

**GOVERNMENT RAILWAYS AND TRANSPORT
(AMENDMENT) ACT.**

Act No. 19, 1961.

An Act to make further provisions relating to level crossings over railways and the power of The Commissioner for Railways to enter into special contracts for the carriage of goods or parcels; to make provision for the recovery of payments made by The Commissioner for Railways, The Commissioner for Government Transport and The Commissioner for Motor Transport in respect of injuries arising out of and in the course of employment; to penalise persons avoiding payment of certain charges; to discontinue the operation of certain Railway lines; for these and other purposes to amend the Government Railways Act, 1912-1959, and the Transport Act, 1930-1960; to validate certain matters; and for purposes connected therewith. [Assented to, 27th March, 1961.]

**Elizabeth II,
No. 19, 1961**
BE

Government Railways and Transport (Amendment) Act.

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BE it enacted by the Queen'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 and citation.

1. (1) This Act may be cited as the "Government Railways and Transport (Amendment) Act, 1961".

(2) The Government Railways Act, 1912, as amended by subsequent Acts and by this Act, may be cited as the Government Railways Act, 1912-1961.

(3) The Transport Act, 1930, as amended by subsequent Acts and by this Act, may be cited as the Transport Act, 1930-1961.

Amendment of Act No. 30, 1912.

2. The Government Railways Act, 1912, as amended by subsequent Acts, is amended—

New sec. 15AA.

(a) by inserting next after section 15A the following new section :—

Precautions at level crossings.

15AA. (1) The Commissioner may from time to time with the approval of the Governor notify in the Gazette the precautions to be adopted by the Commissioner for the protection of the public using any level crossing, and upon the publication of such notification such precautions shall be the precautions to be adopted by the Commissioner for the protection of the public using the level crossing notwithstanding any provision in any Act to the contrary or any notification made in pursuance thereof or any precautions adopted by the Commissioner for the protection of the public using the level crossing prior to the publication of such notification in the Gazette.

(2) The precautions so adopted for the protection of the public at any particular level crossing shall be such as to give reasonable warning of—

(a) the existence of the crossing; or

(b)

- (b) the approach to such crossing of a train, No. 19, 1961 locomotive, carriage, waggon, trolley or other engine or vehicle; or
- (c) the existence of the crossing and of such approach,

as the Commissioner subject to the approval hereinbefore referred to may in his discretion deem requisite.

(3) This section shall not operate to prejudice or affect any right which any person using any level crossing would have had if this section had not been enacted.

- (b) by omitting subsection four of section twenty-four and by inserting in lieu thereof the following subsection :—

Sec. 24.
(Commissioners may demand tolls.)

(4) Where competition with the railways by any other form of transport exists the Commissioner may enter into a contract with any person—

- (a) to convey during such period as is specified in the contract the whole of his livestock, goods or parcels, or the proportion thereof therein specified at a special rate or charge, whether prescribed or not, lower than the prescribed rate or charge, or at any prescribed concession rate or charge, or with any prescribed rebate or concession;
- (b) to convey at any time or times goods or parcels offered by such person for carriage either in any bulk loading container or in a truck allocated for the carriage of goods or parcels in bulk loads and whether for carriage wholly by rail or partly by rail and partly by road at a special rate or charge, whether prescribed or not, lower than the prescribed rate or charge payable if such goods or parcels were not so carried.

When goods or parcels are carried under any contract pursuant to paragraph (b) of this subsection the Commissioner will not be responsible for any loss, detention, damage, injury, misdelivery or delay of

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of or to such goods or parcels whatsoever or howsoever occasioned unless such contract specifically provides for the acceptance by the Commissioner of the ordinary risk and liability of a common carrier.

Sec. 100B.
(Officer
incapaci-
tated by
injury.)

(c) by inserting next after subsection three of section 100B the following new subsection :—

cf. Act No.
15, 1926,
s. 64.

(4) Where the injury for which any amount is payable under this section was caused under circumstances creating a legal liability in some person other than the Commissioner to pay damages in respect thereof—

(a) the officer who has been so incapacitated may take proceedings both against that person to recover damages and against the Commissioner to recover the amount payable under this section but shall not be entitled to retain both damages and such amount.

If the officer recovers firstly the amount payable under this section and secondly damages he shall be liable to repay to the Commissioner out of such damages the amount which the Commissioner has paid under this section in respect of the officer's injury and the officer shall not be entitled to payment of any further amounts under this section.

If the officer firstly recovers such damages he shall not be entitled to recover any amount under this section ;

(b) if the officer has recovered any amount under this section the Commissioner shall be entitled to be indemnified by the person so liable to pay damages as aforesaid ;

(c) if the officer subsequently obtains judgment for damages against the person who has paid under such indemnity, such payment under the

the indemnity shall be, to the extent of the amount of such payment, a satisfaction of the judgment for damages.

- (d) by omitting from subsection one of section one hundred and thirty the word "ten" and by inserting in lieu thereof the word "twenty"; Sec. 130. (Fraudulent travelling.)
- (e) by inserting next after section one hundred and thirty the following new section :— New sec. 130A.
- 130A. Any person who, by any act, representation, or omission, knowingly—
- (a) avoids or attempts to avoid any payment which the Commissioner by this Act, or any regulation or by-law made hereunder, is entitled to receive; or
 - (b) obtains or attempts to obtain any concession or other advantage which the Commissioner is thereby empowered to make or give, and to which such person is not entitled,
- shall be liable to a penalty not exceeding twenty pounds.
- (f) by omitting from subsection two of section one hundred and thirty-three the words "upon a complaint in writing,"; Sec. 133. (Persons employed on railways guilty of misconduct.)
- (g) by omitting from paragraph (c) of section one hundred and thirty-four the words "upon any railway, or upon or in any of the stations or other works or premises connected therewith"; Sec. 134. (Obstructions and trespasses.)
- (h) by inserting in section one hundred and forty after the word "Act," the words "or any by-law made hereunder,". Sec. 140. (Damage to be made good in addition to penalty.)

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Cesser of
operation of
The Rock
to Westby,
Roslyn to
Taralga,
Batlow to
Kunama
Railway
Lines.

3. (1) The Commissioner for Railways shall cease to operate the railways constructed pursuant to The Rock to Pulletop Railway Act, 1919, and the Roslyn to Taralga Railway Act, 1915, and that part of the railway between Batlow and Kunama constructed pursuant to the Gilmore to Batlow Railway Act, 1919, and any duties or obligations imposed upon The Commissioner for Railways by the Government Railways Act, 1912, or the Public Works Act, 1912, as amended by subsequent Acts, or any other Act of Parliament, or by agreement, contract, deed or by operation of law in relation to the said railways or to the said part or any of the lands or works connected with or adjoining to either of the said railways or the said part, or the carriage of persons, animals and goods upon either of the said railways or the said part, are hereby extinguished.

(2) Any land resumed or taken for the purposes of the works described in the respective Schedules to The Rock to Pulletop Railway Act, 1919, or the Roslyn to Taralga Railway Act, 1915, or for the purposes of the works between Batlow and Kunama described in the Schedule to the Gilmore to Batlow Railway Act, 1919, may be dealt with as superfluous lands under the Public Works Act, 1912, as amended by subsequent Acts.

(3) The provisions of this section in their application to :—

(a) the cessation of operation of the railway constructed pursuant to The Rock to Pulletop Railway Act, 1919, shall be deemed to have commenced on the tenth day of July, one thousand nine hundred and fifty-six;

(b) the cessation of operation of the railway constructed pursuant to the Roslyn to Taralga Railway Act, 1915, shall be deemed to have commenced on the first day of May, one thousand nine hundred and fifty-seven; and

(c)

- (c) the cessation of operation of that part of the railway between Batlow and Kunama constructed pursuant to the Gilmore to Batlow Railway Act, 1919, shall be deemed to have commenced on the first day of February, one thousand nine hundred and fifty-seven. **No. 19, 1961**

4. The Transport Act, 1930, as amended by subsequent Acts, is amended by inserting at the end of section one hundred and twenty-four the following new subsection:—

Amendment
of Act No.
18, 1930.
Sec. 124.
(Officer
incapaci-
tated by
injury.)

(4) Where the injury for which any amount is payable under this section was caused under circumstances creating a legal liability in some person other than the Commissioner to pay damages in respect thereof—

cf. Act No.
15, 1926,
s. 64.

- (a) the officer who has been so incapacitated may take proceedings both against that person to recover damages and against the Commissioner to recover the amount payable under this section but shall not be entitled to retain both damages and such amount.

If the officer recovers firstly the amount payable under this section and secondly damages he shall be liable to repay to the Commissioner out of such damages the amount which the Commissioner has paid under this section in respect of the officer's injury and the officer shall not be entitled to payment of any further amounts under this section.

If the officer firstly recovers such damages he shall not be entitled to recover any amount under this section;

- (b) if the officer has recovered any amount under this section the Commissioner shall be entitled to be indemnified by the person so liable to pay damages as aforesaid;

(c)

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(c) if the officer subsequently obtains judgment for damages against the person who has paid under such indemnity, such payment under the indemnity shall be, to the extent of the amount of such payment, a satisfaction of the judgment for damages.

In this section "the Commissioner" means the Commissioner for Government Transport or the Commissioner for Motor Transport, as the case may require, by whom the officer is employed.
