
- “Commis-  
sioners” to be  
read instead  
of “Chief  
Commis-  
sioner.” **4.** In the Principal Act, except in Part IX and except where otherwise in this Act provided, “the Commissioners” shall be read instead of the words “the Chief Commissioner”; and all words in the singular number, where referring to the Chief Commissioner, shall be read in the plural.
- Amendment  
of s. 4 of Prin-  
cipal Act. **5.** In section four of the same Act omit “Chief Commissioner for Railways and Tramways” insert “Railway Commissioners for New South Wales”.
- Amendment  
of s. 5. **6.** (1) The first paragraph of subsection one of section five of the same Act is omitted and the following substituted for it :—  
The Governor shall from time to time appoint a Chief Railway Commissioner for New South Wales and three Assistant Railway Commissioners for New South Wales. The Governor may, on the recommendation of the Chief Commissioner, allot the duties of the Assistant Commissioners respectively, and may, on the recommendation of the Chief Commissioner, vary any such allotment of duties.  
(2) The following new paragraph is inserted next after subsection three of the same section :—  
(3A) The Governor may appoint as deputy of the Chief Commissioner any Assistant Commissioner who shall, during the illness, suspension, or absence of the Chief Commissioner, exercise his powers and perform his duties. (3)
- New sub-  
section (3A).

(3) In the first paragraph of subsection four of the same section omit "any Commissioner" insert "any Assistant Commissioner".

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Amendment  
of subsec-  
tion (4).

(4) Omit the second paragraph of the same subsection and insert the following :—

Where an Assistant Commissioner is appointed in pursuance of this section to act as deputy of the Chief Commissioner the Governor may appoint a person to be deputy of such Assistant Commissioner while so acting.

**7.** (1) Omit section six of the same Act and insert the following :—

New s. 6.

6. In any Act, and in any regulations or by-laws, and in any instrument, references to the Commissioners as defined by the repealed Act No. 6, 1901, or to the Chief Commissioner for Railways and Tramways, shall be read as references to the Commissioners appointed under this Act.

References  
to Commis-  
sioners.

Any action or proceeding and any cause of action or proceeding pending or existing at the time of the commencement of the Government Railways (Amendment) Act, 1916, by or against the Chief Commissioner for Railways and Tramways may be continued by or against the Commissioners appointed under this Act.

(2) In subsection one of section seven of the same Act omit "the Chief Commissioner," insert "Any Commissioner".

Amendment  
of s. 7.

(3) Omit subsection two of the same section.

**8.** Section nine of the same Act is repealed.

Repeal of s. 9.

**9.** Section ten of the same Act is repealed, and the following sections are inserted in its place :—

New s. 10.

10. The quorum at any meeting of the Commissioners shall be as fixed from time to time by the Governor.

Proceedings  
of Com-  
missioners.

No proceeding of the Commissioners shall be invalid or illegal in consequence only of the fact that there was, at the time of such proceeding, a vacancy in the number of the Commissioners.

10A. The Chief Commissioner, or in his absence his deputy, shall convene a meeting of the Commissioners at least once a month. Any matter

Holding of  
meetings.

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Who shall  
preside at  
meetings.

connected with the railways may be submitted by a Commissioner at a meeting of the Commissioners for their consideration.

10B. The Chief Commissioner shall preside as chairman at any meeting of the Commissioners, and in his absence his deputy shall so preside. If the Chief Commissioner and his deputy are both absent, the Commissioner who is senior in appointment or in case of equality of seniority the Commissioner chosen by those present shall so preside.

The Commissioner presiding at any such meeting shall, in the event of an equal division of votes at such meeting, have a second or casting vote.

Decision of  
Commis-  
sioners.

10c. (1) If the Chief Commissioner disapproves of the decision of the other Commissioners with respect to any matter before the Commissioners for their decision and determination (whether the Chief Commissioner was or was not present when such decision was given), such matter shall be deferred for not less than twenty-four hours after the decision, or if the Chief Commissioner was not present when the decision was given, for not less than twenty-four hours after it has been brought to his knowledge by communication in writing or by electric telegraph, when it shall again be brought forward before the Commissioners; and if the Chief Commissioner again disapproves of the decision of the other Commissioners, the matter shall be determined according to the deliberate judgment of the Chief Commissioner, irrespective of the decision of the other Commissioners.

In such case the Chief Commissioner shall enter or cause to be entered upon the minutes of the proceedings of the Commissioners his reasons at length for determining such matter in opposition to the decision of the other Commissioners, and shall forward to the Minister a copy of such minute, certified under his hand.

The other Commissioners, or any of them, may also enter upon such minutes their reasons in support of the decision of such Commissioners and against the disapproval of the Chief Commissioner and may forward to the Minister a copy of such minute, certified under their hands. (2)

(2) In the event of the Chief Commissioner being absent from his office on leave of absence or absent from the Commonwealth of Australia, the above provisions of this section shall apply in respect of the deputy of the Chief Commissioner appointed as hereinbefore in this Act provided; and in that case the words "deputy of the Chief Commissioner" shall in subsection one of this section be read for the words "Chief Commissioner".

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**10.** The following section is inserted next after section fourteen of the Principal Act:—

14A. In the following cases, namely—

Accounts of  
commis-  
sioners as  
affected by  
certain dim-  
inution of  
revenue or  
increase of  
expenditure.

- (a) where Parliament makes any alteration in the law which occasions any increase of expenditure by the Commissioners or any decrease of the revenue derived from railways and tramways; or
- (b) where Parliament or the Governor directs the Commissioners to carry out any system or matter of policy which occasions or results in any increase of expenditure by the Commissioners or any decrease of the revenue of the railways and tramways—

the annual amount of the increase of expenditure or decrease of revenue shall from time to time be notified in writing by the Commissioners to the Auditor-General, and if certified by him shall be placed to the credit of the account of the Commissioners in the Treasury.

**11.** The following sections are inserted next after section fifteen of the Principal Act:—

New sections.

15A. (1) The Commissioners may, with the approval of the Governor, close any level-crossing over the railways.

Closing level  
crossings.

The Commissioners shall send any application for such approval to the Minister, and shall give three calendar months notice thereof to the council of the municipality or shire within which the level-crossing is situate. The Minister shall hear any objections which any person representing such council may make to the granting of the application, and may, in his discretion, submit the application to the Governor or refuse to do so.

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It may be made a condition of such approval that the Commissioners construct in substitution for the level-crossing and open for public traffic any bridge, subway, or other work specified by the Governor.

(2) On and after the publication in the Gazette of a notification by the Commissioners that such level-crossing is closed under the authority of this section, all rights-of-way on and over such crossing shall be extinguished.

(3) Where a bridge, subway, or other work is constructed in substitution for a level-crossing, so much thereof as is not within the lines of the boundary fences of the railway shall be a public thoroughfare.

Use of tram-  
ways for  
carriage of  
goods.

15B. (1) The Commissioners may, upon notification in the Gazette of intention so to do, use any tramways vested in them or under their control for the purpose of carrying goods or other material :

Provided that such tramways shall not be so used in George-street between the Circular Quay and Rawson-place, nor in Pitt-street between the Circular Quay and Hay-street, nor in Castlereagh-street between the Circular Quay and Hay-street, Sydney, except for the carriage of materials to be used for repairs to and renewals of the tramways.

(2) The Commissioners may make by-laws regulating and determining the conditions upon which they will undertake such carriage, and in particular the classes of goods which may be so carried. Subject to such by-laws, the provisions of this Act relating to the carriage of goods on the railways shall, mutatis mutandis, apply to the carriage of goods on tramways under this section.

(3) Separate accounts shall be kept of all goods the property of the Crown carried on the tramways, and shall be published with the quarterly report of the Commissioners.

(4) Such accounts shall set out the quantity or weight of goods carried, and the charges for and cost of carrying such goods. This subsection shall not apply to goods the property of the Commissioners, and purchased from private owners.

**12.** The following short heading and new sections are inserted next after section twenty of the Principal Act :—

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New sections  
to follow  
s. 20.

(i) *a—Construction of railways and tramways.*

20A. In connection with any proposal for the construction of any line of railway or tramway or of any extension thereof, the Commissioners shall, at the request in writing of the Secretary for Public Works, cause to be carried out such exploratory or survey work, and supply such plans, statements, reports, and other information as the said Secretary may require, and shall also furnish any information which the said Secretary may require in regard to any proposed deviation of an existing line of railway, the cost of which is estimated to exceed twenty thousand pounds.

Survey work,  
&c., in con-  
nection with  
proposed  
construction  
of railways or  
tramways.

20B. (1) The construction and completion of any line of railway or tramway authorised by Parliament before or after the commencement of the Government Railways (Amendment) Act, 1916, and whether the construction of such line was commenced before or after such commencement, shall be carried out by the Commissioners, and the Commissioners shall be, notwithstanding the provisions of any Act, for that purpose, the Constructing Authority within the meaning of the Public Works Act, 1912.

The Commis-  
sioners to be  
constructing  
authority for  
lines of  
railway and  
tramway

All moneys appropriated for the construction of such line by any Act passed before or after such commencement and available for that purpose shall be expended by the Commissioners :

Provided that in applying the Public Works Act, 1912, to the construction by the Commissioners of any railway or tramway, the following amendments are made in the said Act :—

(a) The following section is inserted next after section four of the said Act :—

4A. The provisions of this Act relating to the acquisition of land shall also apply to the acquisition of an easement or right to use the subsoil or under-surface of land, whether such easement or right is acquired separately from or together with any land. (b)

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(b) Section thirty-seven is amended by the omission of the words "such authority" and substituting therefor the words "the Minister".

(c) Section one hundred and thirty-eight is amended by adding thereto the following:—

" Provided that where an easement beneath the surface or a right of using the subsoil or under-surface of any land is taken, such easement or right shall not be deemed part of a house, or other building, or manufactory".

Officers and  
employees of  
Public Works  
Department  
to be  
transferred  
to Com-  
missioners

(2) All officers and employees of the Department of Public Works employed in connection with the survey and construction of railway or tramway lines on the day of the commencement of the Government Railways (Amendment) Act, 1916, and such officers of any other Departments as the Governor shall determine, shall be transferred to the employment of the Commissioners, and shall as from the date of such transfer become officers and employees of the Commissioners: Provided that the Governor may in special cases retain any of such first-mentioned officers in the said Department of Public Works.

(3) Any officer or employee so transferred shall have the same rights under the Public Service Act, 1902, and any Acts amending the same, and the regulations thereunder, to deferred and extended leave and to contribute to the superannuation account, and to be paid a superannuation allowance, or a refund of contributions and interest thereon and a gratuity, as if he were an officer or employee of the Public Service; and for those purposes his service as an officer of the Commissioners shall count as service in the Public Service:

Provided that the superannuation provisions of this Act shall apply to any transferred officer or employee who is not a contributor to the Civil Service Superannuation Account.

(4) If any question should arise as to whether any power, duty, authority, or liability, or as to whether the unexpended portion of any money appropriated by Parliament for the construction of  
railways



railways or tramways is or is not by this Act to be transferred from the Department of Public Works to the Commissioners, or as to the office accommodation provided for or required by the Commissioners for the purposes of this Act, or as to the transfer of any officer or employee, such question may be finally and conclusively determined by the Governor in such manner as he may think fit.

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**13.** Subsection one of section thirty-four of the Public Works Act, 1912, is amended by omitting "except such works as the Chief Commissioner is authorised to carry out pursuant to the Government Railways Act, 1912, or any Act amending or consolidating the same", and inserting the words "except such works as the Railway Commissioners are, by section thirty-four of the Government Railways Act, 1912, authorised to carry out".

Amendment  
of s. 34 of  
Public Works  
Act, 1912.

**14.** The Principal Act is amended as follows:—

Amendment  
of ss. 52, 53,  
and 57 of  
Principal  
Act.

- (a) In section fifty-two insert before "tramways" the words "railways or".
- (b) In section fifty-three—
  - (i) in paragraph (a) insert before "tramway" the words "railway or"; and
  - (ii) in paragraph (b) insert before "tramways" the words "railways or".
- (c) In section fifty-seven, in the definition of "works", insert before "tramways" the words "railways or".

**15.** Section fifty-four of the Principal Act is repealed, and the following is inserted in its place:—

Repeal of  
s. 54 of Prin-  
cipal Act.

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

Persons  
damaging  
works.

**16.** Subsection two of section seventy-two of the Principal Act is amended by inserting after "day labourers" the words "or employed otherwise than as permanent officers in connection with railway refreshment rooms or dining cars".

Amendment  
of subsec. (2)  
of s. 72.

**17.**

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Amendment  
of s. 80.

**17.** Section eighty of the same Act is amended by omitting the words “infamous offence” and inserting the words “is sentenced to imprisonment for any term of or exceeding six months”.

Amendment  
of s. 85.

**18.** Section eighty-five of the Principal Act is amended as follows:—

(a) Omit “the Chief Commissioner and either one of the Assistant Commissioners” insert “Any two of the Commissioners”.

(b) After “Chief Commissioner” where secondly occurring insert “or in his absence the deputy of the Chief Commissioner”.

New section  
100A.

Yearly leave  
of officers.

**19.** The following section is inserted next after section one hundred of the same Act:—

100A. Every officer shall be entitled to at least one week's leave on full pay in respect of each twelve months of actual service, in addition to bank and public holidays observed throughout the State; and every officer who has completed twenty years of service shall be entitled to at least one month's extended leave on full pay:

Provided that any officer who cannot take his leave on any such bank or public holidays by reason that he has been required to work on such days shall be entitled in lieu thereof to leave on full pay for the same number of days at some future time.

Amendment  
of s. 109.  
Pay of officer  
injured in  
performance  
of duty.

**20.** Paragraph (b) of section one hundred and nine of the same Act is amended by the addition at the end thereof of the following words:—“And includes an officer, clerk, servant, or other person employed temporarily for a continuous period of six months or a non-continuous period of three years, whether such employment was before or after the commencement of this Act, but shall not include persons so employed temporarily as workmen on railway construction, deviation, or duplication works, or in railway refreshment rooms or dining cars”.

Amendment  
of s. 114.  
Definition of  
“officer”.

**21.** Section one hundred and fourteen of the same Act is amended by the addition at the end thereof of the following words:—“Where an officer is granted leave without pay on account of illness, and retires through infirmity caused by such illness, any superannuation allowance to which he may be entitled shall be payable as from the date of the commencement of such leave”.

**22.**

**22.** The following new section is inserted next after section 100A of the same Act :—

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100B. Where any officer has been injured in the performance of his duties he shall, unless and until he is retired or retires from the railway service, be paid the salary he was receiving at the date of the injury, except where the injury was caused by his gross negligence or wilful and wrongful act".

New s. 100B.  
Officer  
injured in  
performance  
of duty.

**23.** The following is added at the end of section one hundred and thirteen of the Principal Act :—

Amendment  
of s. 113.

(d) who is under sixty years of age, but above such age as may be prescribed by regulation, and who, owing to failure in the vision or hearing test, cannot be employed at his then rate of pay or at not less than five-sixths of the same, and who elects to retire.

**24.** The Second Schedule to the Principal Act is amended by adding thereto the following :—

Amendment  
of Schedule  
Two.

(3) The persons who, at the date of the passing of the Savings Banks Amalgamation Act, 1914, were trustees of the Savings Bank of New South Wales.