

[CONFIDENTIAL.]

(Rough Draft for Consideration Only.)

No. , 1914.

A BILL

[GOVERNMENT RAILWAYS (AMENDMENT).]

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, 1914."

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

Government Railways (Amendment).

2

(2) This Act shall commence and come into force on a date to be notified by the Governor in the Gazette :

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.

2. The Tramways (Carriage of Goods) Act, 1911, is repealed.

3. (1) In section three of the Principal Act, omit paragraphs (a), (b), and (c), and insert—

(a) “Chief Commissioner” means 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”.

4. In the Principal Act, 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.

5. In section four of the same Act omit “Chief Commissioner for Railways and Tramways” insert “Railway Commissioners for New South Wales”.

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 four Assistant Railway Commissioners for New South Wales. In appointing such Assistant Commissioners the Governor shall allot their respective duties, and may thereafter, on the recommendation of the Commissioners, 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 any assistant Commissioner as deputy of the Chief Commissioner,

who

Government Railways (Amendment).

who shall, during the illness, suspension, or absence of the Chief Commissioner, exercise his powers and perform his duties.

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

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

Where in pursuance of this subsection an Assistant Commissioner acts as deputy of the Chief Commissioner or of another Assistant Commissioner, the Governor may appoint a person to be deputy of such first-mentioned Assistant Commissioner while so acting.

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

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.

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

(3) Omit subsection two of the same section.

8. Section nine of the same Act is repealed, and the following substituted for it :—

9. The salary of the Chief Commissioner shall be two thousand five hundred pounds per annum, provided that the Governor may fix a larger sum for such salary if he deems it necessary so to do, in order to secure the services of a suitable man.

The salary of each of the Assistant Commissioners shall be one thousand five hundred pounds per annum.

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

10. Any three of the Commissioners shall form a quorum, and shall have the powers and duties conferred and imposed on the Commissioners.

No

Government Railways (Amendment).

No proceeding of the Commissioners shall be invalidated 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 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.

10c. 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, 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 for Railways a copy of such minute, certified under his hand, for presentation to Parliament.

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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 said Minister a copy of such minute, certified under their hands, for presentation to Parliament.

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

14A. In the following cases, namely—

- (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; 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; or
- (c) where Parliament has authorised the construction of any new line of railway or tramway which when vested in the Commissioners does not produce sufficient revenue to meet the interest on the cost of its construction and the expenses of its maintenance—

The annual amount of the increase of expenditure or decrease of revenue, or of the loss resulting from such new line of railway or tramway 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:—

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

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322

The Commissioners shall send any application for such approval to the Minister for Railways, and shall give 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.

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.

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 :

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
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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 purchase from private owners.

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

(i a)—Constructions 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.

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, 1914, and whether the construction of such line was commenced before or after such commencement, shall be carried on by the Commissioners, and the Commissioners shall, notwithstanding the provisions of any Act, be, for that purpose, the constructing authority within the meaning of the Public Works Act, 1912.

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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.

(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, 1914, shall be transferred to the employment of the Commissioners, and shall on that day become officers and employees of the Commissioners: Provided that the Governor may in special cases retain any of such officers in the said Department.

(3) Any officer 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 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 the Government Railways Act, 1912, shall apply to any transferred officer who is not a contributor or an ex-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 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.

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."

14. The following section and short heading are inserted next after section thirty-two of the Principal Act:—

(iv) *Proposals for increase of income or decrease of expenditure.*

32A. Notwithstanding anything in this Act contained, the Minister for Railways may at any time, in writing, request the Commissioners to propose in writing a scheme for effecting an increase of income or a decrease of expenditure, or for carrying out any matter of general policy in relation to the railways which may be specified by the said Minister; and if the said Minister approves of any scheme proposed by the Commissioner in pursuance of such request, he may direct them to carry out the same.

If the Minister does not approve of any such scheme, he may himself transmit to the Commissioners any proposition for effecting and carrying out such increase, decrease, or matter of policy, and thereupon the Commissioners shall take all necessary steps to give effect to such proposition.

If any doubt or difference of opinion occurs respecting the provisions of this section, it may be determined by the Governor.

15. The Principal Act is amended as follows:—

(a) in section fifty-two insert before "tramways" the words "railways or";

(b)

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- (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”

16. (1) Section eighty-five of the Principal Act is repealed; and subsection one of section eighty-six of the same Act is amended by omitting the words “as provided in the preceding section”

(2) Subsection two of section ninety-three of the same Act is amended by omitting the words “as provided in section eighty-five.”

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

(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.
