

## WESTERN AUSTRALIAN GOVERNMENT TRAMWAYS AND FERRIES.

12° and 13° GEO. VI., No. LII.

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No. 52 of 1948.

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**AN ACT to consolidate and amend the law relating to the construction and provision of Western Australian Government Tramways and Ferries and the management, maintenance and control thereof.**

[Assented to 21st January, 1949.]

**B**E it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of Western Australia, in this present Parliament assembled, and by the authority of the same, as follows:—

### PART I.—PRELIMINARY.

1. This Act may be cited as the *Western Australian Government Tramways and Ferries Act, 1948* and shall come into operation on a day to be fixed by proclamation.

2. This Act is divided into Parts as follows:—

PART I.—PRELIMINARY, SS. 1-6.

PART II.—THE GENERAL MANAGER OF THE  
WESTERN AUSTRALIAN GOVERN-  
MENT TRAMWAYS AND FERRIES  
SS. 7-12.

PART III.—TRANSFER OF FUNCTIONS OF COMMISSIONER OF RAILWAYS, S. 13.

PART IV.—THE CONSTRUCTION AND PROVISION  
OF WESTERN AUSTRALIAN GOVERN-  
MENT TRAMWAYS AND FERRIES AND  
THE MANAGEMENT, MAINTENANCE  
AND CONTROL THEREOF, SS. 14–28.

PART V.—ACCOUNTS, SS. 29–38.

PART VI.—MISCELLANEOUS, SS. 39–52.

3. The Acts, hereinafter referred to as the repealed Acts, mentioned in the Schedule to this Act, are repealed. Repeal.  
Schedule.

4. In this Act, unless the context otherwise requires or indicates— Interpreta-  
tion.

“General Manager” means the body corporate constituted pursuant to the provisions of this Act.

“Government” means the Government of Western Australia; 14 of 1932.  
s. 2.

“Government ferries” means—

(a) the ferries hitherto carried on as a State trading concern between Perth and South Perth in the name of the State Ferries formerly under the State Trading Concerns Act, 1916 (No. 12 of 1917), and latterly under the Government Ferries Act, 1932 (No. 14 of 1932).

(b) all other ferries now the property of the Government and declared by the Governor by Order in Council to be Government ferries within the meaning of this Act, and

(c) all other ferries hereafter provided by the Minister under the provisions of this Act, and includes all boats, ships, gear, equipment, and other effects belonging to the Government and held or used or reputed to be held or used for the purposes of or in connection with a Government ferry; and also all wharves, jetties, landings, structures, and buildings required to be used for

the purposes of or in connection with a Government ferry, and which the Governor shall by proclamation declare to be part of such Government ferry;

58 of 1912.  
s. 2.

“Government tramways” means—

- (a) the tramways acquired by the Government under the Tramways Purchase Act, 1912-1940;
- (b) all tramways constructed, or being at any time in course of construction, by the Minister under the provisions of this Act;
- (c) all other tramways the property of the Government, and declared by the Governor, by Order in Council, to be Government tramways within the meaning of this Act; and
- (d) all other tramways, the property of the Government and carried on by the Government under any of the repealed Acts,

and includes all lands, buildings, structures, works, wires, cables, equipment, plant, rolling-stock, machinery, appliances, and other effects belonging to the Government and used for the purposes of any Government tramway;

“local authority” means a municipality or a road board;

8 of 1933.  
s. 2.

“tramcar” includes a trolley bus;

“tramway” includes a route upon which trolley buses are used, as distinct from tramcars running on rails, as part of the Government tramway system; and

“trolley bus” means an electrically-equipped vehicle which runs on ordinary roadway, and the power supply for which is usually obtained from two overhead conductors, one positive and the other negative.

Cf. 23 of  
1904, s. 4  
5 of 1932  
s. 6.

5. All Government tramways and ferries shall be vested in the Minister on behalf of His Majesty.

6. The Minister of the Crown, to whom the administration of this Act is for the time being committed by the Governor, shall be a body corporate under the name, "Minister for Western Australian Government Tramways and Ferries" with perpetual succession and a common seal, and by that name shall, subject to the provisions of this Act, be capable of suing and of being sued, acquiring, holding, letting and taking land on lease, and alienating real and personal property and doing and suffering all such other acts and things as may be necessary or expedient for carrying out the purposes of this Act.

Minister to be a body corporate. No. 41 of 1945, s. 3.

PART II.—THE GENERAL MANAGER OF THE WESTERN AUSTRALIAN GOVERNMENT TRAMWAYS AND FERRIES.

Part II.

7. (1) For the purposes of this Act a body corporate under the name "The General Manager of Western Australian Government Tramways and Ferries" shall be constituted and shall have perpetual succession and a common seal.

Body corporate to be constituted.

(2) The General Manager shall be a person having a comprehensive knowledge of and experience in the management, maintenance and control of tramways and shall be appointed by the Governor and shall, subject to the Minister, be responsible for the administration of this Act.

(3) Subject to the provisions of this Act The General Manager shall hold office for the period of seven years and be eligible for re-appointment.

Term of office.

(4) The Minister may appoint a person having a comprehensive knowledge and experience in the management, maintenance and control of tramways to be deputy of The General Manager.

Deputy.

(5) The person appointed as deputy shall in the event of absence of The General Manager or vacancy in that office have all the powers and be subject to all the responsibilities of The General Manager during his absence or during that vacancy.

(6) No appointment of and no acts done in that capacity by the deputy shall be questioned on the ground that the occasion for his appointment had not arisen or had ceased.

General  
Manager  
vacating  
office.  
54 of 1932,  
s. 10.

(7) The office of General Manager shall become vacant by reason of the occupant's—

- (i) absence from duty, unless he shall obtain the consent of the Minister to absent himself therefrom;
- (ii) becoming of unsound mind or being declared under any law for the time being relating to lunacy, incapable of managing his affairs;
- (iii) becoming bankrupt or taking the benefit of any Act for the relief of bankrupt debtors;
- (iv) participating or claiming to be entitled to participate in the profit of, or in any commission, benefit or emolument arising from any contracts or agreements made under the provisions of this Act by or on behalf of the Government other than such as are referred to in section thirty-five of the Constitution Acts Amendment Act, 1899;
- (v) attaining the age of sixty-five years;
- (vi) resignation or death;

Cf. Act No.  
19 of 1899,  
s. 35, as  
amended by  
Act No. 52 of  
1945, s. 2.

and the Governor may remove the occupant from the office on the ground of misbehaviour or incapacity.

(8) Notification of appointments under this section shall be published in the *Government Gazette*.

Remunera-  
tion.

8. The occupants of the offices of The General Manager and deputy shall be entitled to such remuneration, expenses and leave of absence as shall be approved by the Governor.

9. No act or proceeding on behalf of The General Manager shall be invalidated or prejudiced by reason only of the fact that at the time when such proceeding or act was taken, done or commenced, there was a vacancy in that office.

Protection.  
17 of 1946,  
s. 16.

10. The General Manager or his deputy shall not be personally liable for any act done in good faith.

Penalty for  
participation  
in contracts.  
23 of 1904,  
s. 14.

11. If the occupant of the office of the General Manager or the deputy in anywise participates or claims to be entitled to participate in the profit of, or in any

commission, benefit or emolument arising from any contract or agreement made under this Act by or on behalf of the Government, he shall be guilty of a misdemeanour, and be liable to imprisonment for any term not exceeding three years.

And if any party to any such contract allows the occupant of either of those offices to participate in the profits thereof, or receive any commission, benefit or emolument arising therefrom, he shall be guilty of a misdemeanour, and liable to imprisonment for any term not exceeding three years.

Provided that the foregoing provisions of this section shall not apply to any profit of or any commission, benefit or emolument arising from any such contract as is referred to in section thirty-five of the Constitution Acts Amendment Act, 1899 (Act No. 19 of 1899) as amended by Act No. 52 of 1945.

12. Acceptance of or acting in the office of General Manager or deputy by any person shall not render the provisions of the Public Service Act, 1904-1947, the Superannuation Act, 1871, or the Superannuation and Family Benefits Act, 1938-1947, applicable to him nor affect the application of those provisions to him if they apply to him at the time of the coming into operation of this Act.

Acceptance of or acting in office not to prejudice certain rights.

### PART III.—TRANSFER OF FUNCTIONS OF COMMISSIONER OF RAILWAYS.

13. (1) For the purposes of this section—

Interpretation.

“appointed day” means the day to be fixed by proclamation for the coming into operation of this Act;

“function” includes power, right, benefit and obligation.

(2) On the appointed day the functions of the Commissioner shall by force and subject to the provisions of this Act be transferred to The General Manager.

Transfer of functions, powers and obligations.

(3) Where anything has been commenced by or under the authority of the Commissioner of Railways before the appointed day in relation to the functions transferred by this section, The General Manager may carry on and complete it.

Completion of things commenced by Commissioner of Railways.

Legal proceedings not to abate by reason of transfer.

(4) When at the appointed day there is pending any legal proceeding to which the Commissioner of Railways is a party and which relates to the functions transferred by this section, The General Manager may be substituted for the Commissioner of Railways in the proceedings, which shall not abate because of the transfer.

The General Manager to be substituted for Commissioner of Railways in documents.

(5) In the construing, and for the purposes of any Act, rule, regulation, by-law, judgment, decree, order, award, deed, contract, or other document passed or made before the appointed day, The General Manager shall be substituted for the name of the Commissioner of Railways, but so far only as may be necessary or convenient for the purposes of or in consequence of the transfer of functions under this section.

Part IV.

PART IV.—THE CONSTRUCTION AND PROVISION OF WESTERN AUSTRALIAN GOVERNMENT TRAMWAYS AND FERRIES AND THE MANAGEMENT, MAINTENANCE AND CONTROL THEREOF.

General powers for the construction and maintenance of tramways. 58 of 1912, s. 3.

14. (1) The Minister may, pursuant to any Order in Council whereby the construction of Government tramways is authorised, construct the tramways on roads; and for such purpose, and for the maintenance, repair, alteration or renewal of all Government tramways, and generally for the purposes of this Act, may —

- (a) break up, open and alter the surface or level of any road;
- (b) temporarily stop traffic upon any road;
- (c) place, erect, lay down, work and maintain in, over or under any road, and, with the consent of the owner and occupier thereof, attach to any building any apparatus or thing which in the opinion of the Minister may be necessary or expedient in connection with the transmission of electric or other power, and may from time to time, repair, renew, remove and replace the same;
- (d) open, and alter the position of sewers, drains, gaspipes, or waterpipes in or under any road.
- (e) raise, lower, alter or remove any telegraphic, telephonic or electric apparatus: Provided that when the same are under the control of the Commonwealth Postmaster General his consent shall first be obtained;

- (f) alter, remove, replace or relay in any position or situation any existing or future Government tramways, or any part thereof, or anything connected therewith;
- (g) extend or vary any existing or future Government tramways;
- (h) make, renew, remove, replace or alter as to position or otherwise any junction, siding, station, turntable or turnout;
- (i) take and acquire any land or buildings which, in the opinion of the Minister, may be necessary or convenient for any purposes relating to Government tramways authorised by or under this Act; and
- (j) erect, repair, remove, alter, pull down or make additions to any power house, storage stations, tramsheds, or buildings, with all proper offices, conveniences and appurtenances.

(2) The Minister shall not—

- (a) open or break up any road or bridge, or stop any traffic, except in cases of emergency, without giving at least three days' notice to the local authority; or
- (b) alter the level of any road without altering such level over the whole width of such road, and shall re-make the same to the satisfaction of the local authority.

Before interfering with roads notice to be given.

(3) In cases of emergency, as mentioned in the last preceding subsection, notice to the local authority shall be given as soon as possible after the work has been begun or the necessity for the same has arisen.

Notice in cases of emergency.

(4) When the Minister shall have opened or broken up any portion of any road, he shall, with all convenient speed, and to the satisfaction of the local authority, restore the portion of the road to as good condition as before it was opened or broken up, and remove all surplus material.

Restoration of roads.

(5) The Minister and the local authority may make, alter, renew or vary contracts or arrangements with one another with respect to the paving and keeping in repair of any road or portion of any road on which there may be a tramway.

Contracts as to repair of roads.

General powers for the provision, maintenance and working of Government ferries. 14 of 1932, s. 3.

15. (1) The Minister may, pursuant to any Order in Council whereby the provision of Government ferries is authorised, provide such Government ferries on waters belonging to the State; and for such purpose, and for the maintenance, repair, alteration, renewal and working of all Government ferries, and generally for the purposes of this Act, may—

- (a) take and acquire land for the purpose of constructing wharves, landings, jetties, buildings and other structures necessary for any Government ferry;
- (b) construct, erect, repair, renew, alter and maintain any wharves, landings, jetties, buildings and other structures necessary for any Government ferry;
- (c) purchase, lease, hire or otherwise obtain all boats, ships, vessels, gear, equipment, stores, chattels, effects and things necessary for any Government ferry, and to repair, renew, replace, alter and maintain the same;
- (d) extend or vary any existing or future Government ferry; and
- (e) do any other act, and purchase, lease, hire or otherwise obtain any other thing which in the opinion of the Minister is necessary for or in connection with the provision, maintenance and working of a Government ferry.

Land required for a Government ferry or Government tramway may be taken under the Public Works Act, 1902-1945.

(2) Where any land is required for the purpose of this Act, the land may be taken or acquired under the provisions of the Public Works Act, 1902-1945; and for the purposes of this Act the term "Minister" in section eleven of the Public Works Act, 1902-1945, includes the Minister of the Crown to whom the administration of this Act is for the time being committed by the Governor.

General Manager to manage tramways. 58 of 1912, s. 4. Cf. s. 42 post.

16. (1) The General Manager—

- (a) shall have the management and control of all Government tramways for the time being open for traffic;
- (b) may work such tramways upon all roads with tramcars propelled or drawn by electric or any other power, and<sup>d</sup>

- (c) may run over, work and use any tramways in respect of which the Government may have or may hereafter acquire running powers, under and subject to the provisions of any agreement in force for the time being relating thereto.

(2) The General Manager may, with the approval of the Minister, exercise the powers conferred on the Minister by this Act for the maintenance, alteration, renewal, or repair of all Government tramways open for traffic.

*Cf. s. 5 ante.*

(3) The General Manager may, with the approval of the Minister, provide and run motor-omnibuses in connection with the Government tramways, and such service shall be deemed a part of the tramways system, and the powers conferred by this Act on the Governor to make and enforce by-laws shall extend to such motor-omnibuses.

*Motor omnibuses.  
58 of 1912,  
s. 21.*

17. The General Manager shall have the management and control of all existing and future Government ferries, and, without limiting the generality of the power hereby conferred, the General Manager may—

*General Manager to manage Government ferries.  
14 of 1932,  
s. 5.*

- (a) maintain and work all Government ferries; and  
(b) with the approval of the Minister, exercise the powers conferred on the Minister by this Act for the maintenance, alteration, renewal or repair of all Government ferries.

*Cf. s. 16 ante.*

18 (1) The Governor may, in respect of all Government tramways and ferries, from time to time make, alter and repeal by-laws as to the following matters:—

*By-laws.  
58 of 1912,  
ss. 5 & 6,  
14 of 1932,  
ss. 6 & 7.*

- (a) prescribing tolls, fares or charges which may be demanded or taken by the General Manager from any passenger, and for the carriage of goods, and charter and in respect of Government ferries differential tolls, fares and charges in accordance with the risk the General Manager undertakes in the carriage of goods and charter;  
(b) regulating the use of tramways and ferries by passengers, and the number of passengers that may be carried in each tramcar or vessel;  
(c) prohibiting the committing of any nuisance upon tramways, tramcars, ferries and vessels;

- (d) regulating the ordinary traffic on that portion of the roads on which any tramway is laid, or those routes upon which any ferry plies;
- (e) for the control, supervision and guidance of persons engaged in the management, maintenance and control of the Government tramways and ferries and for prescribing the form and manner of signing and executing documents to be made or issued under this Act and for the promulgation of all acts, matters and things necessary, expedient or convenient for carrying into operation or for facilitating the operation of this Act; and
- (f) generally for regulating the traffic on Government tramways and ferries, and the conduct of all persons employed on or about the same or travelling or being thereon.

(2) Any by-law may impose a penalty not exceeding twenty pounds for the breach thereof.

Provided that by-laws so made relating to Government ferries—

- (a) shall not be inconsistent with or repugnant to the provisions of the Western Australian Marine Act, 1948, or the regulations made thereunder respectively, or to the provisions of any other Act or regulation relating to and operating in connection with waters in which the particular Government ferry is being worked; and any such by-law which is so inconsistent or repugnant as aforesaid, shall, to the extent by which it is so inconsistent or repugnant, be invalid;
- (b) shall, where the context permits, extend to and operate over any wharves, jetties, landings, structures and buildings used or reputed to be used for the purposes of or in connection with a Government ferry, notwithstanding that such wharves, jetties, landings, structures or buildings have not been proclaimed to be part of a ferry.

(3) In the management, control, and working of all Government ferries, the Minister and The General Manager shall be subject to the provisions of, and have

the same duties and obligations including liability to pay license and other fees as are imposed upon private persons by the Western Australian Marine Act, 1948, and the regulations made thereunder respectively, and any other Act and regulations relating to and operating in connection with waters in which Government ferries are being worked:

Provided that this section and any Act or regulation aforesaid shall not apply so as to limit, restrict, or otherwise affect the power to make by-laws in respect of Government ferries, prescribing tolls, fares, or charges which may be demanded or taken by The General Manager from any passenger or in respect of the carriage of goods or charter at such rates or in such amounts and upon and subject to such conditions as The General Manager may think fit.

19. No person shall obstruct any person acting under the authority of the Minister or The General Manager in setting out, making, forming, laying down, repairing or renewing any Government tramway, or damage any Government tramway.

Penalty for interfering with tramways. 58 of 1912, s. 6.

Penalty—Fifty pounds.

20. No person shall, without lawful excuse—

- (a) interfere with, remove or alter any Government tramway or the works connected therewith;
- (b) place any stones, wood, refuse or other material on any part of a Government tramway;
- (c) do or cause to be done anything in such manner as to obstruct a tramcar using a Government tramway;
- (d) obstruct, hinder or interfere with the exercise of any power hereby conferred;
- (e) knowingly aid or assist in doing any such thing.

Penalties for various offences. 58 of 1912, s. 7.

Penalty—Fifty pounds.

21. No person shall obstruct any person acting under the authority of the Minister or The General Manager in providing, maintaining and working any Government ferry, or damage any Government ferry.

Penalty for interfering with Government ferry. 14 of 1932, s. 7.

Penalty—Fifty pounds.

Protection of the right of the exclusive use of tramways. 58 of 1912, s. 9.

22. No person shall, without the permission of The General Manager, use a Government tramway, or any part thereof, with vehicles having flanged wheels, or other wheels suitable only to run on the rails of a tramway.

Penalty—Twenty pounds.

Penalty for offences relating to fares, etc. 58 of 1912, s. 8. 14 of 1932, s. 8.

23. No person shall—

- (a) while travelling, or, after having travelled on any Government tramway or ferry, avoid or attempt to avoid payment of his fare;
- (b) having paid his fare for a certain distance, knowingly and wilfully proceed on any Government tramway or ferry beyond such distance, and neglect to pay the additional fare for the additional distance, or attempt to avoid payment thereof;
- (c) knowingly or wilfully refuse or neglect, on arriving at the point to which he has paid his fare, to quit such Government tramway or ferry;
- (d) deface any notice placed by The General Manager on any part of a Government tramway or ferry;
- (e) obstruct any person employed on or in connection with any Government tramway or ferry in the performance of his duty;
- (f) behave in violent or offensive manner to the annoyance of others on a Government tramway or ferry;
- (g) refuse to leave any particular part of a Government tramway or ferry which is not open to the public when required so to do by an employee of The General Manager;
- (h) refuse to leave the platform or steps of any tramcar when required to do so by the conductor.

Penalty—Two pounds.

Summary removal of danger, etc. 58 of 1912, s. 10. 14 of 1932, s. 9.

24. If the breach or non-observance of any by-law is attended with danger or annoyance to the public, or hindrance to the Minister or The General Manager in

the conduct of the business, The General Manager or any employee may summarily interfere to obviate, remove or stop such danger, annoyance or hindrance, and that without affecting any penalty incurred by the offender.

25. All actions, suits, claims and demands of the Crown relating to or arising from the management, maintenance or control of any Government tramway or ferry may be brought, maintained and enforced by and in the name of The General Manager in any court of competent jurisdiction.

Actions by  
The General  
Manager.  
53 of 1912,  
s. 11.  
14 of 1932,  
s. 10.

26. All actions, suits, claims and demands against the Crown relating to or arising from the management, maintenance or control of any Government tramway or ferry shall be brought, maintained and enforced against The General Manager and not otherwise; and, subject to the limitations and provisions of this Act, The General Manager may be sued in respect thereof in any court of competent jurisdiction.

Actions  
against The  
General  
Manager.  
58 of 1912,  
s. 12.  
14 of 1932,  
s. 11.

27. (1) No action shall be maintainable against The General Manager for any cause, unless the action is commenced within six months after its cause shall have arisen.

Notice and  
commence-  
ment of  
action.  
58 of 1912,  
s. 13.  
14 of 1932,  
s. 12.

(2) No such action shall be commenced until one month after a notice in writing is given to The General Manager stating the cause of action and the name and address of the party about to sue.

28. No action shall lie or be brought or continued against The General Manager in respect of any injury to the person, unless the person injured submits himself to examination by a medical practitioner or medical practitioners appointed by The General Manager, at all such reasonable times as The General Manager may require.

Plaintiffs in  
actions for  
personal  
injuries to  
submit to  
examination.  
58 of 1912,  
s. 14.  
14 of 1932,  
s. 13.

#### PART V.—ACCOUNTS.

Part V.

29. (1) So soon as reasonably may be, proper statements shall be prepared showing the capital assets, liabilities and obligations of the Government tramways and the Government ferries respectively at the commencement of this Act.

Statements  
relating to  
Government  
tramways  
and ferries to  
be prepared.  
5 of 1932,  
s. 5.

Application  
of capital  
and assets  
vested in  
Minister.  
5 of 1932,  
s. 6.

(2) The capital and assets of the Government tramways and the ferries, respectively, vested in the Minister are charged in the hands of the Minister with the payment and satisfaction of the liabilities and obligations of the Government tramways and ferries, respectively, which by force of this Act are attached to and enforceable against The General Manager, but subject to that charge the capital and assets of the Government tramways and ferries, respectively, may be applied and used for the purposes of this Act relating to Government tramways and ferries, respectively.

Provision  
for payment  
of liabilities  
in excess of  
capital and  
assets.

(3) Insofar as the capital and assets of the Government tramways and ferries, respectively, are insufficient or cannot conveniently be used or realised for the purpose of paying and satisfying the liabilities and obligations of the Government tramways and ferries, respectively, or may be acquired otherwise for the purposes of this Act, the liabilities and obligations may be paid and satisfied by such other means as the Governor by Order in Council shall direct.

Accounts.  
Of. 60 of  
1945, s. 51.

30. The General Manager shall provide, keep and maintain such accounts and in such manner and form as the Auditor General shall from time to time require, and shall enter therein true and regular accounts—

(a) of all moneys received and paid and of all moneys owing to and by The General Manager, and of the several purposes for which such moneys are received and paid and owing; and

(b) of all the assets and liabilities, profits and losses.

Depreciation.  
60 of 1945,  
s. 52.

31. The General Manager shall determine the amount of the depreciation and obsolescence of the assets in relation to the exercise by The General Manager of his powers and the discharge of his duties under this Act:

Provided that when and as often as the Auditor General is of the opinion that any such amount should be increased, the amount determined by the Auditor General shall, subject to the approval of the Governor, prevail.

32. The books of accounts, relating to the Government Ferries and Government Tramways, which have hitherto been kept or shall hereafter be kept shall be open to the inspection of the Auditor General and any person authorised by him to inspect the same, and copies or extracts may be taken therefrom.

Books may be inspected.  
60 of 1945,  
s. 55.

33. The General Manager shall balance or cause to be balanced all his accounts on the thirtieth day of June in each year.

Accounts to be balanced.  
60 of 1945,  
s. 56.

34. (1) The General Manager shall once in every year cause a full and true balance sheet of his assets and liabilities together with a profit and loss account, and such other statements as may be necessary or required by the Auditor General to be compiled from the books of accounts, to be prepared and to be submitted to the Auditor General for audit.

Accounts to be audited.  
60 of 1945,  
s. 57.

(2) Such balance sheet and statements shall be so prepared as to show fully and faithfully the financial position of the Government tramways and ferries, respectively, and the financial results of The General Manager's operations for the year.

(3) The Auditor General shall certify that he has found the accounts in order or otherwise, as the case may be, and whether in his opinion the accounts are properly drawn up so as to present a true and correct view of the transactions for the period under review as shown by the books, and all items of receipts and payments and all known liabilities and assets have been fairly brought into account and the value of all assets fairly stated.

(4) The Auditor General shall in respect of such accounts have all the powers conferred upon him by the Audit Act, 1904, and shall arrange for a periodical or continuous audit of such accounts.

(5) The General Manager may, subject to this Act, retain or appoint an internal auditing staff whose duty it shall be to conduct a continuous audit of the accounts:

Cf. No. 51 of 1944, s. 95.

Provided that the nature and extent of the audit work to be performed shall be subject to the approval of the Auditor General.

Receipts and  
expenditure.  
58 of 1912,  
s. 16.  
14 of 1932,  
s. 15.

35. (1) All moneys received by way of rents, tolls, fares, freights, carriage, or otherwise accruing from Government tramways and ferries shall be paid into the Public Account, and, except as otherwise provided, form part of the Consolidated Revenue Fund:

Provided that The General Manager may at the end of each financial year deduct from the moneys aforesaid such amount (not exceeding five per centum) as he shall deem reasonable to deduct for depreciation of the assets and property used for the purposes of this Act, and such amount shall be paid to the Treasurer and used to reduce any liability on capital account of The General Manager to the State Government in respect of Government tramways and ferries, respectively.

(2) All expenditure incurred in the construction, provision, management and maintenance of Government tramways and ferries, all costs of administration, all contributions to funds for the replacement of depreciating property, and to reserve funds, and all interest, instalments of principal, or contributions to sinking funds in respect of borrowed money shall be defrayed out of moneys to be appropriated by Parliament for the purposes of this Act.

Disposal of  
surplus stock.  
58 of 1912,  
s. 17.  
14 of 1932,  
s. 16.

36. All rolling-stock, machinery, material, plant, and other effects which have been charged to a vote of Parliament appropriated to the Government tramways, and all boats, ships, vessels, gear, equipment, stores, effects and things which have been charged to a vote of Parliament appropriated to the Government ferries, and which are no longer required for the purpose for which the same were obtained, may be taken over, valued and placed in the Stores Suspense Stock by the Officer in Charge; and the amount of such valuation shall be credited in the books of the Treasury to the Stores Adjustment Account of the Government tramways or ferries, as the case may be, and at the end of each financial year the amount so credited shall be transferred to the credit of expenditure under the Consolidated Revenue Fund, or with the concurrence of The General Manager, to the credit of the appropriate account entitled to the credit.

37. The General Manager shall, once in every three months, cause to be prepared—

Quarterly tramways working account. 58 of 1912. s. 18.

(a) a quarterly Tramways Working Account, showing—

(i) the total gross receipts accruing from the tramways during the period covered by the account, and the total expenditure upon the working, management and maintenance during the same period, and

(ii) the gross cost of the acquisition or construction of the tramways, including the cost of rolling-stock, machinery, material and plant, and all incidental expenditure; and

(b) a quarterly Government Ferries Working Account, showing—

Quarterly ferries working account. 14 of 1932. s. 17.

(i) the total gross receipts accruing from the Government ferries during the period covered by the account and the total expenditure upon the working, management, and maintenance during the same period, and

(ii) the gross cost of the provision of the Government ferries, including the cost of the acquisition of land, the construction and erection of wharves, landings, jetties, buildings and other structures, and the cost incurred in the purchase of boats, ships, vessels, gear and equipment, and of all incidental expenditure.

38. All accounts referred to in the last preceding section shall be published in the *Government Gazette*, and shall be laid before Parliament.

58 of 1912. s. 18. 14 of 1932. s. 17.

PART VI.—MISCELLANEOUS.

Part VI.

39. No rate, tax or assessment shall be made, charged or levied on any Government tramway or ferry unless the contrary is expressly provided in this or any other Act.

Exemption from rates. 58 of 1912. s. 20. 14 of 1932. s. 19. Cf. s. 18 (3) ante.

General  
Manager  
may appoint  
and employ,  
etc., officers  
and  
employees.  
60 of 1945,  
s. 36.

40. (1) The General Manager may appoint and employ such officers and other servants as he may from time to time consider are necessary for the purposes of this Act, and subject to the right of appeal hereinafter provided for, may suspend, dismiss, fine or reduce to a lower class or grade any officer or other servant so appointed or employed:

Provided that no fine shall be inflicted under this subsection for any act or omission for which an officer or servant has been punished under section thirty or thirty-one of the Traffic Act, 1919-1947.

Provided further that The General Manager shall not inflict on any such officer or other servant more than one form of punishment for the same offence.

Right of  
appeal.

(2) (a) Any person who, being permanently appointed or employed by The General Manager is—

- (i) fined;
- (ii) reduced to a lower class or grade;
- (iii) dismissed by The General Manager;
- (iv) suspended from employment in such circumstances as to involve loss of pay; or
- (v) transferred by way of punishment involving loss of transfer expenses—

may in the prescribed manner appeal to an Appeal Board constituted as hereinafter provided.

(b) For the purposes of this subsection a person shall not be deemed to be permanently appointed or employed unless he has been continuously appointed or employed for one year.

Constitution  
of Appeal  
Board.  
17 of 1930,  
s. 5.

(3) (a) An Appeal Board shall consist of the following persons, that is to say:—

- (i) A stipendiary, police or resident magistrate appointed by the Governor and to be the Chairman of the Board, or a person appointed in like manner to act as his deputy.
- (ii) One person to be appointed from time to time by The General Manager or a person appointed in like manner to act as his deputy; and

- (iii) one person, his deputy, and his substitute to be elected from time to time in the prescribed manner from among their number by the salaried staff of The General Manager; and 56 of 1926, s. 3.
- (iv) one person, his deputy, and his substitute to be elected from time to time in the prescribed manner from among their number by the wages employees of The General Manager: 56 of 1926, s. 3.

Provided that only the person elected by the employees upon that branch of the staff in which the appellant is employed his deputy or his substitute shall act on the Board as the elective member on the hearing of the appeal.

(b) Immediately upon the election of an elective member of the Appeal Board, The General Manager shall take the necessary action in regard to such elective member's employment as will ensure his attendance at each sitting of the Board.

Arrangements for attendance of elective members at sittings of Appeal Board.

(c) The first election of the elective members of the Board shall be held as soon as reasonably may be after the commencement of this Act. Thereafter ordinary elections of elective members shall be held at intervals of three years.

(d) The Chairman, and the member appointed by The General Manager, shall hold office during the pleasure of the Governor and of The General Manager, respectively. The elective members of the Board shall hold office for three years from the date of the election, respectively.

Tenure of office.

(e) If any elective member of the Appeal Board—

Vacancy.

- (i) dies, or
- (ii) by notice in writing addressed to the Chairman of the Appeal Board resigns his office, or
- (iii) ceases to be an employee of The General Manager,

his seat shall become vacant, and a successor shall be elected who shall hold office for the residue of the period during which his predecessor would have held the same if he had remained a member of the Appeal Board.

Provided that in any case where the seat of an elective member becomes vacant within three months of the ordinary election the member elected to fill the vacancy shall continue in office until the end of the next succeeding term of three years.

Ballot at  
elections of  
elective  
members.

(f) (i) The ballot of elective members shall be taken on the preferential system and in the manner prescribed by regulations.

(ii) If any question or dispute arises as to the regularity or validity of any ballot or the voting thereat, such question or dispute shall, after consultation with the Chief Electoral Officer, be determined by the Minister in such manner as he thinks fit, and his decision shall be final. For the purposes of this paragraph, "Chief Electoral Officer" means the person holding that office under the provisions of the Electoral Act, 1907-1940.

Notice of  
appeal.

(g) Notice of every appointment or election of a member of the Appeal Board shall be published in the *Government Gazette*.

(4) (a) Notice of every appeal to the Appeal Board shall be lodged with The General Manager within fourteen days after the date of the decision of The General Manager appealed against, and the appeal shall be heard within thirty days from the date of notice being so lodged.

(b) If the hearing of the appeal is not commenced within such thirty days, the punishment appealed against shall be revoked, and the appellant shall be reimbursed any loss of salary or expenses incurred.

Provided that if the hearing of the appeal is commenced within such thirty days the Appeal Board may allow any adjournment thereafter.

Quorum.

(5) The decision of any two members of the Appeal Board shall be the decision of the Board.

Procedure on  
appeals.

(6) With respect to the procedure on appeals under this section, the following provisions shall apply:—

(a) The Board may admit evidence taken at any inquiry held by The General Manager at which the appellant was present and had an opportunity of hearing the evidence and of giving evidence.

(b) Evidence of witnesses resident more than twenty miles from the place of the sitting of the Board may be taken by affidavit or otherwise as prescribed.

- (c) Any member of the Board may administer an oath to any witness, and the appellant shall be entitled to have the witnesses examined on oath.
- (d) The parties may be represented at the hearing of the appeal—
  - (a) as to the appellant—
    - (i) personally,
    - (ii) by the secretary, or his deputy, of the industrial union to which the appellant belongs, or
    - (iii) by an employee of The General Manager nominated by the appellant, and
  - (b) as to The General Manager, by one of his employees authorised by it in that behalf:

Provided that no party shall be entitled to representation by, and the Board shall not grant audience to, a legal practitioner.

- (e) The Board may, subject to the regulations, regulate its own procedure and issue summonses for the attendance of witnesses.

(7) (a) Any person who does not appear before the Board pursuant to a summons issued and served upon him under this section after payment or tender to him of reasonable travelling expenses according to the prescribed scale, and does not assign some reasonable excuse for not so appearing, or who appears and refuses to be sworn or examined, or to produce for the inspection of the Board any document which by such summons he is required to produce shall be guilty of an offence.

*Attendance  
of witnesses.*

Penalty: Ten pounds.

(b) In addition to travelling expenses, a person attending as a witness shall be entitled to recover from the person at whose instance or by whom he was summoned or requested to attend an amount to be fixed by the Board according to the prescribed scale of allowances to witnesses attending before the Board.

Powers of  
Appeal  
Board.

(8) (a) The Appeal Board may confirm, modify, or reverse any decision of The General Manager appealed against, or make such other order thereon as it thinks fit, and the decision of the Board shall be final.

(b) The Appeal Board may fix the costs of any appeal and direct by whom and in what proportions they shall be payable, and in every case costs shall be awarded against an appellant whose appeal it considers frivolous.

(c) All costs awarded against the appellant shall be recoverable as a debt due to the Crown.

(d) All costs awarded to an appellant shall be payable by The General Manager.

Regulation  
of lights.  
Interpreta-  
tion.  
15 of 1939,  
s. 3.

41. (1) For the purposes of this section—

“light” includes any fire, lamp, light, illuminated sign, street light or other mechanical, manufactured or constructed illumination, and also the glow from any such light;

“tramway or ferry light” includes lights, signals and signs used as an aid or guide to Government tramway or ferry traffic;

“owner” includes the owner lessee, tenant, purchaser, hirer or other person in possession or entitled to the possession of a light, and in the case of a street light, means the local authority in whose district such street light is erected or installed.

Powers in  
relation to  
lights.

(2) Where any light is used, kept, burnt, or exhibited between the hours of sunset and sunrise at such a place (whether within or outside Government tramway or ferry premises) or in such a manner as in the opinion of The General Manager to be likely to be mistaken for or obscure or conflict with or adversely interfere with the effectiveness of any Government tramway or ferry light, The General Manager may by notice in writing require the owner or person in charge of such light or the occupier of the place or premises where such light is used, kept, burnt, or exhibited, within a time to be specified in the notice to take effectual means to—

(a) extinguish the light;

- (b) remove the light entirely or to some other position;
- (c) modify the light or to alter its character or colour, or to screen the light to such an extent and in such manner as The General Manager directs;
- (d) refrain from using, keeping, burning, or exhibiting the light, either entirely or for such period or during such hours as The General Manager directs, or
- (e) do or refrain from doing such other act, matter or thing, in relation to using, keeping, burning or exhibiting the light as The General Manager directs and in accordance with the directions of The General Manager.

(3) Any notice under subsection (2) of this section may be served either personally or by delivery at the place of abode of the person to be served or by affixing it in some conspicuous place on or near the place or premises upon or in which the light to which the notice relates is used, kept, burnt or exhibited.

(4) It shall be the duty of the owner, occupier, or other person served with a notice under subsection (2) of this section to comply with such notice.

(5) Every owner, occupier, or other person on whom a notice is served under subsection (2) of this section who fails, without reasonable cause (proof whereof shall lie upon him) to comply in all respects with the directions contained in the notice shall be guilty of an offence against this Act.

Penalty—One hundred pounds, and in addition a daily penalty of five pounds for every day or part of a day during which the directions contained in the notice are not complied with after the time specified in the notice for the compliance therewith.

(6) If any owner, occupier or other person served with a notice under subsection (2) of this section fails in any respect to comply with the directions of such notice within the time specified in the notice for such compliance, The General Manager or any person authorised in

Requisitions  
of notice to  
be carried  
out.

writing by The General Manager may enter upon the place or premises whereon the light to which the notice relates is used, kept, burnt, or exhibited, and forthwith take effectual means (but doing no unnecessary damage) to carry out and otherwise give effect to the directions contained in the notice which have not been complied with as aforesaid.

(7) Any expense incurred by The General Manager or the person authorised by The General Manager under subsection (6) of this section shall be a debt owing to The General Manager by the person upon whom the notice was served as aforesaid and shall be recoverable at the suit of The General Manager in any court of competent jurisdiction.

(8) If the owner, occupier, or other person upon whom a notice under subsection (2) of this section has been served as aforesaid, or any other person obstructs or hinders, prevents, or interferes with or attempts to obstruct, hinder, prevent or interfere with The General Manager or the person authorised by The General Manager in the exercise of the power conferred by subsection (6) of this section, he shall be guilty of an offence against this Act.

Penalty—Fifty pounds.

Civil rights.

(9) Where any owner, occupier, or other person upon whom a notice under subsection (2) of this section has been served as aforesaid has failed within the time prescribed by such notice to comply with the directions of such notice, and by reason of such non-compliance and by reason of the light to which the said notice relates being mistaken for, or obscuring, or conflicting with or adversely interfering with the effectiveness of a tramway or ferry light any damage results to any property of The General Manager or to any person or to the property of any person, whether in the employ of The General Manager or a member of the public, the non-compliance with the notice shall, for the purpose of enabling The General Manager or such other person to recover compensation or damage in respect of the damage resulting, be deemed to be a tort in the nature of a nuisance committed by such owner, occupier or person aforesaid upon which an action for damages may be instituted.

(10) The omission on the part of The General Manager to give any notice under subsection (2) of this section, or the failure on the part of The General Manager to exercise the power conferred by subsection (6) of this section shall not make the Minister or The General Manager in any respect responsible or liable for any damage resulting to any person or property as the result of any light being mistaken for or obscuring or conflicting with or adversely interfering with the effectiveness of a Government tramway or ferry light.

Saving provision.

42. A certificate under the hand of the Minister that any specified land or chattel is included in any Government tramway or ferry, or that any Government tramway is open for traffic, shall for all purposes be sufficient evidence of the fact.

Cf. 23 of 1904, s. 6 and s. 16 (1) (a) ante.

43. (1) The General Manager shall prepare annual reports upon the Government tramways and ferries respectively and the working thereof, and an account of all moneys received and expended during the preceding year.

Annual report. 23 of 1904, s. 84.

(2) Such annual reports together with copies of the balance sheets and statements then last prepared and audited and the Auditor General's report thereon shall be laid before both Houses of Parliament in the month of September in each year, if Parliament is then sitting, and if Parliament is not then sitting, then within one month after the commencement of the next ensuing session thereof.

Cf. s. 36 ante.

(3) The General Manager shall also prepare estimates, in such form as the Minister may from time to time direct, of the receipts and expenditure for each period of twelve months ending on the thirtieth day of June in every year.

44. The Tramways Act, 1885, shall not apply to Government tramways.

Tramways Act, 1885, not to apply. 53 of 1912, s. 23.

45. No officer or servant of The General Manager shall—

No employee to engage in outside employment. 23 of 1904, s. 77. 29 of 1907, s. 13.

(1) engage in any employment outside the duties of his office except with the approval of The General Manager;

- (2) in any way participate, or claim to be entitled to participate, in the profits of or in any benefit or emolument arising from any contract or agreement made by or on behalf of the Government save such as are referred to in section thirty-five of the Constitution Acts Amendment Act, 1899;
- (3) acquire any Crown lands without the approval of the Minister.

Saving as to Government departments. Conference and co-operation with other departments. 60 of 1945, s. 59.

46. (1) For the purposes of this section, "Government Department" includes a Minister of the Crown acting in his official capacity, any State Government Department, State trading concern, State instrumentality, State public utility and any other person or body, whether corporate or non-corporate, who or which, under the authority of an Act of Parliament administers or carries on for the benefit of the State any public social service or public utility.

(2) Save as otherwise expressly provided, nothing in this Act shall affect any rights, powers, authorities or duties of any Government department other than those of the Minister or The General Manager.

(3) Where the exercise of any rights, powers, or authorities or the discharge of any duties by the Minister or The General Manager may affect the exercise of any rights, powers or authorities or the discharge of any duties by any other Government department, the Minister or The General Manager, as the case may be, shall so far as practicable confer and co-operate with such department.

(4) Any question, difference or dispute arising or about to arise between the Minister or The General Manager, as the case may be, and any other Government department with respect to the exercise of any rights, powers or authorities or the discharge of any duties by either or both of them may be finally and conclusively determined by the Governor.

Documents: how authenticated. 60 of 1945, s. 65.

47. Every notice, order, summons or other document requiring authentication by the Minister or The General Manager may be sufficiently authenticated without the seal of either if signed in manner prescribed.

48. The General Manager may order either generally or in any particular case that proceedings be taken for the recovery of any penalties incurred under or for the punishment of any persons offending against this Act or under or against any by-law or regulations.

Power to direct prosecutions. 23 of 1904, s. 81. 60 of 1945, s. 66.

49. In all proceedings in any court of petty sessions any officer of The General Manager appointed by the chairman in writing under his hand for that purpose may represent The General Manager in all respects as though such officer was the party concerned.

Power of officer to represent. 60 of 1945, s. 67.

50. (1) In any prosecution or legal proceeding under the provisions of this Act or the by-laws or regulations instituted by or under the direction of The General Manager no proof shall be required (until evidence is given to the contrary) of—

Proof of certain matters not required. 60 of 1945, s. 68.

- (a) the Minister, being the Minister of the Crown, to whom the administration of this Act is, for the time being, committed by the Governor;
- (b) any order of The General Manager to prosecute;
- (c) the particular or general appointment of any officer of The General Manager to take proceedings against any person;
- (d) the powers of the officer to prosecute.

(2) The production of—

- (a) a copy of the *Government Gazette* containing any rule, by-law, regulation, order or notice purporting to have been made or given under any of the provisions of this Act; or
- (b) a copy purporting to be a true copy of any such rule, by-law, regulation, order or notice certified as such under the hand of The General Manager, or officer of The General Manager, authorised in that behalf, shall be evidence until the contrary is proved of the due making, existence, confirmation, approval and giving of such rule, by-law, regulation, order or notice and of all preliminary steps necessary to give full force and effect to the same.

