

No. , 1927.

A BILL

To reconstitute the Railway Commissioners for New South Wales; to amend the Government Railways Act, 1912, and certain other Acts; and for other purposes.

[MR. FLANNERY;—22 *March*, 1927.]

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 New South Wales in Parliament assembled, and by the authority of
5 the same, as follows:—

1. (1) This Act may be cited as the "Government Railways (Amendment) Act, 1927." Short title and construction.

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(2)

(2) This Act shall be read with the Government Railways Act, 1912, as amended by subsequent Acts.

(3) The Government Railways Act, 1912, as so amended, is in this Act referred to as the Principal Act.

Amendment
of Act No. 30,
1912.

Sec. 5.

(Appoint-
ment of Com-
missioners—
employees'
representa-
tive.)

2. (1) The Principal Act is amended— 5

(a) by omitting from subsection one of section five the words "Before the appointment of an Assistant Railway Commissioner is made the Chief Commissioner shall be invited to report to the Governor with regard to the appointment and full consideration shall be given to the representations made by the Chief Commissioner" and by inserting in lieu thereof the words "one Assistant Railway Commissioner shall be appointed as employees' representative after nomination in the prescribed manner to the Governor as the result of an election held as in this section provided"; 10

(b) by omitting from subsection three of the same section the words "seven years" and by inserting in lieu thereof the words "five years"; 15

(c) by inserting at the end of subsection four of the same section the words—

If the vacancy is in the office of an Assistant Commissioner who is an employees' representative the appointment shall be made only after an election held within three months from the occurrence of the vacancy. The Governor may, pending such election, appoint some person to act in the place of the person whose office is vacant. 25

(d) by omitting from subsection five of the same section the words "for a like term of seven years"; 30

(e) by inserting next after subsection eight of the same section the following new subsection:— 35

(9) An Assistant Commissioner who is to be an employees' representative shall be elected by the prescribed employees and in the manner prescribed. The election shall be by preferential ballot. 40

(f)

(Term of
office.)

(f) by omitting section eighty-five and by inserting in lieu thereof the following new section:—

85. Two of the Commissioners, one of whom shall be the employees' representative, shall together hear any appeal by an officer against the adoption or confirmation of the advice or decision of the officer at the head of his branch with regard to his right to promotion.

(g) by omitting subsection one of section eighty-six and by inserting in lieu thereof the following new subsection:—

(1) If the Commissioners hearing an appeal in pursuance of section eighty-five fail to agree the matter shall be heard and determined by all the Commissioners.

(h) (i) by omitting from section nine the words "five thousand pounds" and by inserting in lieu thereof the words "four thousand pounds";

(ii) by omitting from the same section the words "two thousand five hundred pounds" and by inserting in lieu thereof the words "two thousand pounds."

(2) The amendments made by subsection one of this section shall take effect only from a date fixed by the Governor and notified by proclamation published in the Gazette.

(3) The first employees' representative to be appointed after the amendments made by subsection one of this section come into operation shall be appointed after election under the Principal Act as so amended, but only for the unexpired term of the office of the Commissioner whose office has become vacant.

3. The Principal Act is further amended by inserting next after section seven the following new section:—

7A. (1) The Minister may at any time by notice under his hand require any Commissioner, whether holding office at the date of the commencement of the Government Railways (Amendment) Act, 1927, or thereafter appointed to vacate his office at a date

Government Railways (Amendment).

date to be specified in such notice, not earlier than three months from the date of the service of such notice, and such Commissioner shall vacate his office on the date so specified. On the vacation of his office such Commissioner shall subject to this section become entitled to claim compensation for deprivation of office. 5

(2) Any such claim for compensation shall in default of agreement be referred by the Governor to a judge of the district court for hearing and determination. 10

(3) The judge shall in making such determination take into consideration—

- (a) the age and physical capacity of the Commissioner; 15
- (b) the term of office for which he was appointed;
- (c) the nature and emoluments of any other position in the service of the State offered to him;
- (d) such other matters as he thinks fit. 20

(4) The judge may determine the manner in which the compensation shall be paid, whether in a lump sum or otherwise.

(5) The decision of the judge shall be final and conclusive. 25

Further amendment of Act No. 30, 1912, s. 10B. (Casting vote of Commissioner presiding.)

Sec. 10c.

Reference to Minister.

Sec. 10D. (Area Commissioners.)

4. The Principal Act is further amended—

(a) by omitting from section 10B the words "The Commissioner presiding at any such meeting shall, in the event of an equal division of votes at such meeting, have a second or casting vote"; 30

(b) by omitting section 10c and by inserting the following section in lieu thereof:—

10c. If in any matter before the Commissioners for their decision and determination there is equal voting, such matter shall be referred to the Minister for his determination. 35

(c) (i) by omitting from subsection one of section 10D the word "four" and by inserting in lieu thereof the word "three"; 40

(ii)

- (ii) by omitting from the same subsection the words "Chief Commissioner" and by inserting in lieu thereof the word "Commissioners";
 - 5 (iii) by inserting at the end of subsection two of the same section the words "but there shall be no area commissioner for the Metropolitan Area";
 - 10 (iv) by omitting subsection three of the same section and by inserting in lieu thereof the following subsection:—
 - (3) The area commissioners shall receive such salaries not exceeding one thousand five hundred pounds per annum respectively as the Commissioners may from time to time determine.
 - (d) by inserting next after section 41A the following new section:— New s. 41b.
 - 20 41B. The Minister may at any time in writing request the Commissioners to propose in writing a scheme for carrying out any matter of general policy specified by the Minister, and if the Minister approves of the scheme he may direct the Commissioners to carry it into effect. Ministerial policy to be carried into effect. cf. s. 101, Victorian Railways Act, 1915.
 - 25 If the Minister does not approve of any such scheme he may himself propose one to the Commissioners, who shall thereupon carry the same into effect.
 - 30 (e) by omitting paragraph (b) of subsection three of section twenty-two and also the word "and" preceding that paragraph; Sec. 22 (3). (Contracts.)
 - (f) by inserting next after section 41B the following new section:— New s. 41c.
 - 35 41c. The Commissioners shall not install any system of water supply for railway purposes in or adjacent to a country town except with the previous approval of the Minister. Country water supplies.
5. (1) The Principal Act is further amended by repealing section 20B. Further amendment of Act No. 30, 1912.
- 40 (2) Notwithstanding anything in the Principal Act contained, the Minister for Public Works shall be the Repeal of sec. 20B.
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the Constructing Authority in respect of the construction of all lines of railway and tramway and the resumption or acquisition of land required in connection therewith, and in relation thereto may exercise any powers by the said Act vested in the Commissioners. 5

(3) The officers and employees of the Railway Construction Branch of the Department of Public Works who were transferred to the employment of the Commissioners in the year one thousand nine hundred and sixteen, and any other officers employed by the Commissioners on or in connection with railway and tramway construction works shall, at a date to be notified by the Governor, be transferred to the Department of Public Works, and shall become subject to the provisions of the Public Service Act, 1902, subject as hereinafter mentioned :— 15

(a) The Commissioners shall allow such officers and employees all existing rights and privileges in respect of railway passes.

(b) Such officers and employees shall continue to contribute to the Government Railways Superannuation Account and shall be subject to the provisions of Part IX of the Principal Act: Provided that for the purposes of sections one hundred and eighteen and one hundred and nineteen of the said Act the powers of the Chief Commissioner shall, in respect of such transferred officers and employees, be exercised by the Minister. 20 25

(c) Such officers shall not be required to contribute to the State Superannuation Fund or be affected by the Superannuation Act, 1916. 30

Amendment
of Act No. 45,
1912.

New s. 4A.

Acquisition
of easement.

(4) The Public Works Act, 1912, as amended by subsequent Acts, is amended— 35

(a) by inserting next after section four the following new section :—

4A. (1) The provisions of this Act relating to the acquisition of land shall, whether such easement

easement or right is acquired separately from or together with any land, also apply to the acquisition of an easement or right—

5 (a) to use in any manner, for the construction and maintenance of works, the surface of land, and without limiting the generality of the foregoing purpose to use the surface—

10 (i) for canals, drainage, or storm-water channels; or

(ii) for the erection and maintenance of wires or cables for the transmission of electricity and the erection of the necessary supports therefor; or

15 (iii) for the construction and maintenance of manholes or ventilators;

(b) to use in any manner for the construction and maintenance of works the subsoil or undersurface of land, and without limiting the generality of the foregoing purpose to use any of the strata beneath the surface—

20 (i) for tunnels or pipes for the conveyance of water or sewage; or

25 (ii) for tunnels or conduits for electric wires or cables.

(2) Where an easement or right to use the surface of land is acquired the easement or right shall be deemed to include a power, from time to time as occasion may require, to enter upon the land for the purpose of inspection and for carrying out of any additions, renewals, or repairs.

30 (3) Where an easement or right to use the subsoil or undersurface of land is acquired, no compensation shall be payable except for actual damage done in the construction of the work or occasioned thereby.

(b)

Sec. 138.

- (b) by inserting in section one hundred and thirty-eight the following proviso:—

“Provided that where an easement or right to use the surface or the subsoil or under-surface of any land is taken, the easement or right shall not be deemed part of a house or other building or manufactory.” 5

Further amendment of Act No. 30, 1912.
Repeal of s. 78.
(Removal of officers.)

6. The Principal Act is further amended—

Sec. 91.
(Appeals.)

- (a) by omitting section seventy-eight ;

- (b) by omitting from section ninety-one the word “seven” and by inserting in lieu thereof the word “fourteen” ; 10

Sec. 93.

- (c) by omitting section ninety-three and by inserting in lieu thereof the following new section :— 15

Effect of decision of Board.
New s. 72A.

93. Every decision of the Board shall be final and conclusive

- (d) by inserting the following new section next after section seventy-two :—

Certain employees to be permanent officers.

72A. Every temporary employee in a railway refreshment room or dining car so employed at the date of the commencement of the Government Railways (Amendment) Act, 1927, shall on such commencement become a permanent officer and shall have the option, to be exercised within the prescribed time and in the prescribed manner, of contributing to the Government Railways Superannuation Account as from a date within three months from the said commencement or from the date of his entering the service. 20 25 30

An officer electing to contribute as from the date of his entering the service shall pay all arrears of contributions either in a lump sum or by the prescribed instalments, or may at his option elect in the prescribed manner and at the prescribed time to be paid a superannuation allowance subject to a corresponding annual abatement as provided in section one hundred and fifteen of this Act. (e) 40

- (e) by omitting from section one hundred and nine the words "or any railway refreshment rooms or dining cars"; Sec. 109. (Definition of officer.)
- 5 (f) by inserting in subsection three of section seventy-five after the word "previously" the words "advertised such vacancy in the weekly notices to the railway staff and in such newspapers and journals as are prescribed and"; Sec. 75 (3). (Appointments.)
- 10 (g) by inserting in section seventy-six after the word "writing" the words "supplies the reasons therefor to such officer and"; Sec. 76. (Promotion.)
- 15 (h) by omitting from section 100A the words "who has completed twenty years of service shall be entitled to at least one month's extended leave on full pay" and by inserting in lieu thereof the words "shall be entitled to one month's extended leave on full pay in respect of each twenty years of service"; Sec. 100A. (Yearly leave.)
- 20 (i) by inserting in section 100B the following new subsection :— Sec. 100B. (Injury.)
 (2) This section shall extend to any officer subject to eyesight or hearing tests whose eyesight or hearing has become prejudicially affected in the course of his employment to such an extent that he is unable to pass the prescribed tests.
- 25 (j) by omitting from section one hundred and twenty-two the words "after service for fifteen years or longer"; Sec. 122. (Refund on retirement.)
- 30 (k) by inserting the following new section next after section one hundred and twenty-five :— New s. 125A.
 125A. Where an officer has been re-employed by the Commissioners after dismissal for participation in the 1917 railway strike his service for the purposes of this Part shall be deemed to include all service prior to such dismissal. Service.
- 35 **7.** The Principal Act is further amended—
- (a) by inserting the following new section next after section one hundred and two :— Further amendment of Act No. 30, 1912. New s. 102A.
 40 102A. No work shall be carried out on the bonus system in the railway service. Bonus system abolished.

New sections
107A, 107B,
and 107C.
Preference to
unionists.

- (b) by inserting the following new sections next after section one hundred and seven :—

107A. The Commissioners shall give preference in employment in all branches of the railway service to unionists. 5

Departmental
inquiries.

107B. In any departmental inquiry affecting the conduct or efficiency of any employee or class of employees or the system or conditions of work in any branch of the railway service the industrial organisation to which such 10 employee or class of employees belongs shall have the right of representation.

Housing.

107C. The Commissioners shall expend annually a sum of not less than fifty thousand pounds in the erection of dwellings for the use 15 of employees in the railway service.

The conditions under which such employees shall have use of such dwellings and the class of building to be erected shall be subject to the approval of the Minister: 20

Provided that the Governor may at any time require the Commissioners to discontinue such expenditure.

Further
amendment
of Act No.
30, 1912.
(Drafting
amendments.).
Sec. 87.

8. (1) The Principal Act is further amended—

(a) Section eighty-seven is amended by omitting 25 from subsection two the word "Principal" and by inserting in lieu thereof the word "this";

Sec. 109.

(b) section one hundred and nine is amended by omitting from paragraph (b) the words "Chief 30 Commissioner" and by inserting in lieu thereof the word "Commissioners";

Sec. 118.

(c) section one hundred and eighteen is amended by omitting the words "Chief Commissioner" 35 and by inserting in lieu thereof the word "Commissioners";

Sec. 119.

(d) section one hundred and nineteen is amended by omitting the words "Chief Commissioner" and by inserting in lieu thereof the word "Commissioners"; 40

(e)

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- (e) section one is amended— Sec. 1.]
- (i) by omitting the figures and letter "41A" wherever occurring and by inserting in lieu thereof the figures and letter "41c";
- 5 (ii) by omitting the figures "107" wherever occurring and by inserting in lieu thereof the figures and letter "107c."
- (2) Section six of the Government Railways (Amendment) Act, 1916, is hereby repealed. Repeal of Act No. 69, 1916, s. 6.
- 10 (3) The Government Railways (Further Amendment) Act, 1916, is hereby repealed. Repeal of Act No. 70, 1916.

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