

**GRAFTON-KYOGLE TO SOUTH
BRISBANE RAILWAY
AGREEMENT RATIFICATION
ACT.**

Act No. 20, 1924.

George V, **An Act** to ratify and provide for carrying into effect,
No. 20. so far as the State of New South Wales
is concerned, an agreement between the
Commonwealth of Australia, the State of New
South Wales, and the State of Queensland,
respecting the construction of a certain line
of railway of standard gauge from Kyogle
in New South Wales to South Brisbane in
Queensland, and the regrading and relaying
of the existing railway between Grafton and
Kyogle: to amend the Public Works Act,
1912, the Government Railways Act, 1912,
and certain other Acts: and for purposes
connected therewith. [Assented to, 28th
October, 1924.]

Preamble. **W**HEREAS the Prime Minister of the Common-
wealth and the Premiers of the States of New
South Wales and Queensland have entered into an
agreement, a copy of which is set out in the Schedule
to this Act, subject to the same being ratified by
the Parliament of the Commonwealth and by the
Parliaments of the said States: And whereas it is
desirable to ratify and to provide for carrying into effect
the said agreement so far as the State of New South
Wales is concerned: Be it therefore enacted by the
King's

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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 "Grafton-Kyogle to South Brisbane Railway Agreement Ratification Act, 1924." Short title, commencement, &c.

(2) This Act shall bind the Crown.

2. In this Act, unless the context otherwise requires,— Interpretation.

"Land" includes Crown lands and buildings, messuages, tenements, and hereditaments of any tenure, and any easement, right, or privilege in, over, or affecting any land.

"The agreement" means the agreement a copy of which is set out in the Schedule to this Act.

3. (1) The agreement, a copy of which is set out in the Schedule to this Act, is hereby approved and may be carried into effect notwithstanding the provisions of any other Act. Approval of agreement.

(2) All matters and things by the agreement agreed to be done by or on behalf of the Government of New South Wales are hereby sanctioned and authorised.

4. (1) The Governor may resume, appropriate, or acquire, under the provisions of the Public Works Act, 1912, any land in New South Wales required for or in connection with any of the works contemplated by the agreement. Power to resume.

(2) Any works to be carried out by the Minister for Public Works or by the Railway Commissioners for New South Wales under the authority of the council constituted by the agreement shall be deemed to be authorised works within the meaning of the Public Works Act, 1912.

(3) The said Minister or the said Commissioners as the case may be shall, on publication in the Gazette of a notification in that behalf, be deemed to be the Constructing Authority under the said Act in respect of the works specified in the notification.

THE SCHEDULE.

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THE SCHEDULE.

AGREEMENT made the sixteenth day of September, One thousand nine hundred and twenty-four, between the Commonwealth of Australia (hereinafter called the "Commonwealth") of the first part the State of New South Wales (hereinafter called "New South Wales") of the second part and the State of Queensland (hereinafter called "Queensland") of the third part :

Whereas there are differences between the gauges of the railway lines on the mainland of Australia :

And whereas in order to facilitate interstate trade and commerce and to assist in the defence and the development of Australia it is desirable to secure a uniform gauge of railway line throughout Australia :

And whereas at a Conference of Ministers of the Crown which was held in Melbourne in July, 1920, and at which the Commonwealth and the States of New South Wales, Victoria, Queensland, South Australia, and Western Australia (hereinafter collectively called "the five States") were represented, it was resolved as follows:—

"That this Conference is of opinion that two experts from outside this country should be appointed, along with one Australian outside the railway services of the Commonwealth and the States, to consider and report upon the unification of the gauges, the question as to what gauge it is desirable to adopt, and the question of the cost of conversion.

"The Commonwealth and the Premiers of the States agree to appoint a Railway Commission and affirm that the Ministers for Railways of New South Wales, Victoria, and the Commonwealth shall select the two members of the Commission who are to be appointed from outside.

"The Commonwealth and the States agree to abide by the decision of this tribunal.

"The Commonwealth to bear one-fifth of the total cost, and four-fifths to be borne by the five States concerned on a per capita basis."

And whereas His Excellency the Governor-General in Council by Letters Patent dated 8th February, 1921, appointed Commissioners to inquire into and report upon matters appertaining to the unification of the gauges of the railway systems of Australia notice of which appointment appears in the Commonwealth of Australia Gazette No. 14 dated 11th February, 1921.

And whereas the said Commissioners inquired into the subject and presented a report dated 22nd September, 1921 (printed in Commonwealth Parliamentary Paper No. 141 of 1921), in which they (inter alia) made recommendations to the following effect:—

- (a) That action be taken to secure a gauge of 4 ft. 8½ in. (hereinafter called the "standard gauge") on a railway line from Brisbane to Fremantle; and

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(b) That all railway lines of 5-ft. 3-in. gauge now owned by the said five States be converted to the standard gauge ;
the cost of carrying the said recommendations into effect being estimated by the said Commissioners at £21,600,000.

And whereas the said Commissioners further estimated that it would cost £57,200,000—

- (a) to convert to the standard gauge all the railway lines of 5-ft. 3-in. gauge and 3-ft. 6-in. gauge now owned by the said five States ; and
- (b) to make realignments and deviations for the purpose of providing a better main line between Brisbane and Fremantle.

And whereas an agreement has not yet been arrived at between the Commonwealth and the said five States for the carrying out of the recommendations of the said Commissioners :

And whereas pending such agreement being arrived at and with a view to giving partial effect to the recommendations of the said Commissioners, the Commonwealth and New South Wales and Queensland have agreed to enter into this Agreement :

Now it is hereby agreed as follows :—

I. APPROVAL AND ENFORCEMENT.

1. None of the works contemplated by this Agreement shall be commenced until this Agreement has been approved by the Parliaments of the Commonwealth and of New South Wales and Queensland but action in preparation for such works may be commenced upon the execution of this Agreement.

2. Each party hereto agrees to take every practicable step to have this Agreement approved (without any restrictions or amendments) by its Parliament as soon as possible.

3. Each party hereto, so far as its jurisdiction extends and so far as may be necessary, agrees to provide for or secure the execution and enforcement of the provisions of this Agreement and of any legislation by which it is approved.

II. THE RAILWAY COUNCIL.

4. (1) There shall be a Railway Council (hereinafter called "the Council") for the purposes of this Agreement.

(2) The Council shall consist of three members, namely, the Commonwealth Railways Commissioner, the Chief Railway Commissioner for New South Wales, and the Commissioner for Railways, Queensland.

(3) The Council shall elect a Chairman from amongst its members.

(4) A member of the Council may at any time appoint in writing a Deputy to act in his absence.

(5) Upon the appointment of a Deputy being filed with the Council, the Deputy may in the absence of the member by whom he is appointed exercise all the powers of that member.

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(6) Each meeting of the Council shall be convened by the Chairman and be held at a time and place fixed by the Chairman.

(7) No matter shall be decided by the Council unless each member of the Council is present (either personally or by his duly appointed Deputy) at a duly convened meeting, and on any matter the decision of the majority present at the meeting shall prevail.

(8) The Council shall keep proper minutes or records of the proceedings of each of its meetings.

(9) The Council shall furnish to each party hereto—

(a) quarterly reports giving in reasonable detail the progress made with the works contemplated by this Agreement ;

(b) annual reports giving in reasonable detail particulars of—
(i) the progress made with the works contemplated by this Agreement ;

(ii) the expenditure actually incurred ; and

(iii) the works proposed to be carried out during the next ensuing year ;

(c) such other reports as may from time to time be required by any party hereto.

(10) The Council shall—

(a) have the entire control of—

(i) all the works contemplated by this Agreement ; and

(ii) the expenditure thereon ;

(b) determine the order in which and the terms and conditions under which the works shall be carried out and the times at which each portion of the works shall be commenced and completed ;

(c) determine the portion of the works to be carried out by any party hereto ;

(d) authorise in manner prescribed by it any party hereto to carry out any portion of the works ;

(e) where works for the purposes of this Agreement are carried out concurrently with other works, determine the amount or amounts to be regarded as expenditure for the purposes of this Agreement ;

(f) take all practicable steps to secure standardised methods and types of construction, and in particular to prescribe—

(i) standards of permanent way, bridges, and other structures, standard structure gauge, grades, and curvature of lines and axle loads ;

(ii) standards and types of rolling-stock for use on lines of the standard gauge ; and

(iii) any other standards which in the opinion of the Council should be prescribed ;

(g) have power to employ the staff and labour necessary for the completion of the works contemplated by this Agreement and fix the terms and conditions of their employment :

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- (h) have power, to the extent to which it may deem necessary for the purpose of this Agreement, to supervise and direct the operations on the railways in New South Wales and Queensland in process of construction, relaying and re-grading under this Agreement ;
- (i) determine what amounts (if any) shall be allowed to any party hereto for railway lines, equipment, plant, and material rendered idle or useless or depreciated because of works under this Agreement ;
- (j) have power, for the purposes of this Agreement, to buy, sell, or hire such material, plant, and equipment, as it thinks fit ;
- (k) keep accurate and complete accounts of all money provided by the Commonwealth and all money expended for the purpose of carrying out the works contemplated by this Agreement under such headings as it may determine.

5. All accounts of the Council shall be subject to audit by the Auditor-General of the Commonwealth and (if any other party hereto shall so desire) also by the Auditor-General of that party.

6. An officer in the service of a party hereto who becomes a member of the staff of the Council—

- (a) shall retain all his existing and accruing rights as such officer ;
- (b) shall not be required to resign from the service of the party, but shall be granted leave of absence from such service for the period of his employment as a member of such staff, and the period of leave so granted shall for all purposes be included as part of the officer's period of service with the party.

III. PARTICULARS AND COST OF WORK.

7. (1) The works contemplated by this Agreement are the following works :—

- (a) the construction of a railway of standard gauge between Kyogle in New South Wales and South Brisbane in Queensland along the route delineated on the plan annexed hereto so as to connect Sydney in New South Wales and South Brisbane in Queensland by means of a railway of standard gauge ; and
- (b) the regrading and relaying of the existing railway between Grafton and Kyogle in New South Wales so as to bring that railway up to a standard approved by the Council.

8. When this Agreement is approved as provided in clause 1 hereof the said works shall be proceeded with and completed.

9. (1) The cost of the said works shall in the first instance be from time to time provided by the Commonwealth out of moneys legally available for that purpose.

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- (2) Of the money provided by the Commonwealth as aforesaid—
- (a) four-fifths (hereinafter called the quota of the States) shall be deemed to be provided on behalf of the said five States collectively; and
 - (b) one-fifth shall be deemed to be provided on behalf of the Commonwealth.

(3) New South Wales and Queensland shall in amounts and at times and in manner hereinafter set forth reimburse to the Commonwealth the amounts respectively attributable to them of the said quota of the States.

(4) For the purpose of determining each amount payable to the Commonwealth by New South Wales or by Queensland by way of reimbursement or as interest or as sinking fund, the amount attributable to New South Wales or Queensland of the said quota of the States shall be a proportionate amount of the said quota of the States equal to the proportion which the population of New South Wales or of Queensland (as determined by the Commonwealth Statistician) at the end of the calendar year next preceding the date upon which the payment is due bears to the total population (as determined by the Commonwealth Statistician) of the said five States.

10. (1) New South Wales and Queensland shall on or before a date or dates in each year fixed for that purpose by the Treasurer of the Commonwealth pay to the Commonwealth interest on the amounts respectively attributable to them of the said quota of the States.

(2) The rate of interest payable to the Commonwealth on any money provided by the Commonwealth under this Agreement otherwise than from a loan shall be the nominal rate of interest payable by the Commonwealth in respect of the then last preceding loan raised by the Commonwealth.

(3) The rate of interest payable to the Commonwealth on any money provided by the Commonwealth under this Agreement from a loan shall be the rate of interest payable by the Commonwealth in respect of such loan and the date from which interest shall be payable under this Agreement on such money shall be the date from which interest is payable by the Commonwealth in respect of such loan.

(4) A certificate by the Secretary to the Commonwealth Treasury stating the rate of interest payable by the Commonwealth and the date from which interest is payable by the Commonwealth in respect of a loan and the place where the loan was raised shall be conclusive as to the matter stated.

11. Where any money is provided by the Commonwealth under this Agreement from a loan all amounts payable by New South Wales and Queensland to the Commonwealth in respect of such money by way of reimbursement or as interest shall be paid as follows:—

- (a) if the loan was raised in London—payment to the Commonwealth shall be made in London; and
- (b) if the loan was raised in Australia—payment to the Commonwealth shall be made in Australia.

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12. (1) Each amount payable by New South Wales or Queensland by way of reimbursement of money provided by the Commonwealth under this Agreement shall be paid to the Commonwealth as follows :—

- (a) if the money is provided otherwise than from a loan—on the date fixed by the Treasurers of the Commonwealth and the States of New South Wales and Queensland ; or
- (b) if the money is provided from a loan not repayable by the Commonwealth within ten years after the date upon which the money is provided—at the opening hour of business on the date on which that loan is repayable by the Commonwealth ; or
- (c) if the money is provided from a loan repayable by the Commonwealth within ten years after the date upon which the money is provided—at the opening hour of business on the date on which the new loan is repayable by the Commonwealth.

(2) In this clause the expression “new loan” means a loan raised by the Commonwealth to convert or renew the loan from which money is provided, or if no such conversion or renewal loan is raised, then the public loan raised by the Commonwealth next after the date upon which the loan from which the money is provided is repayable.

(3) In each case in which money is provided from a loan repayable within ten years after the date upon which the money is provided the rate of interest payable by New South Wales and Queensland to the Commonwealth on the money so provided shall—

- (a) until the date from which interest is payable by the Commonwealth in respect of the new loan be the rate of interest determined under clause 10 hereof ; and
- (b) as from the date from which interest is payable by the Commonwealth in respect of the new loan be the average annual effective rate of interest payable by the Commonwealth in respect of the new loan after making allowance for all costs and charges (including exchange) incurred by the Commonwealth in raising the new loan and all discounts on the flotation of the new loan.

(4) A certificate by the Secretary of the Treasury stating the average annual effective rate of interest payable by the Commonwealth in respect of a new loan and the date from which such interest is payable and the place where the new loan was raised, shall be conclusive as to the matter stated.

(5) Amounts payable to the Commonwealth by New South Wales and Queensland by way of reimbursement or as interest in respect of moneys provided as mentioned in subclause (3) of this clause shall be paid as follows :—

- (a) until the date from which interest is payable by the Commonwealth in respect of the new loan, payments of interest to the Commonwealth shall be made in London or in Australia (as the case may be) where the loan from which the money is provided was raised ; and

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(b) as from the date from which interest is payable by the Commonwealth in respect of the new loan, payments to the Commonwealth by way of reimbursement or as interest shall be made in London or in Australia (as the case may be) where the new loan was raised.

(6) In addition to the interest payable under this Agreement New South Wales and Queensland shall in each year during which interest is payable, and on the same dates upon which interest is payable, pay to the Commonwealth in Australia a sinking fund at the rate of Ten shillings per annum for each One Hundred Pounds or portion of One Hundred Pounds of the amounts respectively attributable to them of the aforesaid quota of the States of the money provided by the Commonwealth until such amounts are reimbursed to the Commonwealth.

(7) Each amount of sinking fund received by the Commonwealth under this clause shall be paid into the National Debt Sinking Fund established under the National Debt Sinking Fund Act, 1923, or any amendment thereof, or to any sinking fund established by the Commonwealth in lieu thereof, and will be deemed to accumulate each year at the average effective rate of interest earned during that year by sinking fund moneys.

(8) A certificate by the body or person for the time being controlling the said sinking fund moneys, stating the average effective rate of interest earned during any year by sinking fund moneys shall be conclusive as to the matter stated.

(9) Upon the date upon which any amount is payable by New South Wales or Queensland to the Commonwealth by way of reimbursement of money provided by the Commonwealth under this Agreement the amounts respectively paid to the Commonwealth as sinking fund by New South Wales and Queensland, and all accumulations thereof in respect of the money so provided, shall be applied by the Commonwealth in part payment by way of reimbursement of the amount attributable to New South Wales and Queensland respectively of the aforesaid quota of the States of the money so provided.

13. (1) For the purposes of this clause the revenue from and the working expenses of the whole or any portion of the said railway between Grafton and South Brisbane which is opened for traffic shall be calculated on the basis and in the manner determined by the Railway Commissioners of Australia for calculating the revenue and working expenses of separate sections of the railways of the said Commissioners, and in force for the time being. If at any time no such determination is in force the basis on and manner in which the revenue and working expenses of the said railway or portion thereof shall be calculated shall be determined by the Commonwealth Railways Commissioner, the Chief Railway Commissioner of New South Wales, and the Commissioner for Railways, Queensland, or a majority thereof.

(2) If in any financial year the revenue from the said railway between Grafton and South Brisbane or from any portion thereof which is opened for traffic exceeds the working expenses of such railway or portion, the excess shall be applied (so far as the same will in each particular instance suffice) in paying to the Commonwealth the
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interest falling due at or next after the end of that financial year on the money provided by the Commonwealth under this Agreement in manner following—

- (a) In paying to the Commonwealth interest at the rates provided for in this Agreement on the amount of the said quota of the States after deducting therefrom the amounts attributable to New South Wales and Queensland of the said quota of the States as determined in the manner specified in clause 9 (4) of this Agreement ;
- (b) If any portion of such excess remains after payment of the interest mentioned in paragraph (a) of this subclause in paying to the Commonwealth the interest payable by New South Wales and Queensland under this Agreement
- (c) If any portion of such excess remains after payment of the interest mentioned in paragraphs (a) and (b) of this subclause in paying to the Commonwealth interest on the balance of the money provided by the Commonwealth under this Agreement ;
- (d) In paying to New South Wales and Queensland in proportions mutually determined by them the balance if any then remaining of such excess.

(3) If the amount remaining of any such excess in any financial year is not sufficient (after payment of the interest mentioned in paragraph (a) of subclause (2) of this clause) to pay the whole of the interest mentioned in paragraph (b) of the said subclause such amount remaining shall be applied in part payment of the interest mentioned in the said paragraph (b) pro rata to the amounts of interest payable by New South Wales and Queensland respectively and the balance of interest not so paid shall be paid by New South Wales and Queensland in manner provided by clause 10 of this Agreement.

(4) For the purposes of this clause New South Wales and Queensland shall as early as practicable after the end of each financial year furnish to the Treasurer of the Commonwealth a statement certified by the Auditor-General of each party hereto showing in detail the revenue and working expenses of such railway or of any portion thereof which is opened for traffic as the case may be.

(5) New South Wales and Queensland shall each afford to the Auditor-General of the Commonwealth every facility for examining and checking the accounts kept in relation to the said railway or of any portion thereof which is opened for traffic as the case may be.

14. If any amount payable by New South Wales or Queensland to the Commonwealth (whether by way of reimbursement or as interest) is not paid to the Commonwealth on or before the date fixed for payment—

- (a) the Commonwealth may deduct that amount or any part thereof from any moneys due by the Commonwealth to the party which has failed to make payment or may recover the same or any part thereof by action in any Court of competent jurisdiction ; and

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(b) the party which has failed to make payment shall, until that amount is paid, deducted, or recovered as aforesaid, pay to the Commonwealth interest on the sum unpaid at the same rate as that payable on the money in respect of which the amount is payable.

15. The total cost of the works contemplated by this Agreement—

- (a) shall include all expenses of the Council ;
- (b) shall include all amounts paid as compensation or damages or costs to any person or corporation in respect of or in connexion with the carrying out of such works ;
- (c) shall include expenditure incurred by any party hereto in keeping any accounts necessary for the purposes of this Agreement ;
- (d) shall include all costs and charges (including exchange) incurred by the Commonwealth in borrowing and providing moneys and all discounts on flotation of loans, but shall not include interest thereon.

16. (1) The Council shall on or before the thirty-first day of December in each financial year give to the Treasurer of the Commonwealth notice of the estimated total amount of money required for the works proposed to be carried out during the next financial year, and also the approximate amount of such money which will be required during each quarter of the said next financial year, and the Treasurer of the Commonwealth shall not later than three months before the commencement of the said next financial year advise the Council as to the money that will be made available during the said next financial year.

(2) Forthwith after the said advice has been given by the Treasurer of the Commonwealth the Council shall inform the said Treasurer in writing of the approximate amount required during each quarter of the said next financial year of the money that will be made available as aforesaid.

(3) At the end of each quarter of the said next financial year the Council shall inform the said Treasurer in writing of the estimated amount required during each remaining month of the said next financial year of the money that will be made available as aforesaid.

(4) The Council shall not, without the consent in writing of the Treasurer of the Commonwealth, enter into any contract or incur any obligation whereby it or the parties hereto are committed to the payment of moneys greater than the amount which the Treasurer of the Commonwealth has notified to the Council as being legally available for the purposes of the Agreement in pursuance of subclause (1) of this clause.

IV. GENERAL.

17. Each party hereto agrees that it and each authority under it which constructs or administers railways or in which railways are vested shall—

- (a) act as agent of the Council for the purposes of this Agreement ;
- (b)

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- (b) carry out the works contemplated by this Agreement in the order and under the terms and conditions and at or during the times specified by the Council ;
- (c) accept the decision of the Council in all matters committed to it under this Agreement ;
- (d) give all necessary consents and do all things within its powers to enable the works contemplated by this Agreement to be carried out expeditiously and satisfactorily ;
- (e) permit and facilitate whenever necessary for the purposes of this Agreement entry upon lands within its possession or control ;
- (f) acquire any lands or the right to occupy temporarily or permanently any lands in the opinion of the Council necessary for the purposes of this Agreement ;
- (g) keep the Council at all times fully informed of all works proposed by it in connexion with the construction or alteration or maintenance or repair of railways which works are not rendered necessary by but could be carried out concurrently with the works contemplated by this Agreement ;
- (h) indemnify the Council in respect of all acts done, or losses, costs, or damages incurred by it in the bona fide execution of the powers vested in it by or under this Agreement.

18. None of the works contemplated by this Agreement shall be commenced by any party hereto unless and until—

- (a) the estimated cost thereof has been furnished to or obtained by the Council ; and
- (b) the Council has authorised that party to carry out the work.

19. As and when the railway between Grafton and South Brisbane either as a whole or in separate sections is completed and ready to be opened for traffic the Council shall certify that fact and hand over the completed railway or section to the party concerned.

In witness whereof the Prime Minister of the Commonwealth of Australia and the Premiers of the States of New South Wales and Queensland have hereunto set their hands the day and year first above mentioned.

Signed by the Prime Minister }
of the Commonwealth of } S. M. BRUCE.
Australia in the presence of— }
EDWD. SIMMS.

Signed by the Premier of the }
State of New South Wales } GEORGE W. FULLER.
in the presence of— }
R. T. BALL.

Signed by the Premier of the }
State of Queensland in the } EDWARD G. THEODORE.
presence of— }
J. LARCOMBE.

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