

GOVERNMENT RAILWAYS.

3^d GEO. VI., No. XV.

No. 15 of 1939.

AN ACT to amend section fifty-eight of the Government Railways Act, 1904-1933, and to make provision in the said Act for regulating the use of lights likely to be a danger to railway traffic.

[Assented to 22nd November, 1939.]

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 Western Australia, in this present Parliament assembled, and by the authority of the same, as follows:—

Short title.
of s. 36 of
1933, s. 9.

1. This Act may be cited as the *Government Railways Act Amendment Act*, 1939, and shall be read as one with the Government Railways Act, 1904-1933 (No. 23 of 1904 as amended), hereinafter referred to as the principal Act.

Amendment
of s. 58 of
the principal
Act.

2. Section fifty-eight of the principal Act is amended by deleting the word "seven" where it appears in line six of the section and inserting in lieu thereof the words "twenty-one."

3. A new section is inserted in the principal Act after section seventy-six, as follows:—

Insertion of
new section
76A.

76A. (1) For the purposes of this section—

Regulation of
lights.
Interpreta-
tion.

“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.

“Railway light” includes lights, signals, and signs used as an aid or guide to railway 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 government authority in whose district such street light is erected or installed.

(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 railway premises), or in such a manner as in the opinion of the Commissioner to be likely to be mistaken for or obscure or conflict with or adversely interfere with the effectiveness of any railway light, the Commissioner may by notice in writing require the owner of or the 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—

Powers in
relation to
lights.

- (a) to extinguish the light; or
- (b) to remove the light entirely or to some other position; or
- (c) to 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 Commissioner may direct; or
- (d) to refrain from using, keeping, burning, or exhibiting the light, either entirely or for such period or during such hours as the Commissioner may direct;
- (e) to do or refrain from doing such other act, matter, or thing in relation to using, keeping, burning, or exhibiting the light as the

Commissioner may direct and in accordance with the directions of the Commissioner.

(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 Commissioner or any person authorised in writing by the Commissioner 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 Commissioner or the person authorised by the Commissioner under subsection (6) of this section shall be a debt owing to the Commissioner by the person upon whom the

Commissioner
may cause
requisitions of
notice to be
carried out.

notice was served as aforesaid and shall be recoverable at the suit of the Commissioner 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 Commissioner or the person authorised by the Commissioner 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.

(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 railway light any damage results to any property of the Commissioner or to any person or to the property of any person, whether in the employ of the Commissioner or a member of the public, the said non-compliance with the said notice shall for the purpose of enabling the Commissioner or such other person to recover compensation or damages 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.

Civil rights.

(10) The omission on the part of the Commissioner to give any notice under subsection (2) of this section, or the failure on the part of the Commissioner to exercise the power conferred by subsection (6) of this section shall not make the Commissioner 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 railway light.

Saving provision.

Proceedings
for offences.

(11) Proceedings for offences against this Act may be commenced on a complaint by the Commissioner or some person duly authorised in writing, and may be dealt with summarily under the provisions of the Justices Act, 1902-1936.

Citation of
principal Act
as amended.

4. The principal Act as amended by this Act may be cited as the Government Railways Act, 1904-1939.
