



Western Australia.

ANNO SECUNDO

EDWARDI VII. REGIS.

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No. XXXV.

AN ACT to amend the Railways Acts.

[Assented to, 20th December, 1902.]

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. THIS Act may be cited as the Railways Acts Amendment Act, 1902.

Short title.

2. IN this Act, unless the context otherwise indicates or requires,—

Interpretation.

“Commissioner” means the Commissioner of Railways for the time being:

“Government Railway” means any railway belonging to His Majesty in Western Australia, and includes—

(1.) All land belonging to His Majesty upon which the railway is constructed, or which is or is reputed to be held or used in connection with or for the purpose of the railway; and also

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(2.) All buildings, erections, wharves, jetties, works, rolling-stock, plant, machinery, goods, chattels, and other fixed or movable property of every description or kind belonging to His Majesty, and situate on such land, or held or used or reputed to be held or used in connection with or for the purpose of the railway.

“Minister” means the Minister for Works and Railways, or the responsible Minister of the Crown administering this Act for the time being;

“Railways Acts” means the Railways Act, 1878, and the Acts amending the same.

The Commissioner.

3. (1.) THE person holding the office of Commissioner at the commencement of this Act shall, subject to the provisions hereinafter contained, continue to hold such office for five years from that date.

(2.) On the occurrence of a vacancy in the office of Commissioner, the Governor may—

(a.) Appoint a person to be the Commissioner who, subject as aforesaid, shall hold office for the term of five years from his appointment; or

(b.) Appoint an acting Commissioner who, while so acting, shall have the powers and perform the duties of the Commissioner.

Constitution of Commissioner.

4. (1.) THE Commissioner shall be a body corporate by the name “The Commissioner of Railways of Western Australia;” and, by that name, shall have perpetual succession and a common seal.

Seal of Commissioner.

(2.) All courts, judges, and persons acting judicially shall take judicial notice of the common seal of the Commissioner affixed to any document or notice, and shall presume that such seal was duly affixed.

Salary of Commissioner.

5. (1.) THE Commissioner shall receive the salary of Fifteen hundred pounds a year.

(2.) Such salary is hereby charged on the Consolidated Revenue Fund, and such fund, to the extent required for the payment of such salary, is hereby permanently appropriated.

Commissioner eligible for re-appointment.

6. THE Commissioner shall, at the expiration of his term of office, be eligible for re-appointment for a like term of five years.

Certain Acts not to apply to Commissioner.

7. NOTHING in the Public Service Act, 1900, or the Superannuation Act shall apply to the Commissioner.

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8. IN case of the illness, suspension, or absence of the Commissioner, the Governor may appoint some person to act as his deputy during such illness, suspension, or absence, and until such appointment is terminated by notice in the *Government Gazette*. Every person so appointed shall, while so acting, have all the powers and perform all the duties of the Commissioner.

Deputy Commissioner.

9. THE Commissioner shall have the management, maintenance, and control of all Government railways open for traffic, and, with the approval of the Minister, may make additions and improvements to existing lines, and, in the performance of his duty shall have the powers, and be subject to the liabilities of a Commissioner of Railways under the Railways Acts.

Powers of Commissioner.

10. ALL fares, tolls, and freights shall be fixed by regulations made in accordance with the Railways Acts, and approved by the Governor and published in the *Government Gazette*.

Fares, tolls, and freights.

Such regulations shall be laid before both Houses of Parliament within fourteen days after publication, if Parliament is then sitting, or if Parliament is not then sitting, within fourteen days after its next sitting.

11. ALL railway employees, except the clerical staff, shall be subject to the provisions of any Classification Act for the time being in force.

Classification.

12. SECTION three of the Railway Servants Act, 1887, is hereby repealed.

Repeal of s. 3, 51 Vict., No. 1.

13. THE Commissioner shall decide on the position, character, and suitability of all stations, station platforms, gate-houses, station-yards, and sheds required for or in connection with any railway hereafter to be constructed, or of any other building, siding, platform, or work for the accommodation of the passengers, stock, or goods to be carried on such railway.

Powers of Commissioner over lines in construction.

14. THE Commissioner may apply in writing to the Minister for additional stores, plant, material, rolling-stock, stations, sheds, and other accommodation which, in his opinion, may be required to enable him to meet the traffic requirements, or insure the efficient working of all Government railways open for traffic.

Commissioner may requisition for rolling-stock, etc.

15. IN the first month in each quarter of every year the Commissioner shall report in writing to the Minister upon—

Quarterly reports to Minister.

(a.) The state of the traffic returns, with the approximate cost and earnings of trains per train mile, in respect of passengers and goods respectively carried during the past quarter ;

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(b.) The general conditions of the lines, and accommodation for the traffic;

(c.) Such other matters as the Minister may direct:

Such reports shall be laid before Parliament if Parliament is sitting, and if not, then immediately upon the re-assembling of Parliament; but the Minister may, if he think fit, publish such reports forthwith on his receiving them.

Annual Report.

16. (1.) THE Commissioner shall prepare an annual report upon the Government Railways and the working thereof, and an account of all moneys received and expended during the preceding year.

(2.) Such annual report shall be laid before both Houses of Parliament in the month of September in each year, if Parliament is then sitting, and if Parliament is not then sitting, then within one month after the commencement of the next ensuing session thereof.

(3.) He shall also prepare estimates, in such form as the Minister may from time to time direct, of the receipts and expenditure for each period of twelve months ending on the thirtieth day of June in every year.

Deputations.

17. ANY deputation in which a member of Parliament takes part, or at which he is present, shall interview the Minister and not the Commissioner.

Suspension and removal of Commissioner.

18. (1.) THE Commissioner may be suspended from his office by the Governor—

(a.) For misbehaviour or incompetence.

(b.) If he engages, during his term of office, in any employment outside the duties of his office; or

(c.) If he becomes bankrupt, or applies to take the benefit of any Act for the relief of insolvent debtors, or compounds with his creditors, or makes an assignment of his salary for their benefit; or

(d.) If he absents himself from duty for a period of fourteen consecutive days, except on leave granted by the Governor (which leave he is hereby authorised to grant), or becomes incapable of performing his duties; or

(e.) If he becomes in any way concerned or interested in any contract or agreement made by or on behalf of the Government, or in anywise participates or

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claims to be entitled to participate in the profit thereof, or in any benefit or emolument arising therefrom.

(2.) The Minister shall cause to be laid before Parliament a full statement of the grounds of suspension within seven days after such suspension, if Parliament is sitting, and, when Parliament is not sitting, within seven days after the next sitting.

(3.) The Commissioner, when suspended under this section, shall not be restored to office unless each House of Parliament, within forty days from the time when such statement has been laid before it, declares by resolution that the said Commissioner ought to be restored to office.

(4.) If each House of Parliament within the said time so declares, the said Commissioner shall be restored by the Governor accordingly, but otherwise may be removed from office.

(5.) The Commissioner shall not be removed from office except as hereinbefore provided.

**19.** IF the Commissioner becomes in any way concerned or interested in any contract or agreement made by or on behalf of the Government, or in anywise participates or claims to be entitled to participate in the profit thereof, or in any commission, benefit, or emolument arising therefrom, he shall be guilty of a misdemeanour, and be liable to imprisonment for any term not exceeding three years. Penalty.

And if any party to any such contract allows the Commissioner to participate in the profits thereof, or receive any commission, benefit, or emolument arising therefrom, he shall be guilty of a misdemeanour, and liable to imprisonment for any term not exceeding three years.

**20.** ALL Government railways shall be vested in the Minister on behalf of His Majesty. Government rail-  
ways vested in  
Minister.

**21.** (1.) THE powers, duties, and obligations under the Railways Acts of the Commissioner of Railways, in relation to the acquisition of land and construction of Railways, are transferred to the Minister for the time being administering the Department of Public Works. Construction of  
railways.

(2.) Wherever in the Railways Acts the Commissioner of Railways is mentioned in such relation, the words "the Minister administering the Department of Public Works" are substituted.

**22.** EXCEPT as provided in the last preceding section, any powers of the Commissioner of Railways not by this Act vested in the Commissioner may be exercised by the Minister. Minister may exer-  
cise powers not con-  
ferred on Commis-  
sioner.

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Amendment of 58  
Vict, No. 22, s. 3.

23. SECTION three of the Railway Acts Amendment Act, 1894, is hereby amended by striking out the words “in some newspaper circulating in the neighbourhood of the station or place where the same are found,” and inserting in place thereof the words “in the *Government Gazette*.”

Commissioner may  
refuse to carry  
second-hand fruit  
cases unless disin-  
fected.

24. THE Commissioner may refuse to carry second-hand fruit cases, or cases or packages that may reasonably be supposed to have contained fruit, unless such cases are disinfected in accordance with the regulations of the Department of Agriculture in force for the time being

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

E. A. STONE, Administrator.