

Colliery Railways Vesting Act 1893

Public Act 1893 No 48
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AN ACT relating to the Colliery Branch Railways of the Dominion.

The reference to “Dominion” was substituted, as from 26 September 1907, for the reference to “Colony” by Proclamation. *See* Gazette 1907, p 2837.

BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:—

1 Short Title

The Short Title of this Act is The Colliery Railways Vesting Act 1893.

2 Governor in Council may declare colliery branch railways to be vested in company owning the same

The Governor, by Order in Council, from time to time may vest in the person or persons equitably owning the same (hereinafter called **the company**), or the assigns of the said company, at its own or their written request, any branch line of railway connecting any colliery or coalfields with any portion of the railways vested in the New Zealand Railway Commissioners appointed under The Government Railways Act 1887 (herein referred to as **the Commissioners**).

No such Order in Council shall be issued until the Governor is satisfied that all outstanding claims of the Queen or any other person against the company in respect of the construction of the said branch railway are fully satisfied, or that security to the satisfaction of the Governor for the due payment of such claims has been given: Provided that the Order in Council shall prescribe running powers on fair terms to the public other than the company.

From and after the date of the taking effect of any such Order in Council the Commissioners shall be divested of the branch railway mentioned in such order.

3 And may empower owners to work railways under Public Works Act

By the same or any subsequent Order in Council the Governor may empower the company to work and maintain the said branch railway, under and subject to such provisions of The Public Works Act 1882, and any Acts in amendment thereof, and on such terms and conditions, as he shall from time to time prescribe, and the provisions of the said Acts so prescribed shall take effect and be operative accordingly.

4 No part of branch railway situate on land of the Crown to be vested in company

No part of any branch railway, as aforesaid, which is situated upon any land taken for any railway vested in the Commissioners, or on lands purchased by or on behalf of Her Majesty's Government of New Zealand, shall be vested

in any company, but such land shall remain vested in the Commissioners or the said Government respectively.

5 Governor to be satisfied of ownership before vesting railway

Before the issue of any Order in Council under this Act vesting any branch railway in a company, if there is any doubt or dispute about the ownership of such railway, the Governor shall as soon as may be appoint one of the Judges of the High Court to be a Commissioner under this Act for the purposes and with the powers hereinafter mentioned:—

- (1) The said Commissioner shall, by such ways and means as he may think fit, inquire and determine who and what persons possess any rights at law or in equity in respect of such railway, and what amount of liens or other claims are unsatisfied and attaching to the said railway: Provided that the question herein referred to the Commissioner shall be submitted to him in the form of a special case if the parties to the dispute of ownership of the railway severally can agree upon the facts to be stated.
- (2) The Commissioner shall have the same powers as are given to Commissioners by The Commissioners' Powers Act 1867.
- (3) The award of the Commissioner in writing under his hand shall be final and conclusive, and shall be sufficient warrant to the Governor for the issue of an Order in Council vesting the railway in the persons declared by the award to be the owners thereof.

The reference to the "High Court" was substituted, as from 1 April 1980, for a reference to the "Supreme Court" pursuant to section 12 Judicature Amendment Act 1979 (1979 No 124).

6 Application of Act

Nothing in this Act contained shall apply to or affect any railway constructed under the authority of The Westland and Nelson Coalfields Administration Act 1877, or any Act amending the same.