

WESTERN AUSTRALIA.



ANNO TERTIO

GEORGI QUINTI REGIS,

XXXIX.

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No. 58 of 1912.

AN ACT for the Construction, Maintenance, and Working of Government Tramways.

[Assented to 30th December, 1912.]

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:—

*Preliminary.*

1. This Act may be cited as the *Government Tramways Act*, 1912, and shall come into operation on a day to be fixed by proclamation. Short title and commencement.

2. In this Act—

“Commissioner” means the Commissioner of Railways appointed under the Government Railways Act, 1904;

“Gazette” means the *Government Gazette* of Western Australia;

“Government” means the Government of Western Australia;

“Government Tramways” means—

(a.) The tramways acquired by the Government under the Tramways Purchase Act, 1912;

Interpretation.

(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 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 and the council thereof, or a road board;

“Minister” means the responsible Minister of the Crown for the time being administering the Government Railways Act, 1904;

“Prescribed” means prescribed by this Act or the by-laws or regulations thereunder;

General powers for the construction and maintenance of tramways.

3. (1.) The Minister may, pursuant to any Order in Council whereby the construction of tramways is authorised, construct such 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, or, with the consent of the Commonwealth Postmaster General, raise, lower, alter, or remove any telegraphic, telephonic, or electric apparatus, whether under the control of the Commonwealth Postmaster General or not;

(e.) Alter, remove, replace, or relay in any position or situation any existing or future Government tramways, or any part thereof, or anything connected therewith;

(f.) Extend or vary any existing or future Government tramways;

(g.) Make, renew, remove, replace, or alter as to position or otherwise any junction, siding, station, turntable, or turnout;

(h.) Take and acquire under the provisions of the Public Works Act, 1902, any land or buildings which, in the opinion of the Minister, may be necessary or convenient to be purchased or taken for any purposes authorised by or under this Act;

(i.) 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

Before interfering with roads notice to be given.

(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.

(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.

(6.) For the purposes of this Act the term "Minister" in section eleven of the Public Works Act, 1902, includes the Minister for Railways.

4. (1.) The Commissioner—

(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

(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.

Commissioner to manage tramways.

(2.) The Commissioner may exercise the powers conferred on the Minister by section three, for the maintenance, alteration, renewal, or repair of all Government tramways open for traffic.

## By-laws.

5. (1.) The Commissioner may from time to time make, alter, and repeal by-laws as to the following matters:—

- (a.) Prescribing tolls, fares, or charges which may be demanded or taken by the Commissioner from any passenger, or in respect of the carriage of goods;
- (b.) Regulating the use of tramcars by passengers, and the number of passengers that may be carried in each tramcar;
- (c.) Prohibiting the committing of any nuisance upon tramways or tramcars;
- (d.) Regulating the ordinary traffic on that portion of the roads on which any tramway is laid; and
- (e.) Generally for regulating the traffic on tramways, 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.

(3.) By-laws when confirmed by the Governor and published in the *Gazette* shall have the force of law.

(4.) The *Gazette* containing any such by-law shall be evidence thereof, and that the same was duly made and confirmed.

(5.) Copies of all by-laws shall be laid before both Houses of Parliament within fourteen days from the making thereof, if Parliament is sitting; and if not, then within fourteen days after the next meeting of Parliament.

## Penalty for interfering with tramways.

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

Penalty: Fifty pounds.

## Penalties for various offences.

7. No person shall, without lawful excuse, do any of the following things, namely:—

- (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; or

(e.) Knowingly aid or assist in doing any such thing.

Penalty: Fifty pounds.

8. No person shall—

(a.) While travelling, or after having travelled in any tramcar on a Government tramway, avoid or attempt to avoid payment of his fare; or

(b.) Having paid his fare for a certain distance, knowingly and wilfully proceed in any such tramcar beyond such distance, and neglect to pay the additional fare for the additional distance, or attempt to avoid payment thereof; or

(c.) Knowingly or wilfully refuse or neglect on arriving at the point to which he has paid his fare, to quit such tramcar; or

(d.) Deface any notice placed by the Commissioner on any part of a Government tramway or of any tramcar; or

(e.) Obstruct any person employed on a Government tramway or on any such tramcar in the performance of his duty; or

(f.) Behave in a violent or offensive manner to the annoyance of others on a Government tramway or any such tramcar; or

(g.) Refuse to leave the platform or steps of any such tramcar when required to do so by the conductor.

Penalty: Two pounds.

Penalties for offences relating to fares. etc.

9. No person shall, without the permission of the Commissioner, 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.

Protection of the right of Commissioner to the exclusive use of tramways.

10. If the breach or non-observance of any by-law is attended with danger or annoyance to the public or hindrance to the Commissioner in the conduct of his business, the Commissioner or any employee of the Commissioner may summarily interfere to obviate, remove, or stop such danger, annoyance, or hindrance, and that without affecting any penalty incurred by the offender.

Commissioner may interfere summarily.

11. All actions, suits, claims, and demands of the Crown relating to or arising from the management, maintenance, or control of any Government tramway, or other tramway open for traffic,

Actions by the Commissioner.

under this Act, may be brought, maintained, and enforced by and in the name of the Commissioner in any Court of competent jurisdiction.

Actions against the Commissioner.

12. All actions, suits, claims, and demands against the Crown relating to or arising from the management, maintenance, or control of any Government tramway, or other tramway open for traffic under this Act, shall be brought, maintained, and enforced against the Commissioner, and not otherwise; and, subject to the limitations and provisions of this Act, the Commissioner may be sued in respect thereof in any Court of competent jurisdiction.

Notice and commencement of action.

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

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

Plaintiff in actions for personal injuries to submit to examination.

14. No action shall lie or be brought or continued against the Commissioner 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 Commissioner, at all such reasonable times as the Commissioner may require.

Limit of liability.

15. No damages exceeding two thousand pounds shall be recoverable in any action against the Commissioner in respect of loss of life or injury to the person, whether in the case of a passenger or not.

Receipts and expenditure.

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

(2.) All expenditure incurred in the construction, maintenance, alteration, repair, and management of Government tramways, 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 to the purposes of this Act.

Disposal of surplus stock.

17. All rolling stock, machinery, material, plant, and other effects which have been charged to a vote of Parliament appropriated to the Government tramways, and which are no longer

required for the purpose for which the same were obtained, may be taken over, valued, and placed in the Tramways Suspense Stock by the Comptroller of Stores; and the amount of such valuation shall be credited in the books of the Treasury to the Tramways Stores Adjustment Account, 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 Commissioner, to the credit of any head of expenditure.

18. (1.) The Commissioner shall, once in every three months, cause to be prepared a quarterly Tramways Working Account, showing 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.

Quarterly tramways working account.

(2.) Such account shall also show 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.

(3.) All such accounts shall be published in the *Government Gazette*, and shall be laid before Parliament.

19. (1.) All the provisions of the Government Railways Act, 1904, relating to officers and servants of the Department of Government Railways are incorporated with this Act, and shall apply to all employees on Government tramways under the management and control of the Commissioner, and such employees shall be officers and servants of the said department, which is hereby extended to include all such Government tramways.

Employees.

(2.) The provisions of the Industrial Conciliation and Arbitration Act, 1902, relating to Government railways and Government railway workers, are hereby extended to Government tramways under the management and control of the Commissioner, and to Government tramway workers.

20. No rate, tax, or assessment shall be made, charged, or levied on any Government tramway.

Exemption from rates.

21. The Commissioner 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 Commissioner to make and enforce by-laws shall extend to such motor-omnibuses.

Motor omnibuses.

**Penalties.**

**22.** Where a penalty is mentioned in or at the foot of any section, any contravention of the section, whether by act or omission, shall be an offence against this Act punishable upon conviction by a penalty not exceeding that mentioned.

**Tramways Act,  
1885, not to apply.**

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