

[CONFIDENTIAL.]

(Rough Draft for Consideration Only.)

No. , 1923.

A BILL

To amend the Government Railways Act, 1912, the Government Railways (Appeals) Act, 1916, the Government Railways (Amendment) Act, 1916, the Government Railways (Further Amendment) Act, 1916, and the Workmen's Compensation Act, 1916; to authorise the Railway Commissioners to open stores on railway construction works, and for that purpose to amend certain Acts; to remove certain forfeitures incurred under the first-mentioned Act; and for purposes connected therewith.

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, 1923." Short title.

(2) In this Act the expression "the Principal Act" means the Government Railways Act, 1912, as amended by the Government Railways (Appeals) Act, 1916, the Government Railways (Amendment) Act, 1916, and the Government Railways (Further Amendment) Act, 1916.

(3) This Act shall be read with the Principal Act.

Amendments of Principal Act.

2. The Principal Act is amended as follows:—

Amendments
of Principal
Act.

- (i) Section 10c is repealed.
- (ii) Section 20B is amended by adding to subsection three thereof the following:—

Provided also that no such officer or employee shall be entitled to extended leave of absence under this Act.

- (iii) Section twenty-seven is repealed and the following is substituted therefor:—

27. (1) Whenever the Commissioners shall so require, the consignor of any goods to be conveyed by railway shall tender or cause to be tendered with such goods an exact account in writing signed by him or on his behalf in such form as may be prescribed or as the Commissioners may approve, showing in addition to any other particulars of the like or of a different kind which the Commissioners may if they think fit demand—

- (a) the description or nature of the goods to be conveyed;
- (b) the number or quantity of such goods; and

(c)

- (c) if such goods are liable to the payment of different charges the respective numbers or quantities thereof liable to each or any of such charges.

If any such consignor in contravention of the requirements of this section gives a false account he shall for every such offence be liable to a penalty not exceeding *ten* pounds in addition to the charges to which such goods may be liable.

(2) Whosoever unloads or takes or causes to be unloaded or taken from any railway any goods or animal with intent to avoid the payment of any charges payable in respect thereof shall for every such offence be liable to a penalty not exceeding *ten* pounds in addition to the charges to which such goods or animal may be liable.

- (iv) Section twenty-eight is repealed and the following is substituted therefor:—

28. Whosoever shall take with him or tender or cause to be tendered for carriage as passenger's luggage any goods, articles or things other than such as are prescribed for carriage as free luggage with intent to avoid payment of any charges payable in respect thereof shall for every such offence be liable to a penalty not exceeding *ten* pounds in addition to any charges to which such goods, articles or things may be liable.

- (v) Section thirty-nine is amended by omitting paragraph (d).

- (vi) Section forty-one is repealed.

- (vii) Section sixty-one is repealed and the following section is substituted therefor:—

61. Whenever, upon or about any railway, or any works, building, or place of any kind whatsoever used or connected with any railway, any such accident as hereinafter specified takes place in the course of working such railway, namely,—

- (a) any accident attended with loss of life to any person; or (b)

- (b) any collision where one of the trains is a passenger train ; or
 - (c) any passenger train or portion thereof accidentally leaving the rails ;
- the Commissioners shall—
- (d) cause the earliest information to be forwarded to the Minister ; and
 - (e) appoint such officer or officers as they may think fit to hold an inquiry into the matter ; and
 - (f) as soon as practicable after such inquiry send to the Minister full information of the accident and the report of such officers.
- (viii) Section seventy-two is amended by omitting subsection three.
- (ix) Section seventy-five is amended by adding the following at the end thereof :—“ No such certificate shall be given until reasonable notice has been given by the Commissioners in at least one daily newspaper circulating in the metropolitan district of the fact that applications for the said position will be received.”
- (x) Section eighty-seven is amended by adding the following paragraph at the end of subsection two :—
- (2A) If any member of the board—
 - (a) being an elected member ceases to be an officer, or
 - (b) is convicted of any criminal offence, or
 - (c) becomes of unsound mind, or
 - (d) absents himself without leave from three consecutive meetings of the board,
 his office shall thereupon become vacant.
- (xi) The proviso to section 100A is amended by omitting all words after “ entitled ” in the second paragraph and by substituting therefor the words “ to elect to receive a day’s pay or to add such day to his annual leave.”
- (xii) Section 100B is repealed.

(xiii)

(xiii) Section one hundred and one is amended by omitting paragraph (c).

(xiv) Paragraph (b) of section one hundred and nine is amended as follows :— Amendment of the term "officer."

(i) by inserting after the words "duplication works" the words "or in or about any coal-mine controlled by the Railway Commissioners";

(ii) by adding at the end thereof the following words :—"nor persons appointed to temporarily occupy the positions of officers who have enlisted for active service in the late war :

Provided that any person appointed to temporarily occupy the position of any officer who has enlisted for active service in the late war between Great Britain and Germany shall be entitled, on application in the prescribed manner to the board, within one year from the commencement of the Government Railways (Amendment) Act, 1923, to a refund of the deductions (if any) made from his salary and emoluments under this Part, together with interest at the rate prescribed on the amounts of such deductions from the dates when they were respectively made." Certain temporary officers entitled to refund.

(xv) Section one hundred and ten is repealed and the following section substituted therefor :— Repeal of s. 110, of the Principal Act.

110. (1) The board shall consist of seven persons, namely,—three persons appointed by the Governor for a term of five years; three officers elected for a term of three years, of whom two shall be elected by and chosen from the officers in the railway service, and one by and from the officers in the tramway service, under regulations made under this Part of this Act; and the Chief Commissioner, who shall ex officio be chairman of the board. Substituted section. The superannuation board.

If

If any member of the board—

- (a) being an elected member ceases to be an officer, or
- (b) is convicted of any criminal offence, or
- (c) becomes of unsound mind, or
- (d) absents himself without leave from three consecutive meetings of the board,

his office shall thereupon become vacant.

Any vacancy in the board shall be filled by appointment or election as aforesaid, as the case may be. Any person elected shall hold office for the unexpired term of office of the person whose vacancy he fills.

(2) This amendment shall take effect on the _____ day of _____, on which day the present board is hereby dissolved.

(xvi) Section one hundred and fourteen is amended Amendment of s. 114. by adding the following paragraph :—

In the case of any temporary officer who is under this Act entitled to a pension, the service of such officer prior to the first day of January, one thousand nine hundred and seventeen, shall be reckoned as service for the purposes of computing his pension under this section, and the provisions of section one hundred and fifteen of this Act shall apply to such officer as if the abovementioned date were mentioned therein in lieu of the first day of October, one thousand nine hundred and ten.

(xvii) Section one hundred and sixteen is repealed. Repeal of s. 116 of Principal Act.

(xviii) Section one hundred and seventeen is amended Amendment of s. 117. by adding—

- (c) If, before payment of the gratuity, such officer dies, the gratuity shall be payable to his widow, or if he does not leave a widow to his personal representatives, to be administered as part of his estate.

(xix) In section one hundred and twenty-five omit all words after "gratuities."

(xx)

- (xx) Section one hundred and twenty-six is amended by the addition of the following:—

Amendment
of s. 126.

“When any officer, who has so transferred any such policy, leaves the service, the board shall, on the repayment by him of the amount of the premiums paid by it on such policy, cause the policy to be retransferred to such officer.

If such officer is unable or unwilling to repay such amount, the board may surrender the policy to the insurance company with which it was effected, and from the moneys received as the result of such surrender may reimburse itself to the extent of the amount of the premiums paid by it, together with interest thereon, at the rate of three and a half per centum per annum from the respective dates of payment, and shall hand over the balance (if any) to such officer.”

- (xxi) Section one hundred and thirty is amended by omitting the words “forty shillings” and substituting therefor the words “ten pounds in addition to the amount due as railway fare or difference in fares.”
- (xxii) Paragraph one of the Second Schedule to the Principal Act is repealed and the following is substituted therefor:—

1. The position of—

- (a) Prime Minister of the Commonwealth of Australia or of Premier of any State of the Commonwealth held for one year;
- (b) President of the Senate, Speaker of the House of Representatives, President of the Legislative Council, or Speaker of the Legislative Assembly in any State of the Commonwealth held for three years;
- (c) Cabinet Minister of the Commonwealth of Australia, or any State thereof, held for three years in the aggregate:

Provided that the said amendment shall not apply to the persons holding any of such offices in the Commonwealth, or any other State thereof, unless the Commonwealth or such State shall have accorded the like privileges to persons holding the like offices in this State.

3. The following new sections are added :—

20c. (1) The Commissioners may, in connection with the construction of any lines of railway, carry on stores for the supply of goods to the workmen and other persons engaged upon such work. Power to carry on stores.

(2) Notwithstanding anything to the contrary contained in any Act, all sums of money due by such persons to the Commissioners for goods supplied by them may be deducted from the wages or salaries of such persons.

32A. In any action brought against the Commissioners to recover damages or compensation in respect of loss or injury to any passenger's luggage, the court or jury shall not find or assess nor shall judgment be given for or entered for the plaintiff for a greater amount of money than ten pounds in respect of the whole of such luggage unless the owner of such luggage has, previous to entering on his journey, or if he is not travelling by the same train, previous to the departure of the train carrying such luggage, declared the value of such luggage to be greater than ten pounds and has paid an insurance charge, which shall in no case exceed for every one hundred miles or part of one hundred miles of the proposed transit, a sum equal to one shilling for every ten pounds of the value so declared. Liability for lost luggage.

41A. Any person authorised by the Commissioners or by the Under Secretary for Public Works may enter any land with any assistants and any horses and vehicles, and do therein such things as may be necessary for the purpose of making surveys and taking levels in relation to land proposed to be acquired, or works proposed to be constructed, and staking and setting out such surveys. Surveys of land.

In the exercise of such powers such persons shall do as little damage as possible, and, if required, compensation shall be paid to the owner and occupier of the land for any damage caused by such persons to the owner and occupier respectively.

125A.

125A. All employees of the Railway Commissioners who were dismissed from their employment by reason of having taken part in a strike in the year one thousand nine hundred and seventeen shall, upon re-employment, be deemed to be and to have been reinstated in all their rights and privileges under this Act in regard to superannuation and gratuities as if such dismissal had not taken place :

Reinstatement of certain employees.

Provided that the period between dismissal and reinstatement shall not count as service for any purpose :

Provided further that where any such employee has received a payment equal to the amount of his contributions to the Railway Superannuation Fund, such refund shall be deducted from his salary in such manner as the Commissioners may direct.

128B. Any officer who succeeds in a claim for compensation made against the Railway Commissioners under the Workmen's Compensation Act, 1916, or any Act amending the same, and who dies or retires from the service as a result of the accident in respect of which the claim was made, shall not be entitled to receive a pension or a gratuity under this Act, but shall be entitled to the refund provided for in section thirteen of the Workmen's Compensation Act, 1916.

Claims under Workmen's Compensation Act, 1916.

130A. Any person not duly authorised by the Commissioners who shall sell, or attempt to sell, any pass, ticket, or portion of a return ticket, or who shall use or attempt to use a transferred pass, ticket, or portion of a return ticket, the time for using which has expired, shall be liable to a penalty not exceeding *twenty* pounds in addition to the amount, if any, due as railway fare.

4. The following Division is added to Part I :—

DIVISION 6.—*Expenditure on railways.*

41B. In the following cases, that is to say—

- (a) where Parliament makes any alteration in the law which occasions any increase of expenditure by the Commissioners or any decrease of the railways revenue ; or

(b)

- (b) where Parliament or the Governor-in-Council 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 railways revenue ; or
- (c) where Parliament authorises the construction of any new line of railway which, when vested in the Commissioners, does not produce sufficient revenue to cover the interest on its cost of construction and the expense 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 shall be from time to time notified in writing by the Commissioners to the Auditor-General, and if certified by him shall be provided by Parliament in the annual appropriation, and paid to the Commissioners.

5. The Public Works Act, 1912, is amended as follows :—

- (a) The following section is inserted next after section four of the said Act :—

4A. The provisions of this Act relating to the acquisition of land shall also apply to the acquisition of an easement or right to use the subsoil or under-surface of land, whether such easement or right is acquired separately from or together with any land.

- (b) Section thirty-seven is amended by the omission of the words "such authority" and substituting therefor the words "the Minister."
- (c) Section one hundred and thirty-eight is amended by adding thereto the following :—

Provided that where an easement beneath the surface or a right of using the subsoil or under-surface of any land is taken, such easement or right shall not be deemed part of a house, or other building, or manufactory.

6.

6. (1) On the _____ day of _____, one thousand nine hundred and twenty-_____, section 20B shall be repealed, and thereupon the Secretary for Public Works shall have the same powers and be subject to the same duties and obligations in regard to the construction of railways and tramways as if the said section had never been passed, but nothing herein shall affect the liability of the Commissioners for anything done or omitted by them prior to this section taking effect.

(2) Upon this section taking effect the Governor may from time to time direct that any persons named by him, who at the time of this section taking effect were employed by the Commissioners in connection with the survey or construction of railways or tramways, shall be transferred to the Department of Public Works, and thereupon such persons shall be transferred accordingly, and shall become subject to the Acts regulating employment in the Public Service.

(3) Notwithstanding anything in the last subsection contained, all permanent officers of the Commissioners so transferred from the Commissioners shall be entitled to continue to contribute under the superannuation provisions of the Government Railways Act, 1912, and Acts amending the same, and to enjoy all the benefits conferred by the said Act on officers of the Railway Commissioners to which they would have been entitled had this section not been passed, and shall not be required to contribute to the Superannuation Fund under the Superannuation Act, 1916, and Acts amending the same.

(4) No such permanent officer shall, by reason only of his being transferred to the Public Service, be reduced in pay, rank, or grade, or suffer any other disability, and such permanent officers shall be entitled to the same concessions in regard to railway travelling as they enjoyed prior to this section taking effect.

(5) Service of any such transferred officer with the Railway Commissioners shall count for all purposes as service in the Public Service, and his service in the Public Service, after transfer hereunder, shall count as service

service with the Commissioners for the purpose of superannuation and other benefits to which he may become entitled under the Government Railways Act, 1912.

(6) Provided always that the rights of such transferred officers to recreation and extended leave of absence shall be governed by the Acts regulating the Public Service and not by this Act.

7. (1) The following section is inserted next after section five of the Workmen's Compensation Act, 1916 :—

5A. A workman shall not be entitled to compensation under and also independently of this Act :
Provided—

Amendment of Workmen's Compensation Act.

(1) that nothing in this Act shall affect any civil liability of an employer when the injury was caused by the personal negligence or wilful act of the employer or of some person for whose act or default the employer is responsible; and

(2) that, in the case of death or permanent incapacity, any workman who succeeds in his claim for compensation under this Act shall also be entitled to a refund of the amount of any contributions or deductions made by him, or out of his salary or wages, and paid to any superannuation account under any other Act, with interest thereon at the rate of four per centum per annum from the respective dates when such contributions or deductions were made.

(2) Paragraph (c) of subsection two of section five and the proviso to section thirteen of the same Act are repealed.

Amendments of ss. 5 and 13.