

STANFORD COAL-MINE RAILWAY (AMENDMENT) ACT.

Act No. 35, 1943.

George VI.
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An Act to confer certain powers with respect to the closing, in whole or in part, of the railway constructed under the Stanford Coal-mine Railway Act of 1900, and with respect to the operation and maintenance of certain parts of that railway; and for purposes connected therewith. [Assented to, 9th December, 1943.]

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:—

Short title.

1. This Act may be cited as the "Stanford Coal-mine Railway (Amendment) Act, 1943."

Definitions.

2. In this Act, unless the context or subject matter otherwise indicates or requires—

"Owner" means the person in whom is vested the interests and estate of the promoters in the site of the railway and the rights, powers, benefits, privileges and advantages conferred on the promoters by the Stanford Coal-mine Railway Act of 1900.

"Promoters" has the meaning given to that expression in the Stanford Coal-mine Railway Act of 1900.

"Railway" means the railway constructed under the authority of the Stanford Coal-mine Railway Act of 1900 and includes any loop lines, stations and sidings constructed under the authority of that Act.

3.

3. The Minister may, on application made by the owner, authorise the owner to close the railway or any part thereof.

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Authority to close railway or specified part.

Every such authority shall be given by notification published in the Gazette, and where it relates to part of the railway such notification shall define the part to which the authority relates.

Every such notification shall come into force upon the date of the publication thereof in the Gazette or upon a later date to be specified in the notification.

4. Upon the publication of a notification under section three of this Act the following provisions shall have effect:—

Effect of authority to close railway or part.

(a) As from the date upon which the notification comes into force—

(i) the owner shall not be under any obligation to operate or maintain the railway or the part thereof defined in the notification, as the case may be; and

(ii) all public rights over the railway or the part thereof defined in the notification, as the case may be, and all rights over the railway or such part, as the case may be, of owners or occupiers of lands adjoining who have constructed collateral branches of railway, shall be extinguished.

(b) The owner may, at any time after the date upon which the notification comes into force, remove and carry away the tracks, fittings and materials of the railway or the part thereof defined in the notification, as the case may be.

(c) The owner shall not be liable to any penalty or forfeiture for closing or ceasing to use and operate the railway or part thereof defined in the notification, as the case may be.

(d) So much of section three of the Stanford Coal-mine Railway Act of 1900 as provides that “if after its completion the railway or the portion so constructed shall cease to be used for two years continuously all the said lands, including

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Crown lands, and all the said promoters' interests and estate therein, shall revert without any conveyance to the Crown and original owners thereof, their heirs and assigns, respectively" shall not apply in any case where the railway or part which ceases to be used is the railway or the part referred to in the notification, as the case may be.

(e) Where such notification gives authority to close the railway—

(i) any by-laws made under section thirty-four of the Stanford Coal-mine Railway Act of 1900 shall, as from the date upon which the notification comes into force, cease to have effect; and

(ii) the power to make by-laws conferred by that section shall not be exercised after that date.

(f) Where such notification gives authority to close the part of the railway defined in the notification—

(i) any by-laws made under section thirty-four of the Stanford Coal-mine Railway Act of 1900 shall, as from the date upon which the notification comes into force, cease to have effect in relation to the part of the railway defined in the notification; and

(ii) the power to make by-laws conferred by that section shall not, after that date, authorise the making of by-laws which have effect in relation to the part of the railway defined in the notification.

Power to require parts of railway to be operated or kept ready for operation.

5. (1) The Minister may, by notice in writing, require the owner to operate, or to maintain in a state of repair suitable for operation for traffic such part of the railway to or from any colliery, as may be specified in the notice.

Any such notice may be served by post.

Nothing in this subsection shall authorise the Minister to give any such notice in relation to any part of the railway which, pursuant to section three of this Act, the owner has been authorised to close.

(2)

(2) If without reasonable cause (proof whereof shall lie upon the owner) the owner neglects or fails to operate or maintain, in accordance with the requirements of the notice, the part of the railway specified in the notice, the owner shall be guilty of an offence and shall be liable to a penalty not exceeding ten pounds for each day during which the offence continues.

6. (1) If complaint is made to the Minister that any part of the railway specified in a notice given under section five of this Act is in a state of disrepair he may direct The Commissioner for Railways to furnish a report setting out what repairs, if any, are, in his opinion, necessary to make such part of the railway suitable for operation.

Power to
require
specified
parts of
railway to
be kept
in repair.

(2) The Minister may, by notice in writing, require the owner to carry out, within a time to be specified in the notice, such repairs as may be specified in the notice.

The repairs so specified shall be such repairs as are indicated in the report of The Commissioner for Railways as being repairs which, in his opinion, are necessary to make such part of the railway suitable for operation.

Any notice under this subsection may be served by post.

(3) If the owner neglects or fails to carry out within the time specified in the notice such repairs as may be specified in the notice—

- (a) the owner shall be guilty of an offence and shall be liable to a penalty of ten pounds for each day during which the offence continues; and
- (b) the Minister may, whether or not any proceedings for the recovery of a penalty under paragraph (a) of this subsection have been instituted, authorise The Commissioner for Railways to carry out the repairs specified in the notice.

(4) Where any authority is given pursuant to paragraph (b) of subsection three of this section The Commissioner for Railways shall have full power and authority by his servants and agents to enter upon any part of the railway and to do all things necessary or expedient for or in connection with the carrying out of such repairs.

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Where repairs have been carried out pursuant to such authority the cost thereof may be recovered from the owner by The Commissioner for Railways as a debt; and for such purpose the certificate of The Commissioner for Railways of the cost of such repairs shall be prima facie evidence of such cost.
