

RAILWAYS CLASSIFICATION BOARD.

11° GEO. V., No. XXXVIII.

No. 38 of 1920.

AN ACT to provide for a Board for the Classification of the Salaried Staff of the Government Railways.

[Assented to 31st December, 1920.]

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 Classification Board Act, 1920*, and shall be read as one with the Government Railways Act, 1904. Short title.

2. In this Act, unless inconsistent with the context or subject matter— Interpretation.
See Vct., No.
3006, s. 2.

“Accredited representative” means the accredited representative of any claimant or of the Commissioner, or any representative accredited by any number of officers, to make representations on any matter under investigation by the Board.

“Board” means the Railways Classification Board constituted under this Act.

“Claimant” means any officer or officers whose claim (whether jointly or severally) is cognisable by the Board.

“Commissioner” means Commissioner of Railways.

“Head of branch” means an officer in control of one of the recognised divisions of the staff, who receives his instructions from and communicates with the Commissioner directly.

“Magistrate” means a police or resident magistrate.

“Minister” means the Minister for Railways.

“Officer” means any person employed by the Commissioner at an annual rate of salary, or in receipt of a daily rate of pay as a temporary clerk.

“Prescribed” means prescribed by this Act or the regulations.

“Regulations” means regulations under this Act.

“Sub-head of branch” means an officer in control of some recognised section of a division of the staff, who receives his instructions from and communicates with the head of the branch directly.

Constitution of Board.
See Ibid., s. 3.

3. (1.) For the purposes of this Act, there shall be a Board to be called the Railways Classification Board, appointed by the Governor and constituted as hereinafter provided.

(2.) The Board shall consist of three members.

(3.) One member shall be a magistrate, or such other person as may be agreed upon between the Minister and the Railway and Tramway Officers' Industrial Union of Workers, and such member shall be the chairman of the Board.

One member shall be a person nominated by the Commissioner.

One member shall be a person elected in the prescribed manner by the Railway and Tramway Officers' Industrial Union of Workers.

(4.) The members of the Board may be paid such fees and expenses as are prescribed.

Tenure of Office.
See Ibid., s. 4;

4. (1.) Subject to this Act, all members of the Board shall be appointed for a term of three years, and shall continue to hold office until their successors are appointed.

(2.) Any member of the Board shall be eligible for re-appointment.

(3.) If any member of the Board dies, resigns, or is absent from more than three consecutive sittings of the Board without leave granted in writing by the Minister, his office as such member shall become vacant.

(4.) No person who has been convicted of any crime or misdemeanour, or who has been dismissed from the railway service for misconduct, shall be capable of being or continuing a member of the Board.

Extraordinary vacancies.
See Ibid., s. 4 (6.)

5. (1.) Any vacancy in the office of a member of the Board, occasioned by any cause other than triennial retirement, shall be filled within one month—

(a) in the case of the chairman, by the appointment by the Governor of some other duly qualified person;

(b) in the case of a member appointed on the nomination of the Commissioner, by the appointment by the Governor of some other person to be nominated by the Commissioner; or

(c) in the case of an elected member, by the election of some other person in manner aforesaid and his appointment by the Governor.

(2.) Every member appointed to fill an extraordinary vacancy shall continue in office so long as the person in whose place he was appointed would have held office had he continued in office, and no longer.

6. If from any cause an elective member of the Board is not elected at or within the time appointed in that behalf, the Governor may appoint a person, nominated by the Railway and Tramway Officers' Industrial Union of Workers, to be a member of the Board instead of the member who should have been elected, and the person so appointed shall be deemed to have been elected.

Failure to elect.
See *Ibid.*,
s. 4 (7).

7. (1.) If at any time a member of the Board is personally and directly interested in a matter under investigation by the Board, or is absent from any meeting of the Board through illness or any other cause, his office may be filled temporarily by a deputy.

Deputy
members.
See *Ibid.*,
s. 4 (8).

(2.) In the event of a member and his deputy being both personally and directly interested in a matter under investigation by the Board, or in the event of both the member and his deputy being absent, the Governor may appoint on the nomination of the Commissioner or, in the case of an elected member, on the nomination of the Railway and Tramway Officers' Industrial Union of Workers, a person to act in the place of the member so interested or absent.

(3.) Deputy members of the Board shall be appointed by the Governor on nomination by the Commissioner or election by the officers, as the case may be, in like manner as the ordinary members of the Board are appointed, and the provisions of this Act relating to tenure and forfeiture of office, retirement, and eligibility for re-appointment shall apply to such deputy members.

8. For the purposes of any election, every officer shall be entitled to a vote.

Right to vote.
See *Ibid.*,
s. 5 (1).

9. All elections of members of the Board—

(a) shall be conducted in all respects in such manner as is prescribed; and

Elections to be
subject to
Regulations
Ibid., s. 5 (2).

- (b) shall be held at such times as are prescribed, under the direction of a returning officer to be appointed by the Governor, with scrutineers to be appointed by the Railway and Tramway Officers' Industrial Union of Workers.

Notification of appointment.

10. The appointment of the members and deputy members of the Board shall be notified in the *Gazette*, and shall take effect as from the date of such notification.

Majority to decide.

11. The decision of the majority of the members present at a meeting of the Board shall be the decision of the Board.

Assessors.

12. (1.) The Board in the exercise of their jurisdiction relating to classification, shall sit with two assessors, one to be appointed by the Commissioner and one to be elected in the prescribed manner by the officers, from each section of the salaried staff.

(2.) The assessors appointed or elected from each section of the salaried staff shall sit with the Board whenever the matter before the Board relates to their section of the salaried staff.

(3.) The assessors shall assist the Board with their advice, but shall take no part in the determination of any matter.

(4.) The assessors may be paid such fees as are prescribed.

Power to appoint clerk.

See Ibid., s. 7.

13. The Commissioner may appoint from persons in the service of the Government Railways a clerk to the Board.

Cost of Board.

See Ibid., s. 8.

14. The fees and expenses of the members and deputy members of the Board, and assessors, and of and incidental to the Board's investigations, and the remuneration of the clerk to the Board, shall be deemed to be included in and shall form part of the working expenses of the Government Railways.

Jurisdiction of Board.

See Ibid., s. 9.

15. (1.) The Board shall have jurisdiction—

- (a) to classify all salaried positions in the service of the Government Railways, except heads and subheads of branches;
- (b) to create classes, and to provide the minimum and maximum salaries of all positions in any class;

- (c) to prescribe the method by which officers shall be advanced from the minimum to the maximum of the salary assigned to their positions, or from class to class;
- (d) to hear and determine any appeal by any officer or class of officers in respect of the classification, reclassification, or salary of such officer or class of officers, or his or their office or offices.

(2.) The Board may determine—

- (a) the maximum number of hours to be worked daily or in any period;
- (b) the maximum number of hours which a shift may extend;
- (c) the minimum interval for rest between shifts;
- (d) the maximum number of shifts to be worked weekly or in any period; and
- (e) what payment or allowance (if any) shall be made by reason of any condition of employment affecting remuneration (but not including payments of allowances in respect of accidents), such as payments of allowances to be made—
 - (i) for overtime or emergency work;
 - (ii) for Sunday, holiday, or night work;
 - (iii) for travelling time;
 - (iv) for relieving expenses;
 - (v) for travelling or incidental expenses;
 - (vi) for relieving in higher positions;
 - (vii) for district allowances;
 - (viii) for work performed under special conditions;
 - (ix) for youths living away from home;
 - (x) for sick pay, annual and long service leave;
 - (xi) or any other matter submitted by mutual consent;

and may make awards with respect to any of the matters referred to in this subsection.

16. (1.) The Board shall hear and determine all claims in public, unless in the circumstances of any particular case the Board shall otherwise decide. Powers of Board. *Ibid.*, s. 10.

- (2.) The Board may—
- (a) refer any matter to any person or persons for investigation and report;
 - (b) enter upon any premises vested in the Commissioner to inspect any work and interrogate any officer in regard to such work;
 - (c) make an order setting out the correct interpretation of any matter arising out of any award and referred to it for that purpose by any claimant or by the Commissioner or any accredited representative;
 - (d) by order correct, amend, or waive any error, defect, or irregularity in any award;
 - (e) proceed with the hearing or determination of any matter notwithstanding the absence of claimant or accredited representative if the Commissioner and any absent claimant or absent accredited representative concerned have received notice of the hearing.

Sittings of
Board and
procedure.

17. The Board—

- (a) shall sit at such time and place as the chairman may appoint;
- (b) may regulate its own procedure, and may conduct its inquiries without regard to legal forms, and shall direct itself by the best evidence it can procure or that is laid before it;
- (c) may summon and examine witnesses on oath, and call for the production of papers and documents relevant to the case.

Copy of claim
to be furnished,
Ibid., s. 12.

18. The Commissioner or the union, as the case may be, shall be furnished with a copy of every claim, at least fourteen days before the hearing thereof.

Representation
before Board.
Ibid., s. 13.

19. (1.) The Commissioner and every claimant shall be entitled to make representation in regard to any claim, matter, or inquiry before the Board by means of an accredited representative.

(2.) Any accredited representative, subject to the approval of the Board, may call witnesses to give evidence on matters relevant to the claim, matter, or inquiry.

(3.) No legal practitioner shall be allowed to appear before the Board, or to attend before the Board to advise any claimant or accredited representative.

20. (1.) When any award is made by the Board, the chairman shall sign the same, and shall send a certified copy thereof to the Minister, and shall furnish copies thereof to the parties concerned.

Award.
See *Ibid.*,
s. 14, 15.

(2.) The Commissioner, within fourteen days after an award is made, shall furnish the Minister with a report thereon.

(3.) The Minister shall cause a copy of the award and of the Commissioner's report to be laid before both Houses of Parliament if then sitting, or if Parliament is not then sitting, within fourteen days after the next meeting of Parliament.

(4.) Every award shall come into operation as from the date thereof or a subsequent date to be specified in the award.

(5.) The term of an award may be any period specified therein not less than six months or more than three years.

21. (1.) The Board may vary an award on application, at any time after the expiration of six months, by the Commissioner or by any claimant under such award, and may on the like application vary the award at any time after the expiration of a further period of six months.

Award may be
varied.
See *Ibid.*, s. 15.

(2.) Every variation of an award shall be operative until the expiration of the term fixed in such award.

(3.) Subject to this Act, every award or variation thereof shall remain in operation after the expiration of the term specified therein until superseded by a new award.

(4.) The provisions of the last preceding section shall extend and apply to any variation of an award under this section as if such variation were a new award.

22. (1.) Every award and every variation thereof shall be published in the *Gazette*.

Publication of
Award.
Ibid., s. 16.

(2.) No award or variation thereof and no order of the Board shall be challenged, appealed against, reviewed, quashed, or called in question or be subject to prohibition or mandamus in any Court, on any account whatever.

23. The Board may order a claimant or an appellant to forfeit and pay to the Colonial Treasurer a sum not exceeding Five pounds if, in the opinion of the Board, any claim or appeal is frivolous or unreasonable.

Frivolous
appeals.

Regulations.
Ibid., s. 17.

24. (1.) The Governor in Council may make regulations for or with respect to—

- (a) all things necessary or preliminary or incidental to the election of members of the Board, including the nomination of candidates, the times for and manner of conducting elections, voting, voting by post, and the appointment and duties of returning officers; and
- (b) enforcing the attendance of witnesses before the Board, and imposing a fine not exceeding ten pounds in case of non-attendance of any witness;
- (c) generally, all matters which by this Act are required or permitted to be prescribed or which are necessary or convenient to be prescribed for carrying this Act into effect.

Industrial
Arbitration Act
not to apply.

25. The Industrial Arbitration Act, 1912, shall not apply to officers under this Act, except with respect to matters pending in the Court of Arbitration at the commencement of this Act, but the industrial agreement and award current at the commencement of this Act shall continue in operation except so far as the same may, in the meantime, be varied by an award under this Act.
