



Western Australia

Midland Railway Act 1919

This Act was repealed by the *Public Transport Authority Act 2003* s. 198 (No. 31 of 2003) as at 1 Jul 2003 (see s. 2(1) and *Gazette* 27 Jun 2003 p. 2384).

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Midland Railway Act 1919

An Act to vest in the Midland Railway Company of Western Australia, Limited, the lands acquired for the purpose of its railway, and to apply to its railway certain of the provisions of the *Government Railways Act 1904*.

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: —

1. Short title

This Act may be cited as the *Midland Railway Act 1919*, and shall be read as one with the *Guildford-Greenough Flats Railway Act 1886*, hereinafter referred to as the principal Act.

2. Vesting of land acquired for railway

- (1) Subject as hereinafter provided, all lands taken, acquired, and held by the Midland Railway Company of Western Australia, Limited (hereinafter referred to as “the Company”), under the provisions of the principal Act, for the construction of the railway therein referred to, now as the Midland Railway, as such lands are delineated and coloured green on one hundred and thirty-eight plans, deposited in the Office of Titles, and numbered 4187 to 4324, both inclusive, and the lands delineated and coloured green on a plan approved by the Governor in Executive Council on the 7th day of August, 1895, and deposited in the Office of Titles, and numbered 1138, are hereby

vested in the company for an vested in fee simple in possession free from encumbrances:

Provided that wherever the said railway crosses any public road, the soil in the road shall continue vested in His Majesty, and the control, maintenance, and repair of the road shall be vested in the local government of the district in which the road is situated, subject to the right and obligation of the company to construct, maintain, repair, and renew the railway over the said road:

Provided, also, that the Governor may resume any portions of the said lands that may be required for roads across the said railway; and, on notification in the *Government Gazette* of such resumption, and of the dedication of any such road to the public use, the soil thereof shall vest in His Majesty, and the control, maintenance, and repair thereof in the local government of the district in which the road is situated, subject to the right and obligation of the company to construct, maintain, repair, and renew the railway over such road:

Provided, also, that the bed of the Swan, Moore, and Irwin Rivers, crossed by the said railway, shall continue vested in His Majesty, subject to the right of the company to maintain the existing railway bridges crossing the said rivers, and to repair and renew the said bridges from time to time.

- (2) The company may construct, maintain, repair, and renew its railway across the roads delineated, on the said plan No. 1138, that is to say, Boundary Road, Main Road, Brockman Road, Margaret Road, and Sayer Street; and also across Helena Street and Main Road as delineated on plan No. 743, deposited in the Office of Titles.
- (3) Save and except so much of the said lands as may be the soil of the public roads, and the bed of rivers as aforesaid, the Registrar of Titles shall register the company as the proprietor in fee simple in possession of the lands hereby vested in the company, and issue a certificate or certificates of title accordingly.

[Section 2 amended by No. 14 of 1996 s.4.]

3. Motive power on railway

The company may use on the Midland Railway locomotive engines and other motive or tractive power, and may draw or propel thereby carriages and wagons on the said railway.

4. The Company to be deemed a common carrier

The company shall be deemed a common carrier, and (except as by this Act otherwise provided) shall be subject to the obligations and entitled to privileges of such carrier.

5. Incorporation of certain provisions of the Government Railways Act

- (1) Subject as hereinafter provided, the provisions of the *Government Railways Act 1904*, mentioned in the Schedule to this Act, shall be deemed to be incorporated with the principal Act; and the word “**Commissioner**” shall include the company, and its attorney duly appointed under Part VIII of the *Companies Act 1893*, and the word “**Railway**” shall include the line of railway constructed under the principal Act, and now known as the Midland Railway.
- (2) Subject to the like restriction and obligations imposed upon the Commissioner and to the approval of the Governor, the company or its attorney may exercise in respect of the Midland Railway all the powers and authorities conferred by the provisions of the *Government Railways Act 1904*, mentioned in the Schedule to this Act, upon the Commissioner including the fixing of rates and charges, and the making of by-laws and regulations:

Provided that passengers and goods shall not be carried over the said railway at rates or charges not approved by the Minister for Railways, and the proviso to section twenty-two of the *Government Railways Act 1904*, shall not have effect without the consent in writing of the said Minister.

- (3) The company, in lieu of making its own rates and charges, by-laws, and regulations, under the authority of this Act or of any authority in that behalf, may, with the approval of the Governor, adopt in whole or in part the rates and charges, by-laws, and regulations made by the Commissioner of Railways under the *Government Railways Act 1904*, or any Act amending or substituted for that Act, and in force for the time being; and the rates and charges, by-laws, and regulations so adopted shall thereupon apply to the company and the Midland Railway to all intents and purposes as if the said rates and charges, by-laws, and regulations had been duly made under the authority of this Act.

6. Incorporation of contract for construction of Railway

The provisions of this Act shall be read as supplementary to the contract dated the twenty-seventh day of February, One thousand eight hundred and eighty-six, between the Government of Western Australia of the one part and John Waddington of the other part, as confirmed by the *Guildford-Greenough Flats Railway Act 1886*; and the said contract shall remain of the same force and effect as at the passing of this Act.

The Schedule

Provisions of the Government Railways Act 1904 (Act No. 23 of 1904),
incorporated with this Act.

Section 19, sections 22 to 34 inclusive, and sections 40 to 53 inclusive.

Notes

- ^{1.} This is a compilation of the *Midland Railway Act 1919* and includes all amendments effected by the other Acts referred to in the following Table.

Compilation table

Short title	Number and year	Assent	Commencement
<i>Midland Railway Act 1919</i>	24 of 1919	15 Nov 1919	15 Nov 1919
<i>Local Government (Consequential Amendments) Act 1996</i> section 4	14 of 1996	28 Jun 1996	1 Jul 1996 (see section 2)

This Act was repealed by the *Public Transport Authority Act 2003* s. 198 (No. 31 of 2003) as at 1 Jul 2003 (see s. 2(1) and *Gazette* 27 Jun 2003 p. 2384)
