

New South Wales.



ANNO SEPTIMO

GEORGII VI REGIS.

Act No. 23, 1943.

An Act to make further provision for and in relation to the administration of the various departments of the Ministry of Transport; to provide for the appointment of promotions committees; for these and other purposes to amend the Government Railways Act, 1912, the Transport Act, 1930, the Transport (Division of Functions) Act, 1932, and certain other Acts in certain respects; and for purposes connected therewith. [Assented to, 28th July, 1943.]

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 the same, as follows:—

1. (1) This Act may be cited as the "Transport (Administration) Act, 1943." Short title and citation

Transport (Administration).

(2) The Government Railways Act, 1912, as amended by subsequent Acts and by this Act may be cited as the Government Railways Act, 1912-1943.

(3) The Transport Act, 1930, as amended by subsequent Acts and by this Act may be cited as the Transport Act, 1930-1943.

(4) The Transport (Division of Functions) Act, 1932, as amended by subsequent Acts, and by this Act may be cited as the Transport (Division of Functions) Act, 1932-1943.

Amendment
of Act No.
31, 1932.

Sec. 5.

(Commis-
sioner for
Road
Transport
and
Tramways.)

2. The Transport (Division of Functions) Act, 1932, as amended by subsequent Acts, is amended—

(a) by inserting at the end of section five the following new subsection:—

(5) In the exercise and performance of the powers, authorities, duties and functions conferred and imposed upon the Commissioner for Road Transport and Tramways by or under this or any other Act, such Commissioner shall be subject to the control and direction of the Minister.

Sec. 6.

(Commis-
sioner for
Main Roads.)

(b) by inserting at the end of section six the following new subsection:—

(5) In the exercise and performance of the powers, authorities, duties and functions conferred and imposed upon the Commissioner for Main Roads by or under this or any other Act, such Commissioner shall be subject to the control and direction of the Minister.

Amendment
of Act No.
30, 1912.

Sec. 59.

(Rights and
liabilities
under free
passes.)

Sec. 60.

(Fraudulent
use of free
passes.)

3. The Government Railways Act, 1912-1941, is amended—

(a) by omitting from section fifty-nine the words “issued under the last preceding section” and by inserting in lieu thereof the words “authorising free travel on the railways”;

(b) by omitting from section sixty the words “one of the persons entitled under the provisions of this Act” and by inserting in lieu thereof the word “entitled”.

Transport (Administration).

4. The Government Railways Act, 1912-1941, is further amended—

Further amendment of Act No. 30, 1912.

- (a) by omitting subsection two of section seventy-six and by inserting in lieu thereof the following subsection—

Sec. 76. (Promotions.)

(2) Where the head of the branch so advises the Commissioner he shall set out his reasons for such advice together with the name and position of seniority of any officer in his branch who in his opinion should be passed over.

The Commissioner shall refer the proposal as to the filling of the vacancy to a promotions committee constituted under this Act.

The promotions committee shall inquire into the claims to the promotion in question of all officers proposed to be passed over and shall report to the head of the branch its opinion thereon.

The head of the branch shall forward such report together with any recommendation he sees fit to make to the Commissioner with all convenient despatch.

- (b) by inserting next after section seventy-six the following new section:—

New sec. 76A.

76A. (1) A promotions committee shall consist of—

Promotions committee.

- (a) a chairman who shall be appointed by the Commissioner;
- (b) the chief staff officer of the branch in which the officer whose case is under consideration is employed, or where there is no chief staff officer, the senior officer engaged in staff work in that branch; and
- (c) an officers' representative who shall be an officer of the branch in which the officer whose case is under consideration is employed, and who shall be selected by or on behalf of the officers of

Transport (Administration).

of that branch in the manner prescribed by regulations to be made in that behalf by the Governor.

The provisions of subsection two (other than paragraph (i)) of section one hundred and two of this Act shall extend to and in respect of regulations made under this subsection.

(2) Meetings of a promotions committee shall be convened by the chairman.

(3) At a meeting of a promotions committee the chairman and each member shall have one vote and the decision of the majority shall be the decision of the committee.

(4) When considering any matter referred to it a promotions committee may take evidence or obtain information in such manner as seems to it best calculated to enable it to reach a just conclusion.

(5) The member of the promotions committee referred to in paragraph (b) of subsection one of this section may from time to time appoint a deputy to act on his behalf either generally at all meetings or at any particular meeting or meetings of the promotions committee at which he is unable to be present; and if a deputy is so appointed and his appointment notified to the chairman he shall be entitled so to act, and, while so acting, shall possess all the powers, privileges and immunities of a member of the promotions committee.

Sec. 77.
(Competitive
examina-
tions.)

Sec. 83.
(Officers
guilty of
misconduct,
how dealt
with.)

(c) by omitting from subsection two of section seventy-seven the word "merit" and by inserting in lieu thereof the word "seniority";

(d) by inserting next after subsection one of section eighty-three the following new subsection:—

(1A) The officer in charge of any workshop, locomotive or other depot, refreshment room or other place may temporarily suspend any officer

Transport (Administration).

officer of inferior rank, position, or grade to his own who is in his charge until the officer at the head of the branch has dealt with such suspension.

Where an officer has been temporarily suspended under this subsection or under subsection one of this section, and the officer at the head of his branch has not imposed any punishment in respect of the matter, the officer so suspended may appeal to the board constituted under section eighty-seven of this Act against his temporary suspension.

- (e) by omitting section eighty-five; Sec. 85.
- (f) by omitting section eighty-six and by inserting in lieu thereof the following section:— Subst.
sec. 86.

86. Where a decision has been made by the Commissioner to promote an officer to fill any vacancy in any branch of the railway service and such officer is not the officer next in rank, position, or grade, any officer in the branch who has been passed over may appeal to the Appeals Board constituted under section eighty-seven of this Act; Appeals
concerning
promotions.

- (g) by omitting from subsection one of section eighty-seven the word "other"; Sec. 87.
(Appeal to
Board.)
- (h) by omitting from section ninety the words "secretary to the Commissioners" and by inserting in lieu thereof the words "secretary to the board"; Sec. 90.
(Records.)
- (i) by inserting next after section ninety-one the following new section:— New sec.
91A.

91A. In the case of an appeal against punishment imposed the appellant shall on application be entitled to be supplied by the Commissioner without cost to himself with copies of all statements or reports which have been submitted to the Commissioner in connection with the incident or incidents which formed the basis for the punishment against which he is appealing. Such

Transport (Administration).

Such copies shall, where practicable, be so supplied at least three days before the hearing of the appeal.

No proceedings, civil or criminal, shall lie or be allowed against the Commissioner, or against the person who has made any statement or report a copy of which is so supplied, for or in relation to any matter contained in such statement or report which is or is alleged to be defamatory.

Sec. 93.

(Appeal from board to Commissioners.)

- (j) by omitting from subsection two of section ninety-three the words "as provided in section eighty-five";

Sec. 100B.

(Officer incapacitated by injury.)

- (k) by inserting at the end of section 100B the following new subsection:—

(3) An officer who has been incapacitated by injury arising out of and in the course of his employment shall, except where such injury was caused by his own serious and wilful misconduct, be entitled, in addition to any payment under subsection one or subsection two of this section, to the cost of such medical or hospital treatment or ambulance service as may be reasonably necessary having regard to the injury received by the officer.

The provisions of subsections two to seven both inclusive of section ten of the Workers' Compensation Act, 1926-1942, shall, mutatis mutandis, apply to and in respect of such medical or hospital treatment or ambulance service.

Sec. 100E.

(Election as to benefits.)

- (l) by omitting paragraph (iii) of subsection one of section 100E and by inserting in lieu thereof the following paragraph:—

(iii) to make a claim for damages against such Commissioner, in which case—

- (a) if he succeeds in his claim for damages he shall not be entitled to claim such gratuity or to make any claim against such Commissioner for compensation;

(b)

Transport (Administration).

(b) if he does not succeed in his claim for damages he shall be entitled to make a claim against such Commissioner for compensation but shall not be entitled to claim such gratuity.

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

New sec.
101A.

101A. The Commissioner may refer to a promotions committee constituted under this Act any matter concerning the seniority, grading or classification of any officer.

Reference of
certain
matters to
promotions
committee.

The promotions committee shall inquire into any matter referred to it under this section and shall furnish a report and recommendation to the Commissioner.

- (n) by omitting section one hundred and six and by inserting in lieu thereof the following section:—

Subst. sec.
106.

106. In all public inquiries and investigations into the cause of any accident and in all formal departmental inquiries into the cause of any accident or in respect of any irregularity in regard to which a charge involving punishment has been or may be laid against an officer any officer concerned in the accident or in the irregularity shall have the right to be represented by the secretary or other officer of his union or by a person whom he may select to represent his interests at such inquiry or investigation.

Representa-
tion of
officers.

- (o) by omitting subsection one of section 107A and by inserting in lieu thereof the following subsection:—

Sec. 107A.
(Enforce-
ment of
judgments.)

(1) Where judgment has been given by any court against any officer for the payment of any sum of money, or against any contractor to the Commissioner for the payment of any sum of money in respect of any dishonoured cheque or promissory note or upon any guarantee or bond or for rent of any land or for goods supplied or money lent or for wages due in connection with
his

Transport (Administration).

his contract with the Commissioner, the person in whose favour the judgment has been given may serve on the Commissioner a copy of the judgment certified under the hand of the registrar or other proper officer of the court by which the judgment was delivered or in which it was obtained and a statutory declaration stating that the judgment has not been satisfied by the judgment debtor and setting out the amount due by the judgment debtor under the judgment;

Sec. 134.
(Obstructions and trespasses.)

- (p) by inserting in paragraph (c) of section one hundred and thirty-four before the word "wilfully" the words "assaults or";

Subst. Third
Schedule.

- (q) by omitting the Third Schedule and by inserting in lieu thereof the following Schedule:—

Sec. 87.

THIRD SCHEDULE.

(a) Salaried officers in the employ of the Commissioner (with the exception of engine-drivers, guards, shunters and signalmen who are paid by annual salaries) in the following divisions:—

Division 1—Professional officers.

Division 2—Other salaried officers.

(b) Male officers on wages and engine-drivers, guards, shunters and signalmen excepted from paragraph (a) of this Schedule in the following divisions:—

Division 1—Officers in the clerical and running staff sections of the Mechanical Branch including engine-drivers who are paid by annual salaries.

Division 2—Officers in the mechanical sections of the Mechanical Branch.

Division 3—Officers in the Traffic Branch including guards, shunters and signalmen who are paid by annual salaries.

Division 4—Officers in the Way and Works Branch.

Division 5—Officers in the Signal and Telegraph Branch.

Division 6—Officers in the Electrical Branch.

Division 7—Officers in the Refreshment Rooms section of the Secretariat.

(c) Female officers on wages.

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5. The Transport Act, 1930, as amended by subsequent Acts, is amended—

Amendment
of Act No.
18, 1930.

- (a) by omitting section one hundred and nine and by inserting in lieu thereof the following section:—

Subst.
sec. 109.

109. Whenever any officer or employee in any branch of the service of the Commissioner for Road Transport and Tramways is guilty of misconduct or of breaking any rule or regulation of that service the officer at the head of such branch may—

Officers
guilty of
misconduct.

- (a) dismiss or suspend him,
(b) reduce him in rank position or grade and pay,

but every such officer or employee so dealt with shall be notified in writing of the nature of the misconduct charged or of the breach of rule or regulation alleged to have been committed and may appeal in the manner provided in section one hundred and fourteen of this Act.

- (b) (i) by omitting from subsection three of section one hundred and fourteen the words "Management Board" and by inserting in lieu thereof the words "Appeal Board";
(ii) by omitting from subsection five of the same section the words "Management Board" and by inserting in lieu thereof the words "Appeal Board";

Sec. 114.
(Appeal
Board.)

- (c) by inserting at the end of section one hundred and twenty-four the following new subsection:—

Sec. 124.
(Officer
incapaci-
tated by
injury.)

(3) An officer who has been incapacitated by injury arising out of and in the course of his employment shall, except where such injury was caused by his own serious and wilful misconduct, be entitled, in addition to any payment under subsection one or subsection two of this section, to the cost of such medical or hospital treatment or ambulance service as may be reasonably necessary having regard to the injury received by the officer.

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The provisions of subsections two to seven both inclusive of section ten of the Workers' Compensation Act, 1926-1942, shall, mutatis mutandis, apply to and in respect of such medical or hospital treatment or ambulance service.

Sec. 124c.
(Election
as to
benefits.)

- (d) (i) by omitting subparagraph (c) of paragraph (i) of subsection one of section 124c and by inserting in lieu thereof the following subparagraph:—

(c) to make a claim for damages against such Commissioner, in which case—

(a) if he succeeds in his claim for damages he shall not be entitled to claim such gratuity or to make any claim against such Commissioner for compensation;

(b) if he does not succeed in his claim for damages he shall be entitled to make a claim against such Commissioner for compensation but shall not be entitled to claim such gratuity.

- (ii) by omitting subparagraph (b) of paragraph (ii) of the same subsection and by inserting in lieu thereof the following subparagraph:—

(b) to make a claim for damages against such Commissioner, in which case—

(a) if he succeeds in his claim for damages he shall not be entitled to make any claim against such Commissioner for compensation;

(b) if he does not succeed in his claim for damages he shall be entitled to make a claim against such Commissioner for compensation.

(e)

Transport (Administration).

- (e) by inserting next after section one hundred and twenty-eight the following new section:—

New sec.
128A.

128A. (1) Where judgment has been given by any court against any officer or employee in any branch of the service of the Commissioner for Road Transport and Tramways (in this section hereinafter referred to as "officer") for the payment of any sum of money, or against any contractor to the Commissioner for the payment of any sum of money in respect of any dishonoured cheque or promissory note or upon any guarantee or bond or for rent of any land or for goods supplied or money lent or for wages due in connection with his contract with the Commissioner, the person in whose favour the judgment has been given may serve on the Commissioner a copy of the judgment certified under the hand of the registrar or other proper officer of the court by which the judgment was delivered or in which it was obtained and a statutory declaration stating that the judgment has not been satisfied by the judgment debtor and setting out the amount due by the judgment debtor under the judgment.

Enforcement
of judg-
ments.
cf. Act No.
30, 1912,
s. 107A.

(2) Upon the service upon him of a copy of a judgment and a statutory declaration in pursuance of this section, the Commissioner shall, as soon as practicable, notify the judgment debtor in writing of the service of the copy judgment and statutory declaration and require him to state in writing, within a time to be specified by him, whether the judgment has been satisfied, and if so, to furnish evidence in support thereof, and if the judgment has not been satisfied, to state the amount then due under it.

(3) If the officer or contractor fails to prove to the satisfaction of the Commissioner that the judgment has been satisfied, the Commissioner may, from time to time, deduct from the net amount of any moneys payable to the officer

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officer or contractor such sums as are in his opinion reasonable towards the satisfaction of the judgment, and shall pay those sums to the judgment creditor:

Provided that in no case shall a deduction be made which will reduce the amount to be received by an officer to less than a sum per week equivalent to the amount ascertained in accordance with subsection four of this section, or to less than one-third of the amount which would, but for the provisions of this section, be payable to the officer, whichever is the greater.

(4) The amount which, pursuant to the proviso to subsection three of this section is to be ascertained in accordance with this subsection, shall—

- (a) in the application of that proviso to a male officer, be ascertained by deducting five shillings from the amount of the needs basic wage for the time being applicable to awards of the Commonwealth Court of Conciliation and Arbitration for employees of the Commissioner with the fixed loading addition determined in any judgment of that Court delivered either before or after the commencement of the Industrial Arbitration Act, 1940, as being applicable for the time being in relation to such awards;
- (b) in the application of that proviso to a female officer, be ascertained by deducting five shillings from an amount equivalent to fifty-four per centum (calculated to the nearest sixpence) of the total sum which comprises the needs basic wage for the time being applicable to awards of the Commonwealth Court of Conciliation and Arbitration for employees of the Commissioner

Transport (Administration).

Commissioner with the fixed loading addition determined in any judgment of that Court delivered either before or after the commencement of the Industrial Arbitration Act, 1940, as being applicable for the time being in relation to such awards.

(5) Where more than one judgment and statutory declaration are served upon the Commissioner in respect of one judgment debtor, the judgments shall be dealt with under this section in the order of service thereof upon the Commissioner.

(6) A payment made to a judgment creditor in pursuance of this section shall, as between the Commissioner and the officer or contractor, be deemed to be a payment in full in money to the extent of such payment by the Commissioner to the officer or contractor.

(7) Any person to whom a payment has been made in pursuance of this section who fails to notify the Commissioner immediately a judgment debt in respect of which the payment was made, is satisfied, shall be liable to forfeit to the Commissioner a penalty not exceeding fifty pounds.

(8) If any payment made in pursuance of this section exceeds the amount due under the judgment, the excess shall be repayable by the Commissioner to the judgment debtor, and in default of payment, may be recovered by the judgment debtor in any court of competent jurisdiction.

(9) The foregoing provisions of this section shall not apply in relation to any officer or contractor whose estate has been sequestrated either voluntarily or compulsorily for the benefit of his creditors, and who has not obtained a certificate of discharge.

(10)

Transport (Administration).

Sec. 223.
(Obstruc-
tions and
trespasses.)

(10) The remedy prescribed by this section shall not, as regards any officer or contractor, limit or affect any other remedy which may be open under the ordinary process of the law; but as regards the Commissioner such remedy shall be an exclusive one.

- (f) by inserting in paragraph (c) of section two hundred and twenty-three before the word "wilfully" the words "assault or".

By Authority:

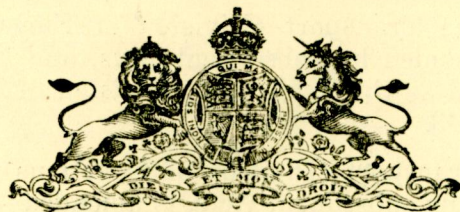
ALFRED HENRY PETTIFER, Acting Government Printer, Sydney, 1943.

[6d.]

I certify that this PUBLIC BILL, which originated in the LEGISLATIVE ASSEMBLY, has finally passed the LEGISLATIVE COUNCIL and the LEGISLATIVE ASSEMBLY of NEW SOUTH WALES.

W. R. McCOURT,
Clerk of the Legislative Assembly.
Legislative Assembly Chamber,
Sydney, 22 July, 1943.

New South Wales.



ANNO SEPTIMO

GEORGII VI REGIS.

Act No. 23, 1943.

An Act to make further provision for and in relation to the administration of the various departments of the Ministry of Transport; to provide for the appointment of promotions committees; for these and other purposes to amend the Government Railways Act, 1912, the Transport Act, 1930, the Transport (Division of Functions) Act, 1932, and certain other Acts in certain respects; and for purposes connected therewith. [Assented to, 28th July, 1943.]

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 the same, as follows:—

1. (1) This Act may be cited as the "Transport (Administration) Act, 1943."

Short title
and citation.

(2)

I have examined this Bill, and find it to correspond in all respects with the Bill as finally passed by both Houses.

G. BOOTH,
Chairman of Committees of the Legislative Assembly.

Transport (Administration).

(2) The Government Railways Act, 1912, as amended by subsequent Acts and by this Act may be cited as the Government Railways Act, 1912-1943.

(3) The Transport Act, 1930, as amended by subsequent Acts and by this Act may be cited as the Transport Act, 1930-1943.

(4) The Transport (Division of Functions) Act, 1932, as amended by subsequent Acts, and by this Act may be cited as the Transport (Division of Functions) Act, 1932-1943.

Amendment
of Act No.
31, 1932.

Sec. 5.
(Commis-
sioner for
Road
Transport
and
Tramways.)

2. The Transport (Division of Functions) Act, 1932, as amended by subsequent Acts, is amended—

(a) by inserting at the end of section five the following new subsection:—

(5) In the exercise and performance of the powers, authorities, duties and functions conferred and imposed upon the Commissioner for Road Transport and Tramways by or under this or any other Act, such Commissioner shall be subject to the control and direction of the Minister.

Sec. 6.
(Commis-
sioner for
Main Roads.)

(b) by inserting at the end of section six the following new subsection:—

(5) In the exercise and performance of the powers, authorities, duties and functions conferred and imposed upon the Commissioner for Main Roads by or under this or any other Act, such Commissioner shall be subject to the control and direction of the Minister.

Amendment
of Act No.
30, 1912.

Sec. 59.
(Rights and
liabilities
under free
passes.)

Sec. 60.
(Fraudulent
use of free
passes.)

3. The Government Railways Act, 1912-1941, is amended—

(a) by omitting from section fifty-nine the words “issued under the last preceding section” and by inserting in lieu thereof the words “authorising free travel on the railways”;

(b) by omitting from section sixty the words “one of the persons entitled under the provisions of this Act” and by inserting in lieu thereof the word “entitled”.

4.

Transport (Administration).

4. The Government Railways Act, 1912-1941, is further amended—

Further
amendment
of Act No.
30, 1912.
Sec. 76.
(Promo-
tions.)

- (a) by omitting subsection two of section seventy-six and by inserting in lieu thereof the following subsection—

(2) Where the head of the branch so advises the Commissioner he shall set out his reasons for such advice together with the name and position of seniority of any officer in his branch who in his opinion should be passed over.

The Commissioner shall refer the proposal as to the filling of the vacancy to a promotions committee constituted under this Act.

The promotions committee shall inquire into the claims to the promotion in question of all officers proposed to be passed over and shall report to the head of the branch its opinion thereon.

The head of the branch shall forward such report together with any recommendation he sees fit to make to the Commissioner with all convenient despatch.

- (b) by inserting next after section seventy-six the following new section:—

New sec.
76A.

76A. (1) A promotions committee shall consist of—

Promotions
committee.

- (a) a chairman who shall be appointed by the Commissioner;
- (b) the chief staff officer of the branch in which the officer whose case is under consideration is employed, or where there is no chief staff officer, the senior officer engaged in staff work in that branch; and
- (c) an officers' representative who shall be an officer of the branch in which the officer whose case is under consideration is employed, and who shall be selected by or on behalf of the officers of

Transport (Administration).

of that branch in the manner prescribed by regulations to be made in that behalf by the Governor.

The provisions of subsection two (other than paragraph (i)) of section one hundred and two of this Act shall extend to and in respect of regulations made under this subsection.

(2) Meetings of a promotions committee shall be convened by the chairman.

(3) At a meeting of a promotions committee the chairman and each member shall have one vote and the decision of the majority shall be the decision of the committee.

(4) When considering any matter referred to it a promotions committee may take evidence or obtain information in such manner as seems to it best calculated to enable it to reach a just conclusion.

(5) The member of the promotions committee referred to in paragraph (b) of subsection one of this section may from time to time appoint a deputy to act on his behalf either generally at all meetings or at any particular meeting or meetings of the promotions committee at which he is unable to be present; and if a deputy is so appointed and his appointment notified to the chairman he shall be entitled so to act, and, while so acting, shall possess all the powers, privileges and immunities of a member of the promotions committee.

Sec. 77.
(Competitive
examina-
tions.)

Sec. 83.
(Officers
guilty of
misconduct,
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with.)

(c) by omitting from subsection two of section seventy-seven the word "merit" and by inserting in lieu thereof the word "seniority";

(d) by inserting next after subsection one of section eighty-three the following new subsection:—

(1A) The officer in charge of any workshop, locomotive or other depot, refreshment room or other place may temporarily suspend any officer

Transport (Administration).

officer of inferior rank, position, or grade to his own who is in his charge until the officer at the head of the branch has dealt with such suspension.

Where an officer has been temporarily suspended under this subsection or under subsection one of this section, and the officer at the head of his branch has not imposed any punishment in respect of the matter, the officer so suspended may appeal to the board constituted under section eighty-seven of this Act against his temporary suspension.

- (e) by omitting section eighty-five; Sec. 85.
 - (f) by omitting section eighty-six and by inserting Subst.
in lieu thereof the following section:— sec. 86.
86. Where a decision has been made by the Appeals
concerning
promotions.
Commissioner to promote an officer to fill any vacancy in any branch of the railway service and such officer is not the officer next in rank, position, or grade, any officer in the branch who has been passed over may appeal to the Appeals Board constituted under section eighty-seven of this Act;
- (g) by omitting from subsection one of section Sec. 87.
eighty-seven the word "other"; (Appeal to
Board.)
 - (h) by omitting from section ninety the words Sec. 90.
"secretary to the Commissioners" and by in- (Records.)
serting in lieu thereof the words "secretary to the board";
 - (i) by inserting next after section ninety-one the New sec.
91A.
following new section:—

91A. In the case of an appeal against punishment imposed the appellant shall on application be entitled to be supplied by the Commissioner without cost to himself with copies of all statements or reports which have been submitted to the Commissioner in connection with the incident or incidents which formed the basis for the punishment against which he is appealing.

Such

Transport (Administration).

Such copies shall, where practicable, be so supplied at least three days before the hearing of the appeal.

No proceedings, civil or criminal, shall lie or be allowed against the Commissioner, or against the person who has made any statement or report a copy of which is so supplied, for or in relation to any matter contained in such statement or report which is or is alleged to be defamatory.

Sec. 93.

(Appeal
from board
to Commis-
sioners.)

- (j) by omitting from subsection two of section ninety-three the words "as provided in section eighty-five";

Sec. 100B.

(Officer
incapaci-
tated by
injury.)

- (k) by inserting at the end of section 100B the following new subsection:—

(3) An officer who has been incapacitated by injury arising out of and in the course of his employment shall, except where such injury was caused by his own serious and wilful misconduct, be entitled, in addition to any payment under subsection one or subsection two of this section, to the cost of such medical or hospital treatment or ambulance service as may be reasonably necessary having regard to the injury received by the officer.

The provisions of subsections two to seven both inclusive of section ten of the Workers' Compensation Act, 1926-1942, shall, *mutatis mutandis*, apply to and in respect of such medical or hospital treatment or ambulance service.

Sec. 100E.

(Election as
to benefits.)

- (l) by omitting paragraph (iii) of subsection one of section 100E and by inserting in lieu thereof the following paragraph:—

(iii) to make a claim for damages against such Commissioner, in which case—

- (a) if he succeeds in his claim for damages he shall not be entitled to claim such gratuity or to make any claim against such Commissioner for compensation;

(b)

Transport (Administration).

(b) if he does not succeed in his claim for damages he shall be entitled to make a claim against such Commissioner for compensation but shall not be entitled to claim such gratuity.

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

New sec.
101A.

101A. The Commissioner may refer to a promotions committee constituted under this Act any matter concerning the seniority, grading or classification of any officer.

Reference of
certain
matters to
promotions
committee.

The promotions committee shall inquire into any matter referred to it under this section and shall furnish a report and recommendation to the Commissioner.

- (n) by omitting section one hundred and six and by inserting in lieu thereof the following section:—

Subst. sec.
106.

106. In all public inquiries and investigations into the cause of any accident and in all formal departmental inquiries into the cause of any accident or in respect of any irregularity in regard to which a charge involving punishment has been or may be laid against an officer any officer concerned in the accident or in the irregularity shall have the right to be represented by the secretary or other officer of his union or by a person whom he may select to represent his interests at such inquiry or investigation.

Representa-
tion of
officers.

- (o) by omitting subsection one of section 107A and by inserting in lieu thereof the following subsection:—

Sec. 107A.
(Enforce-
ment of
judgments.)

(1) Where judgment has been given by any court against any officer for the payment of any sum of money, or against any contractor to the Commissioner for the payment of any sum of money in respect of any dishonoured cheque or promissory note or upon any guarantee or bond or for rent of any land or for goods supplied or money lent or for wages due in connection with

his

Transport (Administration).

his contract with the Commissioner, the person in whose favour the judgment has been given may serve on the Commissioner a copy of the judgment certified under the hand of the registrar or other proper officer of the court by which the judgment was delivered or in which it was obtained and a statutory declaration stating that the judgment has not been satisfied by the judgment debtor and setting out the amount due by the judgment debtor under the judgment;

Sec. 134.
(Obstructions and trespasses.)

Subst. Third
Schedule.

- (p) by inserting in paragraph (c) of section one hundred and thirty-four before the word "wilfully" the words "assaults or";
- (q) by omitting the Third Schedule and by inserting in lieu thereof the following Schedule:—

Sec. 37.

THIRD SCHEDULE.

(a) Salaried officers in the employ of the Commissioner (with the exception of engine-drivers, guards, shunters and signalmen who are paid by annual salaries) in the following divisions:—

Division 1—Professional officers.

Division 2—Other salaried officers.

(b) Male officers on wages and engine-drivers, guards, shunters and signalmen excepted from paragraph (a) of this Schedule in the following divisions:—

Division 1—Officers in the clerical and running staff sections of the Mechanical Branch including engine-drivers who are paid by annual salaries.

Division 2—Officers in the mechanical sections of the Mechanical Branch.

Division 3—Officers in the Traffic Branch including guards, shunters and signalmen who are paid by annual salaries.

Division 4—Officers in the Way and Works Branch.

Division 5—Officers in the Signal and Telegraph Branch.

Division 6—Officers in the Electrical Branch.

Division 7—Officers in the Refreshment Rooms section of the Secretariat.

(c) Female officers on wages.

Transport (Administration).

5. The Transport Act, 1930, as amended by subsequent Acts, is amended—

Amendment
of Act No.
18, 1930.

- (a) by omitting section one hundred and nine and by inserting in lieu thereof the following section:—

Subst.
sec. 109.

109. Whenever any officer or employee in any branch of the service of the Commissioner for Road Transport and Tramways is guilty of misconduct or of breaking any rule or regulation of that service the officer at the head of such branch may—

Officers
guilty of
misconduct.

- (a) dismiss or suspend him,
(b) reduce him in rank position or grade and pay,

but every such officer or employee so dealt with shall be notified in writing of the nature of the misconduct charged or of the breach of rule or regulation alleged to have been committed and may appeal in the manner provided in section one hundred and fourteen of this Act.

- (b) (i) by omitting from subsection three of section one hundred and fourteen the words "Management Board" and by inserting in lieu thereof the words "Appeal Board";
(ii) by omitting from subsection five of the same section the words "Management Board" and by inserting in lieu thereof the words "Appeal Board";

Sec. 114.
(Appeal
Board.)

- (c) by inserting at the end of section one hundred and twenty-four the following new subsection:—

Sec. 124.
(Officer
incapaci-
tated by
injury.)

(3) An officer who has been incapacitated by injury arising out of and in the course of his employment shall, except where such injury was caused by his own serious and wilful misconduct, be entitled, in addition to any payment under subsection one or subsection two of this section, to the cost of such medical or hospital treatment or ambulance service as may be reasonably necessary having regard to the injury received by the officer.

The

Transport (Administration).

The provisions of subsections two to seven both inclusive of section ten of the Workers' Compensation Act, 1926-1942, shall, mutatis mutandis, apply to and in respect of such medical or hospital treatment or ambulance service.

Sec. 124c.
(Election
as to
benefits.)

(d) (i) by omitting subparagraph (c) of paragraph (i) of subsection one of section 124c and by inserting in lieu thereof the following subparagraph:—

(c) to make a claim for damages against such Commissioner, in which case—

(a) if he succeeds in his claim for damages he shall not be entitled to claim such gratuity or to make any claim against such Commissioner for compensation;

(b) if he does not succeed in his claim for damages he shall be entitled to make a claim against such Commissioner for compensation but shall not be entitled to claim such gratuity.

(ii) by omitting subparagraph (b) of paragraph (ii) of the same subsection and by inserting in lieu thereof the following subparagraph:—

(b) to make a claim for damages against such Commissioner, in which case—

(a) if he succeeds in his claim for damages he shall not be entitled to make any claim against such Commissioner for compensation;

(b) if he does not succeed in his claim for damages he shall be entitled to make a claim against such Commissioner for compensation.

(e)

Transport (Administration).

- (e) by inserting next after section one hundred and twenty-eight the following new section:—

128A. (1) Where judgment has been given by any court against any officer or employee in any branch of the service of the Commissioner for Road Transport and Tramways (in this section hereinafter referred to as "officer") for the payment of any sum of money, or against any contractor to the Commissioner for the payment of any sum of money in respect of any dishonoured cheque or promissory note or upon any guarantee or bond or for rent of any land or for goods supplied or money lent or for wages due in connection with his contract with the Commissioner, the person in whose favour the judgment has been given may serve on the Commissioner a copy of the judgment certified under the hand of the registrar or other proper officer of the court by which the judgment was delivered or in which it was obtained and a statutory declaration stating that the judgment has not been satisfied by the judgment debtor and setting out the amount due by the judgment debtor under the judgment.

(2) Upon the service upon him of a copy of a judgment and a statutory declaration in pursuance of this section, the Commissioner shall, as soon as practicable, notify the judgment debtor in writing of the service of the copy judgment and statutory declaration and require him to state in writing, within a time to be specified by him, whether the judgment has been satisfied, and if so, to furnish evidence in support thereof, and if the judgment has not been satisfied, to state the amount then due under it.

(3) If the officer or contractor fails to prove to the satisfaction of the Commissioner that the judgment has been satisfied, the Commissioner may, from time to time, deduct from the net amount of any moneys payable to the officer

New sec.
128A.

Enforcement
of judg-
ments.
cf. Act No
30, 1912,
s. 107A.

Transport (Administration).

officer or contractor such sums as are in his opinion reasonable towards the satisfaction of the judgment, and shall pay those sums to the judgment creditor:

Provided that in no case shall a deduction be made which will reduce the amount to be received by an officer to less than a sum per week equivalent to the amount ascertained in accordance with subsection four of this section, or to less than one-third of the amount which would, but for the provisions of this section, be payable to the officer, whichever is the greater.

(4) The amount which, pursuant to the proviso to subsection three of this section is to be ascertained in accordance with this subsection, shall—

- (a) in the application of that proviso to a male officer, be ascertained by deducting five shillings from the amount of the needs basic wage for the time being applicable to awards of the Commonwealth Court of Conciliation and Arbitration for employees of the Commissioner with the fixed loading addition determined in any judgment of that Court delivered either before or after the commencement of the Industrial Arbitration Act, 1940, as being applicable for the time being in relation to such awards;
- (b) in the application of that proviso to a female officer, be ascertained by deducting five shillings from an amount equivalent to fifty-four per centum (calculated to the nearest sixpence) of the total sum which comprises the needs basic wage for the time being applicable to awards of the Commonwealth Court of Conciliation and Arbitration for employees of the Commissioner

Transport (Administration).

Commissioner with the fixed loading addition determined in any judgment of that Court delivered either before or after the commencement of the Industrial Arbitration Act, 1940, as being applicable for the time being in relation to such awards.

(5) Where more than one judgment and statutory declaration are served upon the Commissioner in respect of one judgment debtor, the judgments shall be dealt with under this section in the order of service thereof upon the Commissioner.

(6) A payment made to a judgment creditor in pursuance of this section shall, as between the Commissioner and the officer or contractor, be deemed to be a payment in full in money to the extent of such payment by the Commissioner to the officer or contractor.

(7) Any person to whom a payment has been made in pursuance of this section who fails to notify the Commissioner immediately a judgment debt in respect of which the payment was made, is satisfied, shall be liable to forfeit to the Commissioner a penalty not exceeding fifty pounds.

(8) If any payment made in pursuance of this section exceeds the amount due under the judgment, the excess shall be repayable by the Commissioner to the judgment debtor, and in default of payment, may be recovered by the judgment debtor in any court of competent jurisdiction.

(9) The foregoing provisions of this section shall not apply in relation to any officer or contractor whose estate has been sequestrated either voluntarily or compulsorily for the benefit of his creditors, and who has not obtained a certificate of discharge.

(10)

Transport (Administration).

(10) The remedy prescribed by this section shall not, as regards any officer or contractor, limit or affect any other remedy which may be open under the ordinary process of the law; but as regards the Commissioner such remedy shall be an exclusive one.

Sec. 223.
(Obstructions and trespasses.)

(f) by inserting in paragraph (c) of section two hundred and twenty-three before the word "wilfully" the words "assault or".

In the name and on behalf of His Majesty I assent to this Act.

WAKEHURST,
Governor.

*Government House,
Sydney, 28th July, 1943.*

TRANSPORT (ADMINISTRATION) BILL.

Schedule of the Legislative Council's Amendments referred to in Message of 9th June, 1943.

No. 1.—Page 2, clause 2, lines 13 to 20 inclusive. *Omit* all words on these lines.

No. 2.—Page 3, clause 3, lines 3 to 11 inclusive. *Omit* all words on these lines.

No. 3.—Page 4, clause 4, line 8. *Omit* "Minister" *insert* "**Commissioner**"

No. 4.—Page 4, clause 4, lines 15 to 19 inclusive. *Omit* all words on these lines *insert*—

(c) an officers' representative who shall be an officer of the branch in which the officer whose case is under consideration is employed, and who shall be selected by or on behalf of the officers of that branch in the manner prescribed by regulations to be made in that behalf by the Governor.

The provisions of subsection two (other than paragraph (i)) of section one hundred and two of this Act shall extend to and in respect of regulations made under this subsection.

No. 5.—Page 5, clause 4. *After* line 5 *insert*—

(5) The member of the promotions committee referred to in paragraph (b) of subsection one of this section may from time to time appoint a deputy to act on his behalf either generally at all meetings or at any particular meeting or meetings of the promotions committee at which he is unable to be present; and if a deputy is so appointed and his appointment notified to the chairman he shall be entitled so to act, and, while so acting, shall possess all the powers, privileges and immunities of a member of the promotions committee.

No. 6.—Page 5, clause 4. *After* line 30 *insert*—

Where an officer has been temporarily suspended under this subsection or under subsection one of this section, and the officer at the head of his branch has not imposed any punishment in respect of the matter, the officer so suspended may appeal to the board constituted under section eighty-seven of this Act against his temporary suspension.

No. 7.—Page 6, clause 4, lines 17 to 20 inclusive. *Omit* all words on these lines.

No. 8.—Page 9, clause 4, lines 8 and 9. *Omit* all words on these lines and *insert*—

"(with the exception of engine-drivers, guards, shunters, and signalmen who are paid by annual salaries) in the following divisions:—

Division 1—Professional officers,
Division 2—Other salaried officers."

No. 9.—Page 9, clause 4, line 14. *After* "wages," *insert* and engine-drivers, guards, shunters, and signalmen excepted from paragraph (a) of this Schedule."

No. 10.—Page 10, clause 5. *After* line 12 *insert*—

(b) (i) by omitting from subsection three of section one hundred and fourteen the words "Management Board" and by inserting in lieu thereof the words "Appeal Board";

(ii) by omitting from subsection five of the same section the words "Management Board" and by inserting in lieu thereof the words "Appeal Board."

Sec. 114.
(Appeal
Board.)

RECEIVED
JAN 10 1900
U. S. DEPT. OF AGRICULTURE
WASHINGTON, D. C.

TO THE

SECRETARY OF THE AGRICULTURE
WASHINGTON, D. C.
FROM THE
DIRECTOR OF THE BUREAU OF PLANT INDUSTRY
WASHINGTON, D. C.
SUBJECT: [Illegible]

[Illegible text]

[Illegible text]

[Illegible text]

[Illegible text]

[Illegible text]

This PUBLIC BILL originated in the LEGISLATIVE ASSEMBLY, and, having this day passed, is now ready for presentation to the LEGISLATIVE COUNCIL for its concurrence.

W. R. McCOURT,
Clerk of the Legislative Assembly.

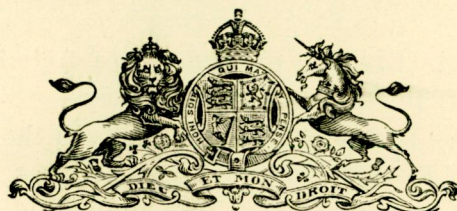
*Legislative Assembly Chamber,
Sydney, 20 May, 1943.*

The LEGISLATIVE COUNCIL has this day agreed to this Bill with Amendments.

W. K. CHARLTON,
Clerk of the Parliaments.

*Legislative Council Chamber,
Sydney, 9th June, 1943.*

New South Wales.



ANNO SEPTIMO

GEORGII VI REGIS.

Act No. , 1943.

An Act to make further provision for and in relation to the administration of the various departments of the Ministry of Transport; to provide for the appointment of promotions committees; for these and other purposes to amend the Government Railways Act, 1912, the Transport Act, 1930, the Transport (Division of Functions) Act, 1932, and certain other Acts in certain respects; and for purposes connected therewith.

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 “Transport Short title and citation.
(Administration) Act, 1943.”

26541

97—

(2)

NOTE.—The words to be omitted are ruled through; those to be inserted are printed in black letter.

Transport (Administration).

(2) The Government Railways Act, 1912, as amended by subsequent Acts and by this Act may be cited as the Government Railways Act, 1912-1943.

(3) The Transport Act, 1930, as amended by subsequent Acts and by this Act may be cited as the Transport Act, 1930-1943.

(4) The Transport (Division of Functions) Act, 1932, as amended by subsequent Acts, and by this Act may be cited as the Transport (Division of Functions) Act, 1932-1943.

2. The Transport (Division of Functions) Act, 1932, as amended by subsequent Acts, is amended—

Amendment
of Act No.
31, 1932.

(a) by inserting at the end of section four the following new subsection:—

Sec. 4.
(Commissioner for
Railways.)

(5) In the exercise and performance of the powers, authorities, duties and functions conferred and imposed upon the Commissioner for Railways by or under this or any other Act such Commissioner shall be subject to the control and direction of the Minister.

(b) (a) by inserting at the end of section five the following new subsection:—

Sec. 5.
(Commissioner for
Road
Transport
and
Tramways.)

(5) In the exercise and performance of the powers, authorities, duties and functions conferred and imposed upon the Commissioner for Road Transport and Tramways by or under this or any other Act, such Commissioner shall be subject to the control and direction of the Minister.

(c) (b) by inserting at the end of section six the following new subsection:—

Sec. 6.
(Commissioner for
Main Roads.)

(5) In the exercise and performance of the powers, authorities, duties and functions conferred and imposed upon the Commissioner for Main Roads by or under this or any other Act, such Commissioner shall be subject to the control and direction of the Minister.

3.

Transport (Administration).

3. The Government Railways Act, 1912-1941, is amended—

Amendment
of Act No.
30, 1912.

- (a) by omitting from section 14A the words “shall be placed to the credit of the Government Railways Fund” and by inserting in lieu thereof the words “the notification and certificate shall be referred to the Colonial Treasurer and there shall be placed to the credit of the Government Railways Fund such amount, if any (not exceeding the annual amount so certified) as the Colonial Treasurer may determine”;
- (b) (a) by omitting from section fifty-nine the words “issued under the last preceding section” and by inserting in lieu thereof the words “authorising free travel on the railways”;
- (c) (b) by omitting from section sixty the words “one of the persons entitled under the provisions of this Act” and by inserting in lieu thereof the word “entitled”.

Sec. 14A.
(Accounts of
Commissioner as
affected by
certain
diminution
of revenue
or increase
of expenditure.)

Sec. 59.
(Rights and
liabilities
under free
passes.)

Sec. 60.
(Fraudulent
use of free
passes.)

4. The Government Railways Act, 1912-1941, is further amended—

Further
amendment
of Act No.
30, 1912.

- (a) by omitting subsection two of section seventy-six and by inserting in lieu thereof the following subsection—
- (2) Where the head of the branch so advises the Commissioner he shall set out his reasons for such advice together with the name and position of seniority of any officer in his branch who in his opinion should be passed over.
- The Commissioner shall refer the proposal as to the filling of the vacancy to a promotions committee constituted under this Act.
- The promotions committee shall inquire into the claims to the promotion in question of all officers proposed to be passed over and shall report to the head of the branch its opinion thereon.

Sec. 76.
(Promo-
tions.)

The head of the branch shall forward such report together with any recommendation he sees

Transport (Administration).

sees fit to make to the Commissioner with all convenient despatch.

(b) by inserting next after section seventy-six the following new section:—

New sec.
76A.

5

76A (1) A promotions committee shall consist of—

Promotions
committee.

10

(a) a chairman who shall be appointed by the ~~Minister~~ **Commissioner**;

(b) the chief staff officer of the branch in which the officer whose case is under consideration is employed, or where there is no chief staff officer, the senior officer engaged in staff work in that branch; and

15

~~(c) a chief staff officer or a senior officer engaged in staff work in some other branch of the railway service, who shall be nominated for the purpose by the chairman.~~

20

(c) an officers' representative who shall be an officer of the branch in which the officer whose case is under consideration is employed, and who shall be selected by or on behalf of the officers of that branch in the manner prescribed by regulations to be made in that behalf by the Governor.

25

30

The provisions of subsection two (other than paragraph (i)) of section one hundred and two of this Act shall extend to and in respect of regulations made under this subsection.

(2) Meetings of a promotions committee shall be convened by the chairman.

35

(3) At a meeting of a promotions committee the chairman and each member shall have one vote and the decision of the majority shall be the decision of the committee.

(4)

Transport (Administration).

(4) When considering any matter referred to it a promotions committee may take evidence or obtain information in such manner as seems to it best calculated to enable it to reach a just conclusion.

(5) The member of the promotions committee referred to in paragraph (b) of subsection one of this section may from time to time appoint a deputy to act on his behalf either generally at all meetings or at any particular meeting or meetings of the promotions committee at which he is unable to be present; and if a deputy is so appointed and his appointment notified to the chairman he shall be entitled so to act, and, while so acting, shall possess all the powers, privileges and immunities of a member of the promotions committee.

(c) by omitting from subsection two of section seventy-seven the word "merit" and by inserting in lieu thereof the word "seniority";

Sec. 77.
(Competitive
examina-
tions.)

(d) by inserting next after subsection one of section eighty-three the following new subsection:—

Sec. 83.
(Officers
guilty of
misconduct,
how dealt
with.)

(1A) The officer in charge of any workshop, locomotive or other depot, refreshment room or other place may temporarily suspend any officer of inferior rank, position, or grade to his own who is in his charge until the officer at the head of the branch has dealt with such suspension.

Where an officer has been temporarily suspended under this subsection or under subsection one of this section, and the officer at the head of his branch has not imposed any punishment in respect of the matter, the officer so suspended may appeal to the board constituted under section eighty-seven of this Act against his temporary suspension.

(e) by omitting section eighty-five;

Sec. 85.

(f)

Transport (Administration).

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

Subst.
sec. 86.

5 86. Where a decision has been made by the Commissioner to promote an officer to fill any vacancy in any branch of the railway service and such officer is not the officer next in rank, position, or grade, any officer in the branch who has been passed over may appeal to the Appeals Board constituted under section eighty-seven of this Act;

Appeals
concerning
promotions.

- (g) by omitting from subsection one of section eighty-seven the word "other";

Sec. 87.
(Appeal to
Board.)

- (h) by omitting from section ninety the words "secretary to the Commissioners" and by inserting in lieu thereof the words "secretary to the board";

Sec. 90.
(Records.)

- (i) by omitting from section ninety-one the words "said secretary" and by inserting in lieu thereof the words "secretary to the Commissioner";

Sec. 91.
(Times for
lodging and
hearing
appeals.)

- (j) (i) by inserting next after section ninety-one the following new section:—

New sec.
91A.

25 91A. In the case of an appeal against punishment imposed the appellant shall on application be entitled to be supplied by the Commissioner without cost to himself with copies of all statements or reports which have been submitted to the Commissioner in connection with the incident or incidents which formed the basis for the punishment against which he is appealing.

Appeals
against
punishment.

30 Such copies shall, where practicable, be so supplied at least three days before the hearing of the appeal.

35 No proceedings, civil or criminal, shall lie or be allowed against the Commissioner, or against the person who has made any statement or report a copy of which is so supplied, for or in relation to any matter contained in such statement or report which is or is alleged to be defamatory.

40

(k) (j)

Transport (Administration).

- (~~k~~) (j) by omitting from subsection two of section ninety-three the words "as provided in section eighty-five"; Sec. 93.
(Appeal from board to Commissioners.)
- 5 (~~+~~) (k) by inserting at the end of section 100B the following new subsection:— Sec. 100B.
(Officer incapacitated by injury.)
- 10 (3) An officer who has been incapacitated by injury arising out of and in the course of his employment shall, except where such injury was caused by his own serious and wilful misconduct, be entitled, in addition to any payment under subsection one or subsection two of this section, to the cost of such medical or hospital treatment or ambulance service as may be reasonably necessary having regard to the injury received by the officer.
- 15 The provisions of subsections two to seven both inclusive of section ten of the Workers' Compensation Act, 1926-1942, shall, mutatis mutandis, apply to and in respect of such medical or hospital treatment or ambulance service.
- 20 (~~m~~) (l) by omitting paragraph (iii) of subsection one of section 100E and by inserting in lieu thereof the following paragraph— Sec. 100E.
(Election as to benefits.)
- 25 (iii) to make a claim for damages against such Commissioner, in which case—
- (a) if he succeeds in his claim for damages he shall not be entitled to claim such gratuity or to make any claim against such Commissioner for compensation;
- 30 (b) if he does not succeed in his claim for damages he shall be entitled to make a claim against such Commissioner for compensation but shall not be entitled to claim such gratuity.
- 35 (~~n~~) (m) by inserting next after section one hundred and one the following new section:— New sec.
101A.
- 40 101A. The Commissioner may refer to a promotions committee constituted under this Act any matter concerning the seniority, grading or classification of any officer. Reference of certain matters to promotions committee.
The

Transport (Administration).

The promotions committee shall inquire into any matter referred to it under this section and shall furnish a report and recommendation to the Commissioner.

5 ~~(e)~~ (n) by omitting section one hundred and six and by inserting in lieu thereof the following section:— Subst. sec. 106.

10 106. In all public inquiries and investigations into the cause of any accident and in all formal departmental inquiries into the cause of any accident or in respect of any irregularity in regard to which a charge involving punishment has been or may be laid against an officer any officer concerned in the accident or in the irregularity shall have the right to be represented by the secretary or other officer of his union or by a person whom he may select to represent his interests at such inquiry or investigation. Representa- tion of officers.

20 ~~(p)~~ (o) by omitting subsection one of section 107A and by inserting in lieu thereof the following sub- section:— Sec. 107A. (Enforce- ment of judgments.)

25 (1) Where judgment has been given by any court against any officer for the payment of any sum of money, or against any contractor to the Commissioner for the payment of any sum of money in respect of any dishonoured cheque or promissory note or upon any guarantee or bond or for rent of any land or for goods supplied or money lent or for wages due in connection with his contract with the Commissioner, the person in whose favour the judgment has been given may serve on the Commissioner a copy of the judgment certified under the hand of the registrar or other proper officer of the court by which the judgment was delivered or in which it was obtained and a statutory declaration stating that the judgment has not been satisfied by the judgment debtor and setting out the amount due by the judgment debtor under the judgment;

~~(q)~~ (p)

Transport (Administration).

- (q) (p) by inserting in paragraph (c) of section one hundred and thirty-four before the word "wilfully" the words "assaults or"; Sec. 134.
(Obstructions and trespasses.)
- 5 (r) (q) by omitting the Third Schedule and by inserting in lieu thereof the following Schedule:— Subst. Third Schedule.

THIRD SCHEDULE.

Sec. 87.

- 10 (a) Salaried officers in the employ of the Commissioner ~~with the exception of engine-drivers, guards, shunters and signalmen who are paid by annual salaries~~ (with the exception of engine-drivers, guards, shunters and signalmen who are paid by annual salaries) in the following divisions:—

Division 1—Professional officers.

Division 2—Other salaried officers.

- 15 (b) Male officers on wages and engine-drivers, guards, shunters and signalmen excepted from paragraph (a) of this Schedule in the following divisions:—

Division 1—Officers in the clerical and running staff sections of the Mechanical Branch including engine-drivers who are paid by annual salaries.

20 Division 2—Officers in the mechanical sections of the Mechanical Branch.

Division 3—Officers in the Traffic Branch including guards, shunters and signalmen who are paid by annual salaries.

25 Division 4—Officers in the Way and Works Branch.

Division 5—Officers in the Signal and Telegraph Branch.

Division 6—Officers in the Electrical Branch.

30 Division 7—Officers in the Refreshment Rooms section of the Secretariat.

(c) Female officers on wages.

5. The Transport Act, 1930, as amended by subsequent Acts, is amended— Amendment of Act No. 18, 1930.

- 35 (a) by omitting section one hundred and nine and by inserting in lieu thereof the following section:— Subst. sec. 109.

109. Whenever any officer or employee in any branch of the service of the Commissioner for Road Transport and Tramways is guilty of misconduct Officers guilty of misconduct.

Transport (Administration).

misconduct or of breaking any rule or regulation of that service the officer at the head of such branch may—

- (a) dismiss or suspend him,
- 5 (b) reduce him in rank position or grade and pay,

10 but every such officer or employee so dealt with shall be notified in writing of the nature of the misconduct charged or of the breach of rule or regulation alleged to have been committed and may appeal in the manner provided in section one hundred and fourteen of this Act.

- 15 (b) (i) by omitting from subsection three of section one hundred and fourteen the words "Management Board" and by inserting in lieu thereof the words "Appeal Board";

- (ii) by omitting from subsection five of the same section the words "Management Board" and by inserting in lieu thereof the words "Appeal Board".
- 20

- (b) (c) by inserting at the end of section one hundred and twenty-four the following new subsection:—

25 (3) An officer who has been incapacitated by injury arising out of and in the course of his employment shall, except where such injury was caused by his own serious and wilful misconduct, be entitled, in addition to any payment under subsection one or subsection two of this section, to the cost of such medical or hospital treatment or ambulance service as may be reasonably necessary having regard to the injury received by the officer.

30 The provisions of subsections two to seven both inclusive of section ten of the Workers' Compensation Act, 1926-1942, shall, mutatis mutandis, apply to and in respect of such medical or hospital treatment or ambulance service.

(e) (d)

Transport (Administration).

(e) (d) (i) by omitting subparagraph (c) of paragraph (i) of subsection one of section 124c and by inserting in lieu thereof the following subparagraph:—

Sec. 124c.
(Election
as to
benefits.)

5 (c) to make a claim for damages against such Commissioner, in which case—

10 (a) if he succeeds in his claim for damages he shall not be entitled to claim such gratuity or to make any claim against such Commissioner for compensation;

15 (b) if he does not succeed in his claim for damages he shall be entitled to make a claim against such Commissioner for compensation but shall not be entitled to claim such gratuity.

20 (ii) by omitting subparagraph (b) of paragraph (ii) of the same subsection and by inserting in lieu thereof the following subparagraph:—

25 (b) to make a claim for damages against such Commissioner, in which case—

30 (a) if he succeeds in his claim for damages he shall not be entitled to make any claim against such Commissioner for compensation;

35 (b) if he does not succeed in his claim for damages he shall be entitled to make a claim against such Commissioner for compensation.

(d) (e) by inserting next after section one hundred and twenty-eight the following new section:—

New sec.
128A.

40 128A. (1) Where judgment has been given by any court against any officer or employee in any branch of the service of the Commissioner for Road Transport and Tramways (in this section

Enforcement
of judg-
ments.
cf. Act No.
30, 1912,
s. 107A.

Transport (Administration).

section hereinafter referred to as "officer") for the payment of any sum of money, or against any contractor to the Commissioner for the payment of any sum of money in respect of any dishonoured cheque or promissory note or upon any guarantee or bond or for rent of any land or for goods supplied or money lent or for wages due in connection with his contract with the Commissioner, the person in whose favour the judgment has been given may serve on the Commissioner a copy of the judgment certified under the hand of the registrar or other proper officer of the court by which the judgment was delivered or in which it was obtained and a statutory declaration stating that the judgment has not been satisfied by the judgment debtor and setting out the amount due by the judgment debtor under the judgment.

(2) Upon the service upon him of a copy of a judgment and a statutory declaration in pursuance of this section, the Commissioner shall, as soon as practicable, notify the judgment debtor in writing of the service of the copy judgment and statutory declaration and require him to state in writing, within a time to be specified by him, whether the judgment has been satisfied, and if so, to furnish evidence in support thereof, and if the judgment has not been satisfied, to state the amount then due under it.

(3) If the officer or contractor fails to prove to the satisfaction of the Commissioner that the judgment has been satisfied, the Commissioner may, from time to time, deduct from the net amount of any moneys payable to the officer or contractor such sums as are in his opinion reasonable towards the satisfaction of the judgment, and shall pay those sums to the judgment creditor:

Provided that in no case shall a deduction be made which will reduce the amount to be received

Transport (Administration).

received by an officer to less than a sum per week equivalent to the amount ascertained in accordance with subsection four of this section, or to less than one-third of the amount which would, but for the provisions of this section, be payable to the officer, whichever is the greater.

(4) The amount which, pursuant to the proviso to subsection three of this section is to be ascertained in accordance with this subsection, shall—

(a) in the application of that proviso to a male officer, be ascertained by deducting five shillings from the amount of the needs basic wage for the time being applicable to awards of the Commonwealth Court of Conciliation and Arbitration for employees of the Commissioner with the fixed loading addition determined in any judgment of that Court delivered either before or after the commencement of the Industrial Arbitration Act, 1940, as being applicable for the time being in relation to such awards;

(b) in the application of that proviso to a female officer, be ascertained by deducting five shillings from an amount equivalent to fifty-four per centum (calculated to the nearest sixpence) of the total sum which comprises the needs basic wage for the time being applicable to awards of the Commonwealth Court of Conciliation and Arbitration for employees of the Commissioner with the fixed loading addition determined in any judgment of that Court delivered either before or after the commencement of the Industrial Arbitration Act, 1940, as being

Transport (Administration).

being applicable for the time being in relation to such awards.

(5) Where more than one judgment and statutory declaration are served upon the Commissioner in respect of one judgment debtor, the judgments shall be dealt with under this section in the order of service thereof upon the Commissioner.

(6) A payment made to a judgment creditor in pursuance of this section shall, as between the Commissioner and the officer or contractor, be deemed to be a payment in full in money to the extent of such payment by the Commissioner to the officer or contractor.

(7) Any person to whom a payment has been made in pursuance of this section who fails to notify the Commissioner immediately a judgment debt in respect of which the payment was made, is satisfied, shall be liable to forfeit to the Commissioner a penalty not exceeding fifty pounds.

(8) If any payment made in pursuance of this section exceeds the amount due under the judgment, the excess shall be repayable by the Commissioner to the judgment debtor, and in default of payment, may be recovered by the judgment debtor in any court of competent jurisdiction.

(9) The foregoing provisions of this section shall not apply in relation to any officer or contractor whose estate has been sequestrated either voluntarily or compulsorily for the benefit of his creditors, and who has not obtained a certificate of discharge.

(10) The remedy prescribed by this section shall not, as regards any officer or contractor, limit or affect any other remedy which may be open under the ordinary process of the law; but as regards the Commissioner such remedy shall be an exclusive one.

(e) (f)

Transport (Administration).

~~(e)~~ (f) by inserting in paragraph (c) of section two hundred and twenty-three before the word "wilfully" the words "assault or".

Sec. 223.
(Obstruc-
tions and
trespasses.)

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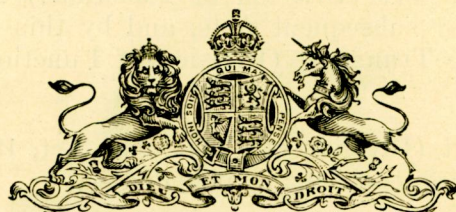
[10.10]

*This PUBLIC BILL originated in the LEGISLATIVE ASSEMBLY,
and, having this day passed, is now ready for presentation to the
LEGISLATIVE COUNCIL for its concurrence.*

W. R. McCOURT,
Clerk of the Legislative Assembly.

*Legislative Assembly Chamber,
Sydney, 20 May, 1943.*

New South Wales.



ANNO SEPTIMO

GEORGII VI REGIS.

Act No. , 1943.

An Act to make further provision for and in relation to the administration of the various departments of the Ministry of Transport; to provide for the appointment of promotions committees; for these and other purposes to amend the Government Railways Act, 1912, the Transport Act, 1930, the Transport (Division of Functions) Act, 1932, and certain other Acts in certain respects; and for purposes connected therewith.

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 “Transport Short title
and citation.
(Administration) Act, 1943.”

Transport (Administration).

(2) The Government Railways Act, 1912, as amended by subsequent Acts and by this Act may be cited as the Government Railways Act, 1912-1943.

(3) The Transport Act, 1930, as amended by subsequent Acts and by this Act may be cited as the Transport Act, 1930-1943.

(4) The Transport (Division of Functions) Act, 1932, as amended by subsequent Acts, and by this Act may be cited as the Transport (Division of Functions) Act, 1932-1943.

2. The Transport (Division of Functions) Act, 1932, as amended by subsequent Acts, is amended—

Amendment
of Act No.
31, 1932.

(a) by inserting at the end of section four the following new subsection:—

Sec. 4.
(Commissioner for
Railways.)

(5) In the exercise and performance of the powers, authorities, duties and functions conferred and imposed upon the Commissioner for Railways by or under this or any other Act such Commissioner shall be subject to the control and direction of the Minister.

(b) by inserting at the end of section five the following new subsection:—

Sec. 5.
(Commissioner for
Road
Transport
and
Tramways.)

(5) In the exercise and performance of the powers, authorities, duties and functions conferred and imposed upon the Commissioner for Road Transport and Tramways by or under this or any other Act, such Commissioner shall be subject to the control and direction of the Minister.

(c) by inserting at the end of section six the following new subsection:—

Sec. 6.
(Commissioner for
Main Roads.)

(5) In the exercise and performance of the powers, authorities, duties and functions conferred and imposed upon the Commissioner for Main Roads by or under this or any other Act, such Commissioner shall be subject to the control and direction of the Minister.

Transport (Administration).

3. The Government Railways Act, 1912-1941, is amended—

Amendment
of Act No.
30, 1912.

(a) by omitting from section 14A the words "shall be placed to the credit of the Government Railways Fund" and by inserting in lieu thereof the words "the notification and certificate shall be referred to the Colonial Treasurer and there shall be placed to the credit of the Government Railways Fund such amount, if any (not exceeding the annual amount so certified) as the Colonial Treasurer may determine";

Sec. 14A.

(Accounts of Commissioner as affected by certain diminution of revenue or increase of expenditure.)

(b) by omitting from section fifty-nine the words "issued under the last preceding section" and by inserting in lieu thereof the words "authorising free travel on the railways";

Sec. 59.

(Rights and liabilities under free passes.)

(c) by omitting from section sixty the words "one of the persons entitled under the provisions of this Act" and by inserting in lieu thereof the word "entitled";

Sec. 60.

(Fraudulent use of free passes.)

4. The Government Railways Act, 1912-1941, is further amended—

Further
amendment
of Act No.
30, 1912.

(a) by omitting subsection two of section seventy-six and by inserting in lieu thereof the following subsection—

Sec. 76.
(Promotions.)

(2) Where the head of the branch so advises the Commissioner he shall set out his reasons for such advice together with the name and position of seniority of any officer in his branch who in his opinion should be passed over.

The Commissioner shall refer the proposal as to the filling of the vacancy to a promotions committee constituted under this Act.

The promotions committee shall inquire into the claims to the promotion in question of all officers proposed to be passed over and shall report to the head of the branch its opinion thereon.

The head of the branch shall forward such report together with any recommendation he

sees

Transport (Administration).

sees fit to make to the Commissioner with all convenient despatch.

- (b) by inserting next after section seventy-six the following new section:—

New sec.
76A.

5

76A (1) A promotions committee shall consist of—

Promotions
committee.

(a) a chairman who shall be appointed by the Minister;

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(b) the chief staff officer of the branch in which the officer whose case is under consideration is employed, or where there is no chief staff officer, the senior officer engaged in staff work in that branch; and

15

(c) a chief staff officer or a senior officer engaged in staff work in some other branch of the railway service, who shall be nominated for the purpose by the chairman.

20

(2) Meetings of a promotions committee shall be convened by the chairman.

(3) At a meeting of a promotions committee the chairman and each member shall have one vote and the decision of the majority shall be the decision of the committee.

25

(4) When considering any matter referred to it a promotions committee may take evidence or obtain information in such manner as seems to it best calculated to enable it to reach a just conclusion;

30

- (c) by omitting from subsection two of section seventy-seven the word "merit" and by inserting in lieu thereof the word "seniority";

Sec. 77.
(Competitive
examina-
tions.)

- (d) by inserting next after subsection one of section eighty-three the following new subsection:—

Sec. 83.
(Officers
guilty of
misconduct,
how dealt
with.)

35

(1A) The officer in charge of any workshop, locomotive or other depot, refreshment room

or

Transport (Administration).

or other place may temporarily suspend any officer of inferior rank, position, or grade to his own who is in his charge until the officer at the head of the branch has dealt with such suspension;

5

(e) by omitting section eighty-five;

Sec. 85.

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

Subst.
sec. 86

10

86. Where a decision has been made by the Commissioner to promote an officer to fill any vacancy in any branch of the railway service and such officer is not the officer next in rank, position, or grade, any officer in the branch who has been passed over may appeal to the Appeals Board constituted under section eighty-seven of this Act;

Appeals
concerning
promotions.

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(g) by omitting from subsection one of section eighty-seven the word "other";

Sec. 87.
(Appeal to
Board.)

20

(h) by omitting from section ninety the words "secretary to the Commissioners" and by inserting in lieu thereof the words "secretary to the board";

Sec. 90.
(Records.)

25

(i) by omitting from section ninety-one the words "said secretary" and by inserting in lieu thereof the words "secretary to the Commissioner";

Sec. 91.
(Times for
lodging and
hearing
appeals.)

(j) by inserting next after section ninety-one the following new section:—

New sec.
91A.

30

91A. In the case of an appeal against punishment imposed the appellant shall on application be entitled to be supplied by the Commissioner without cost to himself with copies of all statements or reports which have been submitted to the Commissioner in connection with the incident or incidents which formed the basis for the punishment against which he is appealing.

Appeals
against
punishment.

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Such

Transport (Administration).

Such copies shall, where practicable, be so supplied at least three days before the hearing of the appeal.

5 No proceedings, civil or criminal, shall lie or be allowed against the Commissioner, or against the person who has made any statement or report a copy of which is so supplied, for or in relation to any matter contained in such statement or report which is or is alleged to be
10 defamatory.

(k) by omitting from subsection two of section ninety-three the words "as provided in section eighty-five";

Sec. 93.
(Appeal from board to Commissioners.)

15 (l) by inserting at the end of section 100B the following new subsection:—

Sec. 100B.
(Officer incapacitated by injury.)

(3) An officer who has been incapacitated by injury arising out of and in the course of his employment shall, except where such injury was caused by his own serious and wilful misconduct, be entitled, in addition to any payment under subsection one or subsection two of this section, to the cost of such medical or hospital treatment or ambulance service as may be reasonably necessary having regard to the injury received by the officer.
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The provisions of subsections two to seven both inclusive of section ten of the Workers' Compensation Act, 1926-1942, shall, mutatis mutandis, apply to and in respect of such medical or hospital treatment or ambulance service.
30

(m) by omitting paragraph (iii) of subsection one of section 100E and by inserting in lieu thereof the following paragraph—

Sec. 100E.
(Election as to benefits.)

35 (iii) to make a claim for damages against such Commissioner, in which case—

(a) if he succeeds in his claim for damages he shall not be entitled to claim such gratuity or to make any claim against such Commissioner for compensation;
(b)

Transport (Administration).

(b) if he does not succeed in his claim for damages he shall be entitled to make a claim against such Commissioner for compensation but shall not be entitled to claim such gratuity.

5

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

New sec.
101A.

101A. The Commissioner may refer to a promotions committee constituted under this Act any matter concerning the seniority, grading or classification of any officer.

10

Reference of
certain
matters to
promotions
committee.

The promotions committee shall inquire into any matter referred to it under this section and shall furnish a report and recommendation to the Commissioner.

15

- (o) by omitting section one hundred and six and by inserting in lieu thereof the following section:—

Subst. sec.
106.

106. In all public inquiries and investigations into the cause of any accident and in all formal departmental inquiries into the cause of any accident or in respect of any irregularity in regard to which a charge involving punishment has been or may be laid against an officer any officer concerned in the accident or in the irregularity shall have the right to be represented by the secretary or other officer of his union or by a person whom he may select to represent his interests at such inquiry or investigation.

20

Representa-
tion of
officers.

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- (p) by omitting subsection one of section 107A and by inserting in lieu thereof the following subsection:—

Sec. 107A.
(Enforce-
ment of
judgments.)

30

(1) Where judgment has been given by any court against any officer for the payment of any sum of money, or against any contractor to the Commissioner for the payment of any sum of money in respect of any dishonoured cheque or promissory note or upon any guarantee or bond or for rent of any land or for goods supplied or money lent or for wages due in connection with his contract with the Commissioner, the person in

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Transport (Administration).

5 in whose favour the judgment has been given
may serve on the Commissioner a copy of the
judgment certified under the hand of the regis-
trar or other proper officer of the court by
which the judgment was delivered or in which
it was obtained and a statutory declaration
stating that the judgment has not been satisfied
by the judgment debtor and setting out the
amount due by the judgment debtor under the
judgment;

- 10 (q) by inserting in paragraph (c) of section one hundred and thirty-four before the word
“wilfully” the words “assaults or”; Sec. 134.
(Obstruc-
tions and
trespasses.)
15 (r) by omitting the Third Schedule and by inserting
in lieu thereof the following Schedule: — Subst. Third
Schedule.

THIRD SCHEDULE.

Sec. 87.

(a) Salaried officers in the employ of the Commissioner
with the exception of engine-drivers, guards, shunters
and signalmen who are paid by annual salaries.

(b) Male officers on wages in the following divisions:—

Division 1—Officers in the clerical and running staff
sections of the Mechanical Branch including
engine-drivers who are paid by annual salaries.

Division 2—Officers in the mechanical sections of the
Mechanical Branch.

Division 3—Officers in the Traffic Branch including
guards, shunters and signalmen who are paid by
annual salaries.

Division 4—Officers in the Way and Works Branch.

Division 5—Officers in the Signal and Telegraph
Branch.

Division 6—Officers in the Electrical Branch.

Division 7—Officers in the Refreshment Rooms
section of the Secretariat.

(c) Female officers on wages.

5. The Transport Act, 1930, as amended by subse-
quent Acts, is amended— Amendment
of Act No.
18, 1930.

- (a) by omitting section one hundred and nine and
by inserting in lieu thereof the following sec-
tion:— Subst.
sec. 109.

109. Whenever any officer or employee in
any branch of the service of the Commissioner
for Officers
guilty of
misconduct.

Transport (Administration).

for Road Transport and Tramways is guilty of misconduct or of breaking any rule or regulation of that service the officer at the head of such branch may—

- 5 (a) dismiss or suspend him,
(b) reduce him in rank position or grade and pay,

10 but every such officer or employee so dealt with shall be notified in writing of the nature of the misconduct charged or of the breach of rule or regulation alleged to have been committed and may appeal in the manner provided in section one hundred and fourteen of this Act.

- 15 (b) by inserting at the end of section one hundred and twenty-four the following new subsection:— Sec. 124. (Officer incapacitated by injury.)

(3) An officer who has been incapacitated by injury arising out of and in the course of his employment shall, except where such injury was caused by his own serious and wilful misconduct, be entitled, in addition to any payment under subsection one or subsection two of this section, to the cost of such medical or hospital treatment or ambulance service as may be reasonably necessary having regard to the injury received by the officer.

20 The provisions of subsections two to seven both inclusive of section ten of the Workers' Compensation Act, 1926-1942, shall, mutatis mutandis, apply to and in respect of such medical or hospital treatment or ambulance service.

- 30 (c) (i) by omitting subparagraph (c) of paragraph (i) of subsection one of section 124c Sec. 124c. (Election as to benefits.) and by inserting in lieu thereof the following subparagraph:—

35 (c) to make a claim for damages against such Commissioner, in which case—

- (a) if he succeeds in his claim for damages he shall not be entitled to claim such gratuity or to make any claim against
- 40

Transport (Administration).

against such Commissioner
for compensation;

(b) if he does not succeed in
his claim for damages he
shall be entitled to make a
claim against such Commis-
sioner for compensation but
shall not be entitled to claim
such gratuity.

(ii) by omitting subparagraph (b) of paragraph
(ii) of the same subsection and by insert-
ing in lieu thereof the following subpara-
graph:—

(b) to make a claim for damages against
such Commissioner, in which case—

(a) if he succeeds in his claim
for damages he shall not be
entitled to make any claim
against such Commissioner
for compensation;

(b) if he does not succeed in his
claim for damages he shall
be entitled to make a claim
against such Commissioner
for compensation.

(d) by inserting next after section one hundred and
twenty-eight the following new section:—

New sec.
128A.

128A. (1) Where judgment has been given by
any court against any officer or employee in
any branch of the service of the Commissioner
for Road Transport and Tramways (in this
section hereinafter referred to as "officer") for
the payment of any sum of money, or against
any contractor to the Commissioner for the
payment of any sum of money in respect of
any dishonoured cheque or promissory note or
upon any guarantee or bond or for rent of any
land or for goods supplied or money lent or
for wages due in connection with his contract
with

Enforcement
of judg-
ments.
cf. Act No.
30, 1912,
s. 107A.

Transport (Administration).

5 with the Commissioner, the person in whose
favour the judgment has been given may serve
on the Commissioner a copy of the judgment
certified under the hand of the registrar or other
proper officer of the court by which the judg-
ment was delivered or in which it was obtained
and a statutory declaration stating that the
judgment has not been satisfied by the judgment
debtor and setting out the amount due by the
10 judgment debtor under the judgment.

15 (2) Upon the service upon him of a
copy of a judgment and a statutory declaration
in pursuance of this section, the Commissioner
shall, as soon as practicable, notify the judg-
ment debtor in writing of the service of the
copy judgment and statutory declaration and
require him to state in writing, within a time
to be specified by him, whether the judgment
has been satisfied, and if so, to furnish evidence
20 in support thereof, and if the judgment has not
been satisfied, to state the amount then due
under it.

25 (3) If the officer or contractor fails to
prove to the satisfaction of the Commissioner
that the judgment has been satisfied, the Com-
missioner may, from time to time, deduct from
the net amount of any moneys payable to the
officer or contractor such sums as are in his
opinion reasonable towards the satisfaction of
30 the judgment, and shall pay those sums to the
judgment creditor:

35 Provided that in no case shall a deduction
be made which will reduce the amount to be
received by an officer to less than a sum per
week equivalent to the amount ascertained in
accordance with subsection four of this section,
or to less than one-third of the amount which
would, but for the provisions of this section, be
payable to the officer, whichever is the greater.

(4)

Transport (Administration).

(4) The amount which, pursuant to the proviso to subsection three of this section is to be ascertained in accordance with this subsection, shall—

5 (a) in the application of that proviso to a male officer, be ascertained by deducting five shillings from the amount of the needs basic wage for the time being applicable to awards of the Commonwealth Court of Conciliation and Arbitration for employees of the Commissioner with the fixed loading addition determined in any judgment of that Court delivered either before or after the commencement of the Industrial Arbitration Act, 1940, as being applicable for the time being in relation to such awards;

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20 (b) in the application of that proviso to a female officer, be ascertained by deducting five shillings from an amount equivalent to fifty-four per centum (calculated to the nearest sixpence) of the total sum which comprises the needs basic wage for the time being applicable to awards of the Commonwealth Court of Conciliation and Arbitration for employees of the Commissioner with the fixed loading addition determined in any judgment of that Court delivered either before or after the commencement of the Industrial Arbitration Act, 1940, as being applicable for the time being in relation to such awards.

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35 (5) Where more than one judgment and statutory declaration are served upon the Commissioner in respect of one judgment debtor, the judgments shall be dealt with under this section in the order of service thereof upon the Commissioner.

(6)

Transport (Administration).

5 (6) A payment made to a judgment creditor in pursuance of this section shall, as between the Commissioner and the officer or contractor, be deemed to be a payment in full in money to the extent of such payment by the Commissioner to the officer or contractor.

10 (7) Any person to whom a payment has been made in pursuance of this section who fails to notify the Commissioner immediately a judgment debt in respect of which the payment was made, is satisfied, shall be liable to forfeit to the Commissioner a penalty not exceeding fifty pounds.

15 (8) If any payment made in pursuance of this section exceeds the amount due under the judgment, the excess shall be repayable by the Commissioner to the judgment debtor, and in default of payment, may be recovered by the judgment debtor in any court of competent jurisdiction.

20 (9) The foregoing provisions of this section shall not apply in relation to any officer or contractor whose estate has been sequestrated either voluntarily or compulsorily for the benefit of his creditors, and who has not obtained a certificate of discharge.

30 (10) The remedy prescribed by this section shall not, as regards any officer or contractor, limit or affect any other remedy which may be open under the ordinary process of the law; but as regards the Commissioner such remedy shall be an exclusive one.

35 (e) by inserting in paragraph (c) of section two hundred and twenty-three before the word "wilfully" the words "assault or". Sec. 223. (Obstructions and trespasses.)

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No. , 1943.

A BILL

To make further provision for and in relation to the administration of the various departments of the Ministry of Transport; to provide for the appointment of promotions committees; for these and other purposes to amend the Government Railways Act, 1912, the Transport Act, 1930, the Transport (Division of Functions) Act, 1932, and certain other Acts in certain respects; and for purposes connected therewith.

[MR. O'SULLIVAN;—12 *May*, 1943.]

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 “Transport (Administration) Act, 1943.”

Short title
and citation.

Transport (Administration).

(2) The Government Railways Act, 1912, as amended by subsequent Acts and by this Act may be cited as the Government Railways Act, 1912-1943.

(3) The Transport Act, 1930, as amended by
5 subsequent Acts and by this Act may be cited as the Transport Act, 1930-1943.

(4) The Transport (Division of Functions) Act, 1932, as amended by subsequent Acts, and by this Act may be cited as the Transport (Division of Functions)
10 Act, 1932-1943.

2. The Transport (Division of Functions) Act, 1932, as amended by subsequent Acts, is amended—

Amendment
of Act No.
31, 1932.

(a) by inserting at the end of section four the following new subsection:—

Sec. 4.

(Commissioner for
Railways.)

15 (5) In the exercise and performance of the powers, authorities, duties and functions conferred and imposed upon the Commissioner for Railways by or under this or any other Act such
20 Commissioner shall be subject to the control and direction of the Minister.

(b) by inserting at the end of section five the following new subsection:—

Sec. 5.

(Commissioner for
Road
Transport
and
Tramways.)

25 (5) In the exercise and performance of the powers, authorities, duties and functions conferred and imposed upon the Commissioner for Road Transport and Tramways by or under this or any other Act, such Commissioner shall be
30 subject to the control and direction of the Minister.

(c) by inserting at the end of section six the following new subsection:—

Sec. 6.

(Commissioner for
Main Roads.)

35 (5) In the exercise and performance of the powers, authorities, duties and functions conferred and imposed upon the Commissioner for Main Roads by or under this or any other Act, such Commissioner shall be subject to the control and direction of the Minister.

Transport (Administration).

3. The Government Railways Act, 1912-1941, is amended—

- (a) by omitting from section 14A the words "shall be placed to the credit of the Government Railways Fund" and by inserting in lieu thereof the words "the notification and certificate shall be referred to the Colonial Treasurer and there shall be placed to the credit of the Government Railways Fund such amount, if any (not exceeding the annual amount so certified) as the Colonial Treasurer may determine";
- (b) by omitting from section fifty-nine the words "issued under the last preceding section" and by inserting in lieu thereof the words "authorising free travel on the railways";
- (c) by omitting from section sixty the words "one of the persons entitled under the provisions of this Act" and by inserting in lieu thereof the word "entitled";

Amendment
of Act No.
30, 1912.

Sec. 14A.

(Accounts of
Commissioner as
affected by
certain
diminution
of revenue
or increase
of expenditure.)

Sec. 59.

(Rights and
liabilities
under free
passes.)

Sec. 60.

(Fraudulent
use of free
passes.)

4. The Government Railways Act, 1912-1941, is further amended—

Further
amendment
of Act No.
30, 1912.

- (a) by omitting subsection two of section seventy-six and by inserting in lieu thereof the following subsection—

Sec. 76.

(Promo-
tions.)

(2) Where the head of the branch so advises the Commissioner he shall set out his reasons for such advice together with the name and position of seniority of any officer in his branch who in his opinion should be passed over.

The Commissioner shall refer the proposal as to the filling of the vacancy to a promotions committee constituted under this Act.

The promotions committee shall inquire into the claims to the promotion in question of all officers proposed to be passed over and shall report to the head of the branch its opinion thereon.

The head of the branch shall forward such report together with any recommendation he

sees

Transport (Administration).

sees fit to make to the Commissioner with all convenient despatch.

- (b) by inserting next after section seventy-six the following new section:—

New sec.
76A.

- 5 76A (1) A promotions committee shall consist of—

Promotions
committee.

(a) a chairman who shall be appointed by the Minister;

10 (b) the chief staff officer of the branch in which the officer whose case is under consideration is employed, or where there is no chief staff officer, the senior officer engaged in staff work in that branch; and

15 (c) a chief staff officer or a senior officer engaged in staff work in some other branch of the railway service, who shall be nominated for the purpose by the chairman.

20 (2) Meetings of a promotions committee shall be convened by the chairman.

(3) At a meeting of a promotions committee the chairman and each member shall have one vote and the decision of the majority shall be the decision of the committee.

25 (4) When considering any matter referred to it a promotions committee may take evidence or obtain information in such manner as seems to it best calculated to enable it to reach a just conclusion;

30 (c) by omitting from subsection two of section seventy-seven the word "merit" and by inserting in lieu thereof the word "seniority";

Sec. 77.
(Competitive
examina-
tions.)

35 (d) by inserting next after subsection one of section eighty-three the following new subsection:—

Sec. 83.
(Officers
guilty of
misconduct,
how dealt
with.)

(1A) The officer in charge of any workshop, locomotive or other depot, refreshment room

or

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5 or other place may temporarily suspend any officer of inferior rank, position, or grade to his own who is in his charge until the officer at the head of the branch has dealt with such suspension;

(e) by omitting section eighty-five; Sec. 85.

(f) by omitting section eighty-six and by inserting Subst.
sec. 86 in lieu thereof the following section:—

10 86. Where a decision has been made by the Commissioner to promote an officer to fill any vacancy in any branch of the railway service and such officer is not the officer next in rank, position, or grade, any officer in the branch who has been passed over may appeal to the
15 Appeals Board constituted under section eighty-seven of this Act; Appeals
concerning
promotions.

(g) by omitting from subsection one of section Sec. 87. eighty-seven the word “other”; (Appeal to
Board.)

20 (h) by omitting from section ninety the words Sec. 90. “secretary to the Commissioners” and by inserting in lieu thereof the words “clerk of the board”; (Records.)

25 (i) by omitting from section ninety-one the words Sec. 91. “said secretary” and by inserting in lieu thereof the words “secretary to the Commissioner”; (Times for
lodging and
hearing
appeals.)

(j) by inserting next after section ninety-one the New sec.
91A. following new section:—

30 91A. In the case of an appeal against punishment imposed the appellant shall on application be entitled to be supplied by the Commissioner without cost to himself with copies of all statements or reports which have been submitted to the Commissioner in connection with the incident or incidents which formed the basis for
35 the punishment against which he is appealing.
Such

Appeals
against
punishment.

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Such copies shall, where practicable, be so supplied at least three days before the hearing of the appeal.

5 No proceedings, civil or criminal, shall lie or be allowed against the Commissioner, or against the person who has made any statement or report a copy of which is so supplied, for or in relation to any matter contained in such statement or report which is or is alleged to be defamatory.

(k) by omitting from subsection two of section ninety-three the words "as provided in section eighty-five";

Sec. 93.
(Appeal from board to Commissioners.)

15 (l) by inserting at the end of section 100B the following new subsection:—

Sec. 100B.
(Officer incapacitated by injury.)

(3) An officer who has been incapacitated by injury arising out of and in the course of his employment shall, except where such injury was caused by his own serious and wilful misconduct, be entitled, in addition to any payment under subsection one or subsection two of this section, to the cost of such medical or hospital treatment or ambulance service as may be reasonably necessary having regard to the injury received by the officer.

20 The provisions of subsections two to seven both inclusive of section ten of the Workers' Compensation Act, 1926-1942, shall, mutatis mutandis, apply to and in respect of such medical or hospital treatment or ambulance service.

30 (m) by omitting paragraph (iii) of subsection one of section 100E and by inserting in lieu thereof the following paragraph—

Sec. 100E.
(Election as to benefits.)

35 (iii) to make a claim for damages against such Commissioner, in which case—

(a) if he succeeds in his claim for damages he shall not be entitled to claim such gratuity or to make any claim against such Commissioner for compensation;

(b)

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(b) if he does not succeed in his claim for damages he shall be entitled to make a claim against such Commissioner for compensation but shall not be entitled to claim such gratuity.

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

New sec.
101A.

101A. The Commissioner may refer to a promotions committee constituted under this Act any matter concerning the seniority, grading or classification of any officer.

Reference of
certain
matters to
promotions
committee.

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The promotions committee shall inquire into any matter referred to it under this section and shall furnish a report and recommendation to the Commissioner.

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- (o) by omitting section one hundred and six and by inserting in lieu thereof the following section:—

Subst. sec.
106.

106. In all public inquiries and investigations into the cause of any accident and in all formal departmental inquiries into the cause of any accident or in respect of any irregularity in regard to which a charge involving punishment has been or may be laid against an officer any officer concerned in the accident or in the irregularity shall have the right to be represented by the secretary or other officer of his union or by a person whom he may select to represent his interests at such inquiry or investigation.

Representa-
tion of
officers.

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- (p) by omitting subsection one of section 107A and by inserting in lieu thereof the following subsection:—

Sec. 107A.
(Enforce-
ment of
judgments.)

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(1) Where judgment has been given by any court against any officer for the payment of any sum of money, or against any contractor to the Commissioner for the payment of any sum of money in respect of any dishonoured cheque or promissory note or upon any guarantee or bond or for rent of any land or for goods supplied or money lent or for wages due in connection with his contract with the Commissioner, the person in

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- in whose favour the judgment has been given may serve on the Commissioner a copy of the judgment certified under the hand of the registrar or other proper officer of the court by which the judgment was delivered or in which it was obtained and a statutory declaration stating that the judgment has not been satisfied by the judgment debtor and setting out the amount due by the judgment debtor under the judgment;
- (q) by inserting in paragraph (c) of section one hundred and thirty-four before the word "wilfully" the words "assaults or";
- (r) by omitting the Third Schedule and by inserting in lieu thereof the following Schedule: —

THIRD SCHEDULE.

Sec. 87.

- (a) Salaried officers in the employ of the Commissioner with the exception of engine-drivers, guards, shunters and signalmen who are paid by annual salaries.
- (b) Male officers on wages in the following divisions:—
- Division 1—Officers in the clerical and running staff sections of the Mechanical Branch including engine-drivers who are paid by annual salaries.
- Division 2—Officers in the mechanical sections of the Mechanical Branch.
- Division 3—Officers in the Traffic Branch including guards, shunters and signalmen who are paid by annual salaries.
- Division 4—Officers in the Way and Works Branch.
- Division 5—Officers in the Signal and Telegraph Branch.
- Division 6—Officers in the Electrical Branch.
- Division 7—Officers in the Refreshment Rooms section of the Secretariat.
- (c) Female officers on wages.

5. The Transport Act, 1930, as amended by subsequent Acts, is amended—

Amendment
of Act No.
18, 1930.

- (a) by omitting section one hundred and nine and by inserting in lieu thereof the following section:—

Subst.
sec. 109.

109. Whenever any officer or employee in any branch of the service of the Commissioner is guilty of misconduct for

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for Road Transport and Tramways is guilty of misconduct or of breaking any rule or regulation of that service the officer at the head of such branch may—

- 5 (a) dismiss or suspend him,
(b) reduce him in rank position or grade and pay,

but every such officer or employee so dealt with shall be notified in writing of the nature of the misconduct charged or of the breach of rule or regulation alleged to have been committed and may appeal in the manner provided in section one hundred and fourteen of this Act.

- 10 (b) (i) by omitting subparagraph (c) of para- Sec. 124c.
graph (i) of subsection one of section 124c (Election as to
and by inserting in lieu thereof the follow- benefits.)
ing subparagraph:—

(c) to make a claim for damages against such Commissioner, in which case—

- 20 (a) if he succeeds in his claim for damages he shall not be entitled to claim such gratuity or to make any claim against such Commissioner for compensation;
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- (b) if he does not succeed in his claim for damages he shall be entitled to make a claim against such Commissioner for compensation but shall not be entitled to claim such gratuity.
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- (ii) by omitting subparagraph (b) of paragraph (ii) of the same subsection and by inserting in lieu thereof the following subparagraph:—
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(b) to make a claim for damages against such Commissioner, in which case—

- (a) if he succeeds in his claim for damages he shall not be entitled
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entitled to make any claim against such Commissioner for compensation;

(b) if he does not succeed in his claim for damages he shall be entitled to make a claim against such Commissioner for compensation.

(c) by inserting next after section one hundred and twenty-eight the following new section:—

New sec.
128A.

128A. (1) Where judgment has been given by any court against any officer or employee in any branch of the service of the Commissioner for Road Transport and Tramways (in this section hereinafter referred to as "officer") for the payment of any sum of money, or against any contractor to the Commissioner for the payment of any sum of money in respect of any dishonoured cheque or promissory note or upon any guarantee or bond or for rent of any land or for goods supplied or money lent or for wages due in connection with his contract with the Commissioner, the person in whose favour the judgment has been given may serve on the Commissioner a copy of the judgment certified under the hand of the registrar or other proper officer of the court by which the judgment was delivered or in which it was obtained and a statutory declaration stating that the judgment has not been satisfied by the judgment debtor and setting out the amount due by the judgment debtor under the judgment.

Enforcement
of judgments.
cf. Act No.
30, 1912,
s. 107A.

(2) Upon the service upon him of a copy of a judgment and a statutory declaration in pursuance of this section, the Commissioner shall, as soon as practicable, notify the judgment debtor in writing of the service of the copy judgment and statutory declaration and require him to state in writing, within a time to be specified by him, whether the judgment has

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has been satisfied, and if so, to furnish evidence in support thereof, and if the judgment has not been satisfied, to state the amount then due under it.

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(3) If the officer or contractor fails to prove to the satisfaction of the Commissioner that the judgment has been satisfied, the Commissioner may, from time to time, deduct from the net amount of any moneys payable to the officer or contractor such sums as are in his opinion reasonable towards the satisfaction of the judgment, and shall pay those sums to the judgment creditor:

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Provided that in no case shall a deduction be made which will reduce the amount to be received by an officer to less than a sum per week equivalent to the amount ascertained in accordance with subsection four of this section, or to less than one-third of the amount which would, but for the provisions of this section, be payable to the officer, whichever is the greater.

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(4) The amount which, pursuant to the proviso to subsection three of this section is to be ascertained in accordance with this subsection, shall—

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(a) in the application of that proviso to a male officer, be ascertained by deducting five shillings from the amount of the needs basic wage for the time being applicable to awards of the Commonwealth Court of Conciliation and Arbitration for employees of the Commissioner with the fixed loading addition determined in any judgment of that Court delivered either before or after the commencement of the Industrial Arbitration Act, 1940, as being applicable for the time being in relation to such awards;

(b)

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5 (b) in the application of that proviso to a
female officer, be ascertained by
deducting five shillings from an
amount equivalent to fifty-four per
centum (calculated to the nearest six-
pence) of the total sum which com-
prises the needs basic wage for the
time being applicable to awards of the
10 Commonwealth Court of Conciliation
and Arbitration for employees of the
Commissioner with the fixed loading
addition determined in any judgment
of that Court delivered either before
or after the commencement of the In-
15 dustrial Arbitration Act, 1940, as
being applicable for the time being in
relation to such awards.

20 (5) Where more than one judgment and
statutory declaration are served upon the Com-
missioner in respect of one judgment debtor,
the judgments shall be dealt with under this
section in the order of service thereof upon the
Commissioner.

25 (6) A payment made to a judgment
creditor in pursuance of this section shall, as
between the Commissioner and the officer or
contractor, be deemed to be a payment in full
in money to the extent of such payment by the
Commissioner to the officer or contractor.

30 (7) Any person to whom a payment
has been made in pursuance of this section who
fails to notify the Commissioner immediately
a judgment debt in respect of which the pay-
ment was made, is satisfied, shall be liable to
35 forfeit to the Commissioner a penalty not ex-
ceeding fifty pounds.

40 (8) If any payment made in pursuance
of this section exceeds the amount due under
the judgment, the excess shall be repayable by
the Commissioner to the judgment debtor, and
in

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in default of payment, may be recovered by the judgment debtor in any court of competent jurisdiction.

5 (9) The foregoing provisions of this section shall not apply in relation to any officer or contractor whose estate has been sequestered either voluntarily or compulsorily for the benefit of his creditors, and who has not obtained a certificate of discharge.

10 (10) The remedy prescribed by this section shall not, as regards any officer or contractor, limit or affect any other remedy which may be open under the ordinary process of the law; but as regards the Commissioner such
15 remedy shall be an exclusive one.

(d) by inserting in paragraph (c) of section two hundred and twenty-three before the word "wilfully" the words "assault or".

Sec. 223.
(Obstructions and trespasses.)

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