



Western Australia.

ANNO SEXAGESIMO QUARTO

VICTORIÆ REGINÆ.

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No. XLIII.

AN ACT to confirm a Provisional Order authorising the construction of Tramways in the Municipality of Kalgoorlie.

[Assented to, 5th December, 1900.]

BE it enacted by the Queen'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 Kalgoorlie Tramways Act, 1900.

Short title.

2. THE term "Local Authority," when used in this Act or in the Tramways Act, 1885, shall mean the council of any municipality declared and proclaimed or constituted under the provisions of the Municipal Institutions Act, 1895, or other board, council, trustees, or persons in whom a road, as defined by the Tramways Act, 1885, is vested, or who have the power to maintain or repair such road.

Interpretation.

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Confirmation of Provisional Order.

3. THE Provisional Order made by the Commissioner of Railways for Western Australia on the 18th day of December, 1899, and set forth in the Schedule to this Act, is hereby confirmed.

Power to construct tramways.

4. SUBJECT to the provisions of the Tramways Act, 1885, the Promoter named in the said Provisional Order and his assigns, hereinafter called the Promoter, may make, form, lay down, construct, maintain, and work the tramways set forth in the said Provisional Order.

Schedule incorporated.

5. THE Schedule hereto shall form part of this Act.

Saving rights of Municipality of Kalgoorlie.

6. NOTHING herein contained shall prejudice or affect a certain agreement dated the 18th day of October, 1899, and made between the Council and Burgesses of the Town of Kalgoorlie of the one part and the Promoter of the other part, except so far as the same is contrary to or in conflict with the provisions of this Act or the Tramways Act, 1885.

Power for Local Authority to connect with and acquire running powers over tramways.

7. IF at any time hereafter any Local Authority shall require to connect with and to acquire running powers over the tramways authorised by this Act, it shall be lawful to do so upon terms and conditions settled by agreement, in writing, by the parties, and in default of such agreement, or so far as such agreement does not extend, upon terms and conditions settled by arbitration.

If, within twenty-eight days after notice served on the Promoter by the Local Authority requiring the Promoter to agree to the terms and conditions, the parties fail to come to an agreement, such notice shall, on the expiration of such twenty-eight days, operate as if it were a submission executed by both parties, referring to an arbitrator or arbitrators to settle by his or their award the terms and conditions so far as not agreed upon.

Protection of telephone service from injury by tramways.

8. WHENEVER any telephone service is erected prior to the construction of the tramways, and is prejudicially affected by the construction or working of the tramways, the Postmaster General may, at the cost of the Promoter and his assigns, do all such things as may be necessary to protect the telephone service from being so affected, either by placing the same on a metallic circuit system or otherwise.

In the name and on behalf of the Queen I hereby assent to this Act.

ALEX. C. ONSLOW, Administrator.

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THE SCHEDULE.

PROVISIONAL ORDER.

WHEREAS ERNEST EDWARD ROGERS, of Trustee Chambers, Barrack Street, Perth, in the Colony of Western Australia, gentleman, a person within the meaning of the expression "the Promoters," as defined by the Tramways Act, 1885, section three, sub-section two, has made application to me for a Provisional Order authorising the construction of tramways in the Municipality of Kalgoorlie, along the routes specified in the Schedule hereunder written; AND WHEREAS the said ERNEST EDWARD ROGERS has published notice of his intention to make such application in the form prescribed in the Schedule "B" annexed to the Tramways Act, 1885, by advertisement in the *Government Gazette* and in the *Kalgoorlie Miner* newspaper, and has deposited the documents described in Schedule "C" annexed to the same Act at the Department of Public Works and with the Town Clerk of Kalgoorlie; AND WHEREAS I have considered the said application, and it appears to me expedient and proper that the said application should be granted: NOW THEREFORE I, FREDERICK HENRY PIESSE, the Commissioner of Railways for Western Australia, do hereby, by virtue of the provisions of the Tramways Act, 1885, make a Provisional Order, and I do order as follows, that is to say:—

1. The Promoter shall be and is hereby empowered to make, form, lay down, construct, maintain, and work tramways in, upon, and along such of the streets and roads in the Municipality of Kalgoorlie as are mentioned in the said Schedule hereunder written, along the routes prescribed in such Schedule: Provided, nevertheless, that notwithstanding anything herein contained it shall be lawful for the Commissioner of Railways, at any time within six months from the date of this order, by notice, in writing, to the said Ernest Edward Rogers delivered at his address as aforesaid, to prohibit the construction of any part or parts of the said tramway which, in the opinion of the Commissioner of Railways, may interfere with the railway system.

2. The Promoter shall, within nine months after the confirmation of this Provisional Order, or within such extended time as the Commissioner of Railways and the Local Authority may approve, substantially commence the works in connection with the said Tramways, and complete the Hannan and Wilson Streets section thereof within six months of such commencement.

3. The Promoter shall, within two years from the passing of the Act of Parliament confirming this Provisional Order, purchase the freehold of, or lease with the right of purchase, all such lands as shall be required for the purpose of working the said Tramways, and shall forthwith after such purchase (which shall first be approved of by the Local Authority) notify the Local Authority, in writing, the price paid for such freehold and leasehold lands; and all buildings and works required or used in connection with the Tramways shall be erected on freehold lands or leasehold lands with the right of purchase.

4. The said Tramways shall be constructed on the 3ft. 6in. gauge.

5. The said Tramways shall be laid with steel rails approved by the Local Authority.

6. The said Tramways shall be used for the conveyance or carriage of passengers only.

7. The Promoter may demand and take, for every passenger conveyed upon the said Tramways, any tolls and charges not exceeding in amount the sum of sixpence for any single fare on a single journey: PROVIDED that the fares in

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Hannan Street shall not at any time exceed threepence for a single journey: AND PROVIDED also that the promoter shall, as and when required by the Local Authority, provide special cars for workmen between the hours of 6 and 8 a.m. and 5 and 6:30 p.m., and all persons travelling on such cars between the said hours in the morning shall, on payment of a fare not exceeding the cost of a single fare, be provided with return tickets, the return portion whereof shall be available for use on similar cars between the said hours of 5 and 6:30 p.m.

8. The restrictions herein contained as to tolls and charges which the promoter may demand and take for the conveyance or carriage of passengers shall not extend to any special car (other than workmen's cars), but shall apply only to workmen's cars and to the ordinary cars provided by the promoter from time to time for the conveyance of passengers.

9. The tolls and charges authorised to be taken, and which may be demanded by the promoter, shall be paid to such persons and at such places upon or near the Tramways, and in such manner and under such regulations as the promoter shall appoint by notice to be exhibited in some conspicuous place in the inside of each of the cars used by the promoter upon the said Tramways; and after the expiration of five years from the opening of the said Tramways for traffic, such tolls and charges may be revised from time to time by the Local Authority and the promoter, and, in case of difference, shall be fixed by the Commissioner of Railways, or in such other manner as may be agreed upon by the Local Authority and the promoter; but no fare on any portion of the Tramways be at any time less than threepence, except as aforesaid.

10. Every passenger travelling upon the tramways may take with him ordinary personal luggage belonging to him, not exceeding in weight 20lbs., without any charge being made for the carriage thereof.

11. All cars used on the said tramways shall, during the first fifteen months from the date of the confirmation of this Provisional Order, be moved either by horse or electrical power, or by other power approved of by the Local Authority; and shall, after the said period of fifteen months, be moved by electrical power, or by other power approved of by the Local Authority; and the Promoter may erect and maintain all such poles and posts, with or without wires attached thereto, in the said streets mentioned in the said Schedule hereunder written, along the routes therein mentioned, as may be necessary or required for supplying electricity on the overhead trolley system, or in connection with other power as aforesaid, to the said cars and for working the said tramways. The poles and the positions of the same to be approved by the Local Authority.

12. During the first five years after the opening of the said tramways for traffic the time-table and fares to be observed for running cars upon each of the aforesaid routes shall be adjusted from time to time by the Promoter to meet the local conditions and requirements of the public, not being less than twelve trams per diem. After the expiration of the said period of five years the time-table shall be decided upon between the Local Authority and the Promoter, and, in case of difference, shall be fixed by the Commissioner of Railways, whose decision shall be final.

13. The said tramways may be constructed with single or double lines, as may be agreed upon between the Local Authority and the Promoter.

14. All plans and specifications in connection with the carrying out of the works shall be submitted to the Town Surveyor for his report, and to the Local Authority for approval, and all work shall be carried out and finished to the entire satisfaction of the Local Authority and their Surveyor or Engineer.

15. The provisions of the agreement, dated the 18th day of October, 1899, and made between the Council and Burgesses of the Town of Kalgoorlie, of the one part, and the said Ernest Edward Rogers of the other part, as to the payment by the Promoter of the ruling rate of wages, and Clauses D, H, I, J, K, L, and M of the said agreement, are incorporated with this Provisional Order as if the said provisions were expressed.

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16. (a.) The Promoter shall supply cross-sections in accordance with the Act forthwith.
  - (b.) The curve from Section 1 to Section 2, Hannan Street to Maritana Street, to be shown on Plan P.W.D., W.A., 7143.
  - (c.) Section No. 2.—Figures showing distance of side of track from kerb on Sheet No. 1 (P.W.D., W.A., 7144) to be corrected. They should be 38ft. 3in., not 48ft. 3in.
  - (d.) The poles carrying the feeder cables to be in the centre of the streets on all sections except No. 4 Section (wherein they are to be as shown on cross sections on P.W.D., W.A., 7146) and not slightly on one side, as shown on P.W.D., W.A., 7948, Sheet 2, and the tracks, both main line and passing sidings, must be so spaced as to leave a clear width of 3ft. between the said poles and the sides of the cars, that is to say, assuming the diameter of the poles to be 1ft., the centre of the tracks on each side should be not less than 7ft. 8in. from the centre of the poles.
  - (e.) The spans between the poles not to exceed 120ft.
  - (f.) The voltage of the current supplied not to exceed 600 volts without the approval of the Local Authorities.
  - (g.) Height of cables and trolley wire above street not to be less than 19ft. without the approval of the Local Authorities.
  - (h.) If any cables are erected close to any balcony or building, provision must be made to prevent the possibility of any such cables actually touching and making earth with the verandahs, etc., and provision must also be made for protecting any person standing on a balcony or verandah from accidentally touching the cables. No cable carrying a voltage of from 500 to 600 volts to be placed closer to any building or verandah or balcony than 3ft., and, wherever possible, cables to be on a level with the floor or roof of the verandah or balcony.
  - (i.) In the event of fire or any other serious accident, the Local Authorities, Fire Brigade, or Police to have power to order the supply of current to be discontinued at any place, in order to avoid the danger or accident to firemen, etc., carrying out their duties; and the Tramway Company shall have no claim for compensation for loss of traffic or damage.
  - (j.) Where a trolley wire is supported by a span wire, the span wire to be insulated at both ends of the poles, in addition to the usual insulation between the span wire and the trolley wire.
  - (k.) No wire, cable, pole, stay, or other fixing to be erected closer than 3ft. from any telegraph or telephone wire, cable, pole, stay, or fixing, without the permission of the Government.
  - (l.) Each car to be provided with circuit-breakers or cut-out switches at each end of the car, so that the whole current can be cut off from either end of car independently.
  - (m.) Fenders of approved form to be fitted to both ends of each car.
  - (n.) Before any work is commenced beyond the laying of the track, detailed plans and specifications of the whole of the electrical installation machinery, buildings, and works, together with detailed drawings of the rolling stock, shall be submitted to the Commissioner of Railways for his approval.
17. On the signing of this Provisional Order the Promoter shall pay, as a deposit, into the hands of the Colonial Treasurer the sum of £3,250; and in the event of the said deposit not being paid, the powers given by this Provisional Order to the Promoter for constructing the said tramways shall cease to be

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exercisable unless the time be prolonged by direction of the Governor in Council. The said deposit shall be held by the Colonial Treasurer until the tramways included in the said Schedule hereunder written are in working order and open for traffic, when the same shall be returned to the Promoter with accrued interest (if any).

18. The Promoter may, at any time, with the consent of the Governor and of the Local Authority (such consent of the Local Authority not to be unreasonably or arbitrarily withheld) sell or transfer the said undertaking and tramways to any person, persons, Corporation, Company, or to the Local Authority; and where any such sale or transfer has been made, all the rights, powers, authorities, obligations, and liabilities of the Promoter in respect of the said undertaking and tramways, shall be transferred to, vested in, and may be exercised by and shall attach to the person, persons, Corporation, Company, or Local Authority to whom the same has been sold or transferred, in like manner as if such tramways were constructed by such person, persons, Corporation, Company, or Local Authority, under the powers conferred upon them by this Provisional Order and by the Act of Parliament confirming the same, and in reference thereto they shall be deemed to be the Promoters.

19. The Promoter and any person, Corporation, and Company may from time to time make and enter into and carry into effect contracts, agreements, and arrangements for or with reference to the use by such other persons, Corporation, or Company of the said tramways or portion thereof, and for prescribing and regulating the tolls and charges to be paid for such use, and the terms and conditions of such user, and all matters incidental thereto.

20. The term "the Promoter," whenever hereinbefore used, shall mean and include the said Ernest Edward Rogers and his executors, administrators, and permitted assigns, whenever the context so requires or admits.

SCHEDULE REFERRED TO IN THE PROVISIONAL ORDER.

1. From the junction of Egan Street and Outridge Terrace along Outridge Terrace to Hannan Street, along Hannan Street to the Western end of Hannan Street to Throssell Street.
2. From the junction of road at Hannan and Wilson Streets to and across Forrest Street, opposite Railway Station.
3. From the junction of Hannan and Maritana Streets along Maritana Street to Varden Street.
4. From the junction of Maritana and Collins Streets along Collins Street to the end thereof, at the Government Reserve 4557.
5. From the junction at Hannan and Lane Streets along Lane Street to the junction of Lane and Macdonald Streets; thence along Macdonald Street to the junction of Macdonald and Lionel Streets; thence along Lionel Street to the City boundary joining Gala Road.
6. From the junction of Hannan and Maritana Streets along Maritana Street and Boulder Road to the municipal boundary line.
7. From the junction of Hannan and Nethercott Streets along Nethercott Street to Macdonald Street, and thence along Macdonald Street to the Racecourse entrance.

Route No. 1 to be a double line from Hannan Street Railway Station along Outridge Terrace and Hannan Street to Wilson Street.

As witness my hand this 18th day of December, 1899.

F. H. PIESSE,  
Commissioner of Railways.

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CLAUSES D, H, I, J, K, L, AND M, REFERRED TO IN PARAGRAPH 15  
OF FOREGOING PROVISIONAL ORDER.

(D.) That the Promoter shall, at his own expense, at all times maintain and keep in good condition and repair, with such materials and in such manner as the Local Authority shall direct, and to their satisfaction, so much of any road whereon any tramway belonging to him is laid as lies between the rails of the tramway and (where two tramways are laid by the same Promoter in any road at a distance of not more than four feet from each other) the portion of the road between the tramways, and in every case so much of the road as extends 18 inches beyond the rails of and on each side of any such tramway. If the Promoter abandons his undertaking or any part of the same, and takes up any tramway or any part of any tramway belonging to him, he shall, with all convenient speed, and in all cases within four weeks at the most (unless the Local Authority otherwise consent in writing) fill in the ground and make good the surface, and, to the satisfaction of the Local Authority, restore the portion of the road upon which such tramway was laid to as good a condition as that in which it was before such tramway was laid thereon, and clear away all surplus paving or metalling material or rubbish occasioned by such work; and he shall, in the meantime, cause the place where the road is opened or broken up to be fenced and watched and properly lighted at night in the same manner as prescribed in Clause 20 of this Act, viz., the Tramways Act, 1885.

(H.) All road metal lifted or broken by the Promoter in the course of any authorised work may be used by the Promoter so far as he needs it for relaying and reconstructing, but in no case is the Promoter to remove such material, except for tramway purposes on the route under construction. All surplus metal on each separate route shall belong to and become the property of the Local Authority, and shall be cleared away by the Promoter, and deposited at such places as the Local Authority may direct within the Municipality.

(I.) The Local Authority shall have the right to use all the tramway lines between the hour of midnight and 5 a.m. for the purpose of running scavenger or other trucks, or distributing road metal, or any other works; provided that the lines are not required by the Promoter between those hours for the purpose of any repair, and that eight hours' previous notice shall be given to the Local Authority by the Promoter that he so requires the lines: Provided always, that, in the event of any damage being done to the lines by the Local Authority, such damage shall be made good at the expense of such Local Authority: Provided further, that all scavenger or other trucks to be used by the Local Authority as aforesaid shall be first submitted and approved of by the Promoter.

(J.) The Local Authority shall have the right to use all poles belonging to the Promoter for the purpose of street lighting; such poles to be approved of by the Local Authority before being erected. The position of such poles shall also be decided by the Local Authority, provided that, by so doing, it will not interfere with the Promoter's lines or wires or electric current, or any other power used; and provided, also, that not more than one lamp shall be placed on each pole.

(K.) The Promoter shall pay to the Local Authority 3 per cent. of the gross earnings derived from the working of the tramways, in accordance with Section 46 of the Tramways Act, 1885, such payment to be accepted in lieu of all municipal rates and taxes now levied or hereafter to be levied which the Local Authority but for this agreement would be entitled to impose or levy in respect of the tramway lines of all lands, buildings, or workings used exclusively in connection with the workings thereof. Such amount shall be calculated and paid quarterly: Provided that nothing shall be payable under this clause by the Promoter until three years from the granting of the Provisional Order.

(L.) The Local Authority shall have the right, at the end of twenty-one years from the date fixed for the completion of the works by the Provisional Order, upon giving six calendar months' notice of such their intention, to purchase

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the whole of the lines, plant, rights, undertakings, lands, and buildings of the Promoter. The price to be paid by the Local Authority shall be the value of the whole tramway system within the municipality, and shall be ascertained by arbitration in manner provided by the Arbitration Act, 1895; provided that, in estimating the amount so to be paid, all freehold and leasehold lands shall be valued at the actual price paid by the Promoter for the same without interest, and nothing shall be allowed for the goodwill, nor shall the proceeds or earnings be considered in any way.

(M.) If the Local Authority shall not exercise the right of purchase mentioned in the preceding clause hereof, then at the end of thirty-five years from the date fixed for the completion of the works by the Provisional Order, the whole of the tram lines mentioned in the schedule hereto, together with all extensions thereof, if granted, and together with the entire undertaking, rights, plant, workings, freehold and leasehold lands, and buildings within the municipality used in connection therewith, shall be handed over to the Local Authority in good working order and condition, and free from all liens, mortgages, or other encumbrances, on the following terms, that is to say, as to all the present proposed lines and all extension should they be granted, made within ten years after the date fixed for the completion thereof, upon payment of the actual price without interest paid by the Promoter for the said freehold and leasehold lands, and as to all extensions which may be approved of and made after the said period of ten years, upon payment of the amount fixed by arbitration in the manner provided by the Arbitration Act now in force in the Colony: Provided that nothing shall be allowed for the goodwill, proceeds, or earnings of the said extensions.