

GOVERNMENT RAILWAYS
(AMENDMENT) ACT.

Act No. 37, 1928.

An Act to provide for the separation of the Government Railways and Tramways Accounts from the Consolidated Revenue Fund; to establish certain funds and to make provisions as to their management and control; to amend the Constitution Act, 1902, the Audit Act, 1902, the Government Railways Act, 1912, the Public Works Act, 1912, and certain other Acts; and for purposes connected therewith. [Assented to, 18th December, 1928.]

George V,
No. 37, 1928.

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

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

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

(3) The Principal Act, as amended by this Act, may be cited as the "Government Railways Acts, 1912-1928."

(4) This Act shall be deemed to have commenced on the first day of July, one thousand nine hundred and twenty-eight, except as elsewhere provided in this Act.

2.

No. 37, 1928.

Amendment
of Act No.
30, 1912.New
Part IIA.

Finance.

2. The Principal Act is amended by inserting next after Division 5 of Part II the following new Division:—

DIVISION 6.—*Financial provisions, &c.*

41B. (1) The Colonial Treasurer shall establish in the Treasury the following funds:—

- (a) the Government Railways and Tramways Fund, in this Act referred to as the “Fund”;
- (b) the Government Railways and Tramways Renewals Fund, in this Act referred to as the “Renewals Fund.”

(2) The provisions of this Division relating to the establishment and operation of the Renewals Fund shall commence and take effect as from the first day of July, one thousand nine hundred and twenty-nine.

(3) (a) Subject to this Act all moneys in the funds so established shall be vested in and shall be expended by the Commissioners for the purposes for which the same are appropriated by Parliament and, save as expressly provided in this Act or permitted under the provisions of the Audit Act, 1902, not otherwise.

(b) The Commissioners may, with the approval of the Governor, expend from the Fund in anticipation of appropriation by Parliament such sums as may be necessary to provide for expenditure in respect of such services as cannot be reasonably postponed without injury to the public interest, or to carry on any work, the vote in respect of which has become exhausted prior to the completion of the work.

(c) A statement setting out details of any proposal to expend a sum from the Fund in pursuance of paragraph (b) of this subsection shall be laid before both Houses of Parliament within fourteen sitting days after the approval of the Governor to the proposal has been signified, if Parliament is then in session, and if not, then within fourteen sitting days after the commencement of the next session of Parliament.

(4)

(4) Section forty-six of the Constitution Act, 1902, shall apply to and in respect of any appropriation out of the said funds. No. 37, 1928.

41C. There shall be paid into the Government Railways and Tramways Fund— Payments into the Fund.

- (a) all earnings and receipts, rents, tolls, and other moneys in respect of the railways and tramways or of any other service or work undertaken by the Commissioners;
- (b) all loan moneys raised under any Act and appropriated by Parliament for construction of new railways or tramways, for electrification, duplication or deviation of existing lines, for purchase of rolling stock, for the purchase or resumption of land, or for any other purpose in connection with the railways and tramways, or any other service or work to be undertaken by the Commissioners;
- (c) all interest received in respect of the investment of moneys belonging to the Fund;
- (d) all fines and penalties recovered under this Act by the Commissioners or any of their servants;
- (e) all other moneys derived from the railways and tramways or under this Act, not being moneys which should be paid into the Government Railways Superannuation Account, under Part IX of this Act;
- (f) moneys by this or any other Act authorised or directed to be paid into the Fund;
- (g) any sums advanced by the Colonial Treasurer in pursuance of this Act.

41D. (1) Any claim or demand against the Commissioners shall be defrayed from the Fund out of such moneys therein as are available for that purpose and the Consolidated Revenue Fund shall not be liable for any such claim or demand. Exonerated of the Consolidated Revenue Fund.

(2) If any money in the Fund has been received on trust it may be dealt with in accordance with such trust without appropriation by Parliament. Trust moneys.

No. 37, 1928.

Government
Railways and
Tramways
Renewals
Fund.

41E. (1) The Government Railways and Tramways Renewals Fund shall be available only to meet such appropriations as Parliament may make for renewals, reconstructions, and conversions of railway or tramway lines, buildings, equipment, plant, or other wasting assets. All expenditure on any such renewals, reconstructions, and conversions shall be paid out of the money so appropriated.

(2) The Commissioners shall in each year prepare a statement showing the amount which they propose to transfer from revenue to the credit of Renewals Fund.

Such statement, after having been submitted to the Committee of Review appointed under this Act for investigation and report, shall be forwarded to the Governor, who shall determine the amount to be so transferred, and such amount shall be carried to the Renewals Fund without further appropriation by Parliament than this Act.

There shall also be carried to the Renewals Fund such further amounts as may be appropriated by Parliament.

Government
Railways and
Tramways
Reserve
Account.

41F. (1) There shall from time to time be transferred from revenue into a Government Railways and Tramways Reserve Account in the books of the Commissioners such sum as the Auditor-General shall certify to the Governor to be the net profit of the operations of the Commissioners for the preceding financial year.

(2) The amount at the credit of the Reserve Account shall be available only—

- (a) to meet any losses incurred in any year by the Commissioners;
- (b) for the reduction of rates and fares.

Accounts.

41G. (1) Full and true accounts shall be kept by the Commissioners of the assets, liabilities, income and expenditure connected with the railways and tramways and any other service carried out by them.

Complete

Complete and separate financial and cost ^{No. 37, 1923.} accounts of railway and tramway workshops, departmental coal mines, electricity supply, power-houses, and all other commercial and industrial activities controlled by the Commissioners shall also be kept.

(2) The forms and manner of keeping such accounts shall be such as are prescribed by regulations made under the provisions of the Audit Act, 1902.

41H. (1) At such times as may be prescribed by ^{Report.} regulations made under the provisions of the Audit Act, 1902, the Commissioners shall render to the Colonial Treasurer accounts and statements in a form prescribed by regulations made under the said Act, showing fully the true financial position of the railways and tramways and of all commercial and industrial activities and other services undertaken by the Commissioners and before the thirty-first day of August in each year accounts and statements in respect of the then next preceding financial year.

(2) In the accounts for a financial year, all the revenues appertaining to that year shall be brought to account, and the expenditure shall include all liabilities properly chargeable in respect of that year.

(3) The Colonial Treasurer shall cause each of such accounts and statements for the next preceding financial year to be laid before Parliament forthwith if Parliament is then sitting otherwise within seven days after the commencement of the next ensuing session.

41I. The Commissioners shall in the month of May ^{Estimates.} in each year, or at such other time or times as may be required by the Colonial Treasurer, prepare and supply to the Colonial Treasurer in a form prescribed by regulations made under the provisions of the Audit Act, 1902, estimates of the income from all sources and of the expenditure proposed for the financial year commencing on the first July following, or for any other period, and which the Commissioners propose that Parliament should appropriate, and shall on request furnish the Colonial Treasurer

No. 37, 1928.

Capital debt
Committee
of Review.

Treasurer with all information at their disposal relating to any item of the estimated income or expenditure.

41J. (1) The Governor may appoint a Committee of Review (in this Act referred to as the Committee) who shall carry out the duties prescribed in this Act.

The Committee shall consist of the persons for the time being holding the following offices, viz. :— The Auditor-General, the Chief Commissioner for Railways and Tramways, and the Under-Secretary to the Treasury, each of whom may appoint in writing a representative to act on his behalf.

The Governor may in addition appoint not more than two other persons to be members of the Committee for such time and purposes as he may direct.

The Governor may make regulations prescribing the procedure to be followed by the Committee.

(2) The Committee shall, as soon as practicable, but not later than thirty-first March, one thousand nine hundred and twenty-nine, or such later date as may be fixed by proclamation, consider and review the amount of the capital indebtedness of the State in respect of the railways and tramways in this Act referred to as the capital debt, and shall certify to the Governor the sum at which, in the opinion of the majority of the Committee, the capital debt at the date of the commencement of this Act should for the purposes of this Act be fixed.

The amount so certified shall for the purposes of this Act be the capital debt as at the said date.

(3) Until the Committee has so certified the capital debt as at the said date the capital debt shall for the purposes of this Act be deemed to be the amount certified by the Auditor-General as being the capital debt of the railways and tramways as at the thirtieth day of June, one thousand nine hundred and twenty-eight.

(4)

(4) As soon as practicable after the close of each financial year the Committee shall certify to the Governor the amount, if any, which should be added to the capital debt on account of additional loan moneys provided for the Commissioners.

No. 37, 1928.

41k. (1) In respect of the loan capital debt as at the commencement of the Government Railways (Amendment) Act, 1928, the Commissioners shall, out of the fund, pay to the Colonial Treasurer on behalf of the State, without further appropriation than this Act, such a proportion of the interest, sinking fund, and other charges payable by the State in respect of the public debt of the State as at the said commencement outstanding (including its renewals and conversions) as the loan capital debt at that date bears to the cash equivalent of the outstanding public debt at that date.

Interest on capital debt as at 30th June, 1928.

(2) Payments in respect of such proportion of the interest shall be made to the Colonial Treasurer in quarterly instalments based on the amount of interest charged in the Public Accounts in respect of the Loan Capital Debt as at the thirtieth day of June, one thousand nine hundred and twenty-eight.

Any adjustments of under or over payments shall be made after the close of the financial year for which the interest is payable.

(3) Payments in respect of such proportion of sinking fund and other charges shall be made in such instalments and at such dates as the Colonial Treasurer directs.

(4) The method of calculating the amounts to be paid in respect of interest and sinking fund shall be as prescribed by regulations made under the provisions of the Audit Act, 1902.

41L. In respect of loan moneys provided after the thirtieth day of June, one thousand nine hundred and twenty-eight, to the Commissioners by or through the State—

Loan moneys provided after 30th June, 1928.

(a) the interest payable by the State shall be paid out of the Fund to the Colonial Treasurer, as and when the interest is payable by the State;

(b)

Government Railways (Amendment) Act.

No. 37, 1928.

- (b) the Commissioners shall, out of the Fund, pay the Colonial Treasurer sinking fund contributions and charges to be paid by the State in respect of the loans from which the provision is made;
- (c) the sinking fund contributions shall be made to the Treasurer at the same ratio and time and in the same manner as the sinking fund contributions are to be made by the State;
- (d) payment of charges shall be made to the Colonial Treasurer on notification by him.

Financial agreement.

41M. The Fund shall enjoy a proportionate share of the benefits, and shall bear a proportionate share of the burdens borne by the State under the financial agreement entered into between the Commonwealth of Australia and the States in pursuance of the provisions of the Financial Agreement Ratification Act, 1928, in all respects as if the fund had continued to form part of the Consolidated Revenue Fund.

Indemnity in respect of certain works

41N. (1) The Commissioners shall, out of the Fund, indemnify the Consolidated Revenue Fund against all claims and demands which may be made against the State of New South Wales under the agreement dated sixteenth September, one thousand nine hundred and twenty-four, between the Commonwealth of the first part, the State of New South Wales of the second part, the State of Queensland of the third part, ratified by Act No. 20, 1924, and the agreement dated twenty-second March, one thousand nine hundred and twenty-six, with the Railway Council and the Commonwealth to construct the Grafton-South Brisbane railway line, and under the agreement, dated the eleventh February, one thousand nine hundred and twenty-seven, with Hoskins' Iron and Steel Co., Ltd. for the construction of the Moss Vale to Port Kembla line and under any other agreement affecting the railways and tramways.

(2) If such claim or demand is due to the failure of the Government to provide necessary funds after reasonable notice to the Colonial Treasurer

Treasurer or is due to a cause beyond the Com-^{No. 37, 1928.}missioners control the Governor may, on the recommendation of the Committee, order that the Commissioners be relieved of their obligation under this section to such extent as may seem just. Any such order shall be laid before Parliament as soon as practicable.

41o. (1) Subject to this section the provisions of the Audit Act, 1902, as amended by subsequent Acts, shall extend and apply to and in relation to the funds established in pursuance of this Act in the like manner as those provisions apply to and in relation to the Consolidated Revenue Fund or the General Loan Account. Application of Audit Act, 1902.

(2) All moneys received on account of the said funds shall be paid into such accounts and at such bank or banks as the Colonial Treasurer may in writing direct, and shall be deemed to be accounts of the Government within the meaning of and under the said Act.

(3) The Commissioners shall have power to withdraw from the Fund any moneys in excess of their immediate requirements. Any moneys so withdrawn shall be invested with the Colonial Treasurer at such rate of interest as may be agreed upon.

(4) The provisions of section thirty-two of that Act shall not apply to appropriations to the Renewals Fund.

(5) Towards defraying the cost and expense of the audit, the Commissioners shall pay to the Colonial Treasurer such sum as may from time to time be prescribed by regulation.

(6) Regulations may be made under section seventy of that Act to give effect to this Division and such regulations may prescribe what duties or obligations of the Colonial Treasurer under the said Act shall be performed and observed by the Commissioners, and may prescribe such modifications of the said Act (if any) as may be deemed necessary or convenient for giving full effect to this section.

No. 37, 1928.Capitalisation
of interest.

41P. In considering what sum should in any year be added to the capital debt the Committee shall, unless they specially certify to the Governor that such course will result in an excessive cost of construction, treat as part of the capital cost of any work the interest paid or accrued on any moneys expended on such work or in relation thereto during its construction and ordinarily and properly chargeable as capital expenditure.

Order of
construction
of works, &c.

41Q. (1) The order of construction and rate of progress of all railway lines and works shall, unless the Governor makes a special order relating thereto, be determined by the Commissioners.

(2) If in any case the Committee certify that by reason of a special order of the Governor an excessive cost of construction of any line or work has resulted, the Colonial Treasurer shall, out of moneys appropriated for that purpose by Parliament pay to the Fund such amount as the Committee certifies is the added cost of the line or work.

Any such amount is to be applied in reduction of the cost of the line or work.

Contribution
to non-paying
develop-
mental lines.

41R. (1) If in any financial year the Commissioners are of the opinion that the revenue derived or to be derived from the operation of any existing or new country developmental railway authorised by Parliament will be insufficient to meet the costs of working and maintaining such railway and the interest and sinking fund on the capital invested therein, the Commissioners shall frame an estimate of the loss which in their opinion will result from such operation.

Such estimate shall be investigated by the Committee, and such Committee shall report thereon to the Governor, by whom the probable amount of the annual loss shall be determined.

(2) (a) The Governor may from time to time by proclamation published in the Gazette declare what portions of the railways shall be deemed to be country developmental railways for the purposes of this Act.

(b)

(b) The Governor may in like manner rescind, revoke, alter or vary any such proclamation. No. 37, 1923.

(3) In each year the Colonial Treasurer shall, out of moneys appropriated by Parliament, make good to the Fund two-thirds of the amount so determined, but not in any case exceeding eight hundred thousand pounds.

(4) If in any year the actual loss incurred is less than the amount determined as the probable loss, the amount to be paid in respect of that year shall be reduced accordingly.

3. The Principal Act is further amended—

- (a) by inserting in section one next after the matter appearing under the heading Division 5. Further amendment of Act No. 30, 1912, s. 9.
—Duties of Commissioners—the following new heading and matter :—

DIVISION 6.—*Financial provisions—ss.*
41B-41R.

- (b) by omitting from section nine the words “Consolidated Revenue Fund,” and by inserting in lieu thereof the words “Government Railways and Tramways Fund” ; (Salaries of Commissioners.)
- (c) (i) by omitting from section fourteen the words “and shall be paid into Consolidated Revenue” and by inserting in lieu thereof the words “His Majesty, and shall be paid into the Government Railways and Tramways Fund” ; Sec. 14. (Audit Act to apply to Commissioners.)
- (ii) by omitting from the same section the words and figures “Audit Act, 1898,” and by inserting in lieu thereof the words and figures “Audit Act, 1902, as amended by subsequent Acts” ;
- (d) by omitting from section 14A the words “of the account of the Commissioners in the Treasury” and by inserting in lieu thereof the words “of the Government Railways and Tramways Fund” ; Sec. 14A. (Accounts as affected by certain diminution of revenue or increase of expenditure.)
- (e)

Government Railways (Amendment) Act.

No. 37, 1928.

Sec. 17.

(Advances,
&c.)

- (e) (i) by omitting from section seventeen the words "Minister for" and by inserting in lieu thereof the words "Colonial Treasurer through the Minister for advances for the provision of";
- (ii) by inserting in the same section after the words "the railways" the words "or tramways or for funds necessary to enable the Commissioners to construct any railway or tramway lines or other works authorised by Parliament";
- (iii) by inserting at the end of the same section the following new subsections:—

(2) The Colonial Treasurer may from time to time advance to the Commissioners such sums as the Governor may approve upon such terms and conditions as to repayment and interest as the Governor may direct.

(3) Except as provided in this section the Commissioners shall not borrow any moneys.

Sec. 20A.
(Surveys.)

- (f) by inserting at the end of section 20A the words—

The cost of such exploratory or survey work and the supply of plans, statements, reports, and other information shall be certified by the Commissioners, and shall be defrayed out of funds to be provided by Parliament.

Sec. 38.
(Estimate of
traffic.)

- (g) by inserting at the end of section thirty-eight the words—

The cost of the preparation of such statement shall be certified by the Commissioners, and shall be defrayed out of funds to be provided by Parliament.

Sec. 40.
(Annual
report.)

- (h) (i) by omitting from section forty the words "and an account of all moneys received and expended";
- (ii) by omitting paragraph (b) of the same section;

(i)

- (i) by omitting from sections forty-two and forty-five the figures "1900" and by inserting in lieu thereof the figures "1912"; No. 37, 1928.
Secs. 42, 45.
(Revision.)
- (j) by inserting at the end of section eighty-seven the following new subsection:— Sec. 87.
(Appeal Board.)
 - (4) The fees and expenses of the board shall be paid by the Commissioners out of the Fund.
- (k) (i) by omitting from subsection one of section one hundred and twelve the words "Consolidated Revenue" and by inserting in lieu thereof the words "Government Railways and Tramways"; Sec. 112.
(Superannuation account.)
- (ii) by inserting at the end of the same section the following new subsection:—
 - (3) Interest on the daily balance at the credit of the Government Railways Superannuation Account shall be paid half-yearly out of Consolidated Revenue Fund into that account at such rates as may be determined by the Treasurer and the Board.

4. All earnings and receipts, rents, tolls, and other income which accrued prior to the first day of July one thousand nine hundred and twenty-eight in respect of the railways and tramways, or of any of the service or work undertaken by the Commissioners, but which are received after that date, shall be credited to the Consolidated Revenue Fund and, except where otherwise specially provided in this Act, all expenditure incurred by the Commissioners prior to the first day of July one thousand nine hundred and twenty-eight in respect thereof which remained unpaid at that date, shall be paid from the Consolidated Revenue Fund. Adjustment
of accounts as
at 30th June,
1928.

The Railway Commissioners shall, prior to the thirty-first day of January, one thousand nine hundred and twenty-nine, or at such later date as the Governor may direct, submit to the Colonial Treasurer a statement in respect of accrued earnings and receipts, rents, tolls, and other income and of the expenditure referred to in this section, and such statement, if certified as correct by the Auditor-General, shall be the basis of the adjustment of accounts under this section.

5.

No. 37, 1928.

Amendment
of Act No. 45,
1912, s. 34.

New subsec-
tion 1A.

5. The Public Works Act, 1912, is amended by inserting in section thirty-four next after subsection one the following new subsection:—

(1A) (a) The committee in reporting upon the desirability or otherwise of constructing a new line of railway or tramway, shall specially report—

(i) whether the earnings from the new line, having regard to the value of interchanged traffic, will meet the working expenses, maintenance, interest on capital cost, and contribution to sinking fund.

(ii) whether the construction of the new line is recommended or concurred in by the Commissioners; and

(b) If the earnings from the new line will not meet the working expenses and other charges mentioned in subparagraph (i) of paragraph (a) of this subsection and the line is not recommended or concurred in by the Commissioners, the Committee shall specially report upon the extent of development of land settlement and/or industry expected to result from the construction of the line.
