

GOVERNMENT RAILWAYS.

No. 77 of 1980.

AN ACT to amend the Government Railways Act
1904-1979.

[Assented to 5 December 1980.]

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and the Legislative Assembly of Western Australia, in this present Parliament assembled, and by the authority of the same, as follows:—

1. (1) This Act may be cited as the *Government Railways Amendment Act 1980*.

(2) In this Act the Government Railways Act 1904-1979 is referred to as the principal Act.

(3) The principal Act as amended by this Act may be cited as the Government Railways Act 1904-1980.

Short title
and
citation.
Approved
for reprint
12 June 1973.
Amended by
Acts Nos.
94 of 1972
(as amended
by No. 19
of 1973),
94 of 1973,
66 of 1975,
73 of 1975,
27 of 1976,
47 of 1977,
93 of 1978,
and 38
of 1979.

Section 2
amended.

2. Section 2 of the principal Act is amended by inserting after the definition of "Commissioner" the following definition—

“ “Commissioner of Transport” means the Commissioner constituted as the Commissioner of Transport under the Transport Act 1966; ”.

Section 24
amended.

3. Section 24 of the principal Act is amended in subsection (7) by deleting "twenty dollars" and substituting the following—

“ two hundred and fifty dollars ”.

Section 25
amended.

4. Section 25 of the principal Act is amended—

(a) in paragraph (2), by deleting "a consignment note in the form" and substituting the following—

“ a consignment note in a form approved by the Commission ”;

(b) in paragraph (3), by deleting "the prescribed charge" and substituting the following—

“ the charge fixed by the Commission under section twenty-two of this Act ”;
and

(c) in paragraph (4), by deleting "the prescribed charge" and substituting the following—

“ the charge fixed by the Commission under section twenty-two of this Act ”.

Section 28A
inserted.

5. After section 28 of the principal Act the following section is inserted—

Open
services.

“ 28A. (1) In this section—

“service” means any service for the carriage of goods, by road or rail or both, provided by

the Commission and any service incidental thereto for the collection, receipt, storage, handling, despatch, carriage and delivery thereof.

(2) In addition to any powers conferred on the Commission by this Act, wherever section thirty-four of the Transport Act 1966 applies, or would apply if the carriage of the goods in question were not by rail, the Commission may, subject to this section, undertake to provide a service.

(3) Notwithstanding sections twenty-two and twenty-five of this Act, the charges applicable in relation to any service referred to in subsection (2) of this section shall be such as are determined by the Commission or any officer of the Department duly authorized by the Commission from time to time but so that such charges shall be not less than the amount required to compensate the Commission for the costs directly assignable to the service in question.

(4) The Commission shall not provide a service under this section involving the use of a road vehicle when other road transport is available to provide the service at an adequate standard and at reasonable cost.

(5) Subsection (4) of this section does not apply to or in relation to a service provided immediately before the coming into operation of section 5 of the Government Railways Amendment Act 1980 but the Minister may give directions that the provisions of that subsection apply to or in relation to a particular service and effect shall be given to that direction.

(6) Where a service provided under this section is a service not previously provided by it, the Commission shall, within fourteen days after the commencement of the service, submit to the Commissioner of Transport in writing particulars of such service.

(7) Where the Commissioner of Transport receives particulars of a service pursuant to subsection (6) of this section the Commissioner of Transport may do one or both of the following—

- (a) request further particulars of the service or other information that is relevant thereto;
- (b) refer the particulars of the service together with any recommendation in relation to the provision of the service to the Minister,

and the Minister may give such direction to the Commission as he thinks fit in relation to the service and effect shall be given to any such direction.

(8) Where the Commission provides any service under this section, before the Commission—

- (a) increases any charge in relation thereto;
- (b) downgrades a service; or
- (c) withdraws a service,

it shall give to the Minister fourteen days' notice of the proposed action and the Minister may give a direction to the Commission in relation thereto and effect shall be given to any such direction.

(9) The Commission shall not be deemed to be a common carrier in respect of a service provided under this section. ”.

Section 37
amended.

6. Section 37 of the principal Act is amended in subsection (3) by deleting “section seventeen” and substituting the following—

“ sections seventeen and twenty-eight A ”.

7. Section 41 of the principal Act is amended by deleting "forty dollars" and substituting the following—

Section 41
amended.

" two hundred dollars ".

8. Section 43 of the principal Act is amended by deleting "forty dollars" and substituting the following—

Section 43
amended.

" two hundred dollars ".

9. Section 45 of the principal Act is amended by deleting "one hundred dollars" and substituting the following—

Section 45
amended.

" two hundred dollars ".

10. Section 46 of the principal Act is amended by deleting "forty dollars" and substituting the following—

Section 46
amended.

" two hundred dollars ".

11. Section 48 of the principal Act is amended by deleting "forty dollars" and substituting the following—

Section 48
amended.

" two hundred dollars ".

12. Section 80 of the principal Act is amended—

Section 80
amended.

(a) in the first paragraph by deleting "notice being so lodged." and substituting the following—

" lodging of the notice or within such extended period as is agreed in writing by the Commission and the industrial union or, if there is no such union, the appellant personally. "; and

(b) in the third paragraph—

(i) by deleting “of appeal,” and substituting the following—

“ of appeal or within such extended period as is agreed, ”;

and

(ii) by inserting after “thirty days” the following—

“ or within such extended period as is agreed ”.

Section 96
amended.

13. Section 96 of the principal Act is amended by inserting after subsection (2) the following subsection—

“ (3) In any prosecution or legal proceeding for an offence against this Act an averment that any real or personal property—

(a) is or forms part of a railway;

(b) is held for the purpose of a railway;

(c) is used in connection with or belongs to a railway;

(d) is vested in the Minister; or

(e) is in the possession, custody or control of the Commission,

shall be deemed to be proof in the absence of proof to the contrary. ”.
