

## GOVERNMENT RAILWAYS.

24<sup>o</sup> GEO. V., No. XXXVI.

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No. 36 of 1933.

**AN ACT** to make provision in the Government Railways Act, 1904, for railway construction work by the Railway Department, and also to make provision in the said Act for contribution by certain employees to the Western Australian Government Railways and Tramways Employees' Death Benefit and Endowment Fund.

[Assented to 4th January, 1934.]

**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:—

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

2. This Act shall come into operation on a day to be fixed by proclamation.\* Operation of this Act.

3. Section two of the principal Act is amended—

(a) by inserting in the definition of "Railway" or "Government railway," after the words "Government railway" in line one of the said definition, the words "except as hereinafter provided";

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\*12th February, 1934; Gazette 9th February, 1934.

(b) by adding to the definition of "Railway" or "Government railway" a proviso, as follows:—

Provided that, for the purposes of sections eighteen A and eighteen B of this Act, "railway" means a railway as defined in section ninety-five of the Public Works Act, 1902-1933, the construction whereof has been authorised in accordance with section ninety-six of such Act, but which has not become a railway or a Government railway as herein defined.

Amendment of s. 17.

4. Section seventeen of the principal Act is amended, as follows:—by deleting the words "for Works" in line four, and by substituting for the figures "1902" in line five, the figures "1902-1933."

Amendment of s. 18.

5. Section eighteen of the principal Act is amended by substituting for the figures "1902" in line two, the figures "1902-1933."

New section.

6. Sections are inserted in the principal Act after section eighteen, as follows:—

Powers of Minister under Public Works Act, 1902-1933, delegated to Commissioner, and Commissioner authorised to exercise such powers.

18A. (1.) Where any railway is authorised in accordance with section ninety-six of the Public Works Act, 1902-1933, and the Minister, in exercise of the powers conferred upon him by the said Act, undertakes the construction of such railway, then, notwithstanding anything to the contrary contained in the said Act, or in any other Act, the Minister shall be deemed to have and shall by virtue of this section have authority to delegate to the Commissioner, and the Commissioner shall, subject to the approval of the Minister, have authority to exercise all and any of the said powers of the Minister, and to do, undertake, and carry out all works, acts, matters, and things necessary to be done or capable of being done in relation to the construction of the said railway, or in any manner incidental thereto, to the end that all that the Minister is authorised to do by the said Act in relation to such railway may be done to the same extent by the Commissioner on behalf of the Minister.

(2.) In the exercise of the powers aforesaid the Minister or the Commissioner, as the case may be, may use and employ the whole or any portion of the employees and staff and property of the department, and may

employ such other servants, workmen, contractors, and agents, and obtain and use such other plant, machinery, and property as may be necessary for such purpose.

(3.) Nothing in this section shall be deemed to impose upon the Commissioner any liability whatsoever for any act or omission on his part or on the part of his servants, workmen, agents, or contractors in relation to the exercise by the Commissioner of any of the said powers under the authority of this section.

18B. Where a railway is in the course of construction and, although the same has not been completed, and, in accordance with section five of this Act, has not been declared open for traffic, the Minister is of the opinion that the said railway or a portion thereof may safely and conveniently be used to a limited extent for public traffic, it shall be lawful for the Commissioner, with the approval of the Minister, to use the said railway or portion thereof for traffic to the extent authorised by the Minister, and to make available the same for the carriage of passengers and goods, upon such special conditions as may be either generally or in any particular case declared by the Commissioner:

Railway under construction may be used for traffic in certain circumstances.

Provided that nothing in this section shall be deemed to make the Commissioner a common carrier or to impose upon him any of the obligations of a common carrier.

7. Section thirty-seven of the principal Act is amended by inserting at the beginning of subsection (3) the words "Subject to section eighteen B of this Act."

Amendment of s. 37.

8. A section is inserted in the principal Act after section sixty-eight, as follows:—

New section.

68A. (1.) Notwithstanding anything in this Act or in any industrial award or industrial agreement to the contrary, every officer or servant of the department appointed or whose employment commences after the commencement of this section, shall be deemed to be appointed or employed as such officer or servant upon the express condition that he will become and continue a member of or contributor to the Western Australian Government Railways and Tramways Employees' Death

Certain employees to contribute to Western Australian Government Railways and Tramways Employees' Death Benefit and Endowment Fund.

Benefit and Endowment Fund established under paragraph 26 (a) of section twenty-three of this Act, under and in accordance with the by-laws now and from time to time made by the Commissioner under this Act in relation to the said Fund.

(2.) Every officer and servant referred to in subsection (1) of this section shall become liable for payment of his membership contributions to the said Fund as from and commencing on a day one month after the date of his appointment or the commencement of his employment, as the case may be, and thereafter shall continue liable for payment of such membership contributions under and in accordance with the by-laws aforesaid relating to the Fund; and the amount of such membership contributions as and when they become due and payable shall be a debt owing by such officer or servant to the committee of management of the said Fund, and shall be recoverable at the suit of such committee in any court of competent jurisdiction.

(3.) In the case of every officer or servant to whom this section applies, it shall be lawful for the Commissioner, or his paying officer, or any other officer of the department charged with the duty of paying salary or wages to such officer or servant, to deduct from such salary or wages, whenever payment of the same is being made, the amount of the membership contributions payable by such officer or servant to the said Fund, and to pay the amount so deducted to the committee of management of the said Fund, without being required to give any notice of his intention so to do to, or obtain any order or authority so to do from, such officer or servant.

(4.) Provided that subsections (1), (2), and (3) of this section shall not in any way affect or apply to—

(a) any officer or servant employed in the department at the commencement of this section, unless he shall subsequently cease to be so employed, and thereafter shall again be appointed as an officer or servant in the department, in which case he shall, for the purposes of this section, be deemed to be an officer or servant appointed or employed to or in the department after the commencement of this section; and

- (b) any officer or servant appointed, or whose employment commences after the commencement of this section, who proves to the satisfaction of the Commissioner that he holds for his own benefit and is maintaining a life insurance policy in an insurance company in Western Australia approved by the Commissioner for an amount which, together with bonuses or other benefits accrued or to accrue hereafter will, upon the maturity of the policy during the life of the assured, entitle the assured or his legal representative to payment of an amount equal to the amount which the officer or servant would be entitled to receive from the said Fund as a member thereof, upon his right to such payment as a member accruing under the by-laws relating to the said Fund:

Provided, that the exemption provided by this paragraph shall cease to operate as from the date when any officer or servant aforesaid ceases to maintain such life policy aforesaid, and subsections (1), (2), and (3) of this section shall apply to such officer or servant as from the said date as if he had been appointed to or had commenced his employment in the department on such date;

- (c) any officer or servant employed in the department whose rate of pay is lower than the minimum rate prescribed for the lowest paid male adult worker (other than an apprentice) engaged on full time in the department, or whose employment is of a temporary nature.

(5.) Provided also, that nothing in this section or in subsection (4) hereof shall prevent an officer or servant employed in the department at the commencement of this section, or any officer or servant exempted by paragraph (b) or (c) of subsection (4) hereof, from contributing voluntarily to the said Fund as a member thereof whilst he continues to be so employed.

(6.) The Commissioner may by by-laws made under the authority of this Act and relating to the said Fund, prescribe special conditions for the benefit of officers or servants in the department to whom subsections (1), (2),

and (3) of this section apply, and who prove to the satisfaction of the Commissioner that they hold and are maintaining a life policy in an insurance company approved by the Commissioner, the amount of which is not sufficient to entitle such officers or servants to the exemption provided in paragraph (b) of subsection (4) of this section.

Citation of  
principal Act  
as amended.

9. The principal Act, as amended by this Act and by all prior Acts amending the principal Act, may be cited as the Government Railways Act, 1904-1933.