

# Wellington and Manawatu Railway Purchase Act 1908

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**Wellington and Manawatu Railway  
Purchase Act 1908**

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**An Act to carry into Effect the Purchase of the Wellington and Manawatu Railway by the Crown.**

**Preamble**

WHEREAS by virtue of the Railways Construction and Land Act 1908, the Crown is entitled to purchase the railway and undertaking of the Wellington and Manawatu Railway Company (Limited), (hereinafter called the Company): And whereas the terms and conditions of the purchase have been settled by a provisional agreement entered into between the Company and the Minister of Railways: And whereas on the thirty-first day of August, nineteen hundred and eight, in pursuance of the said agreement, the sum of one million dollars was expended by the Minister of Finance in the purchase of certain debentures theretofore issued by the Company, and the said debentures are now held by the Crown: And whereas

it is expedient to make legislative provision for the confirmation of the said agreement, and for carrying the same into effect, in manner hereinafter appearing:

The reference to “one million dollars” was substituted, as from 10 July 1967, for a reference to “five hundred thousand pounds” pursuant to section 7(1) Decimal Currency Act 1964 (1964 No 27).

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

**1 Short Title**

This Act may be cited as the Wellington and Manawatu Railway Purchase Act 1908.

**2 Vesting of railway, etc, in Crown**

On the commencement of the seventh day of December, nineteen hundred and eight, the railway of the Company, together with all the land and other property described in the Schedule hereto, shall, without conveyance or other assurance, become absolutely vested in His Majesty the King, free (except so far as otherwise expressly provided in this Act) from any right, title, estate, or interest vested in any other person, and His Majesty shall thereupon be entitled to the possession of the said railway, land, and property.

**3 Purchase-money**

The Crown shall pay to the Company, by way of purchase-money for the railway, land, and property so transferred, the sum of one million eight hundred thousand dollars, together with such additional amount as is payable under the provisions contained in section nine of this Act.

The reference to “one million eight hundred thousand dollars” was substituted, as from 10 July 1967, for a reference to “nine hundred thousand pounds” pursuant to section 7(1) Decimal Currency Act 1964 (1964 No 27).

**4 Purchase-money to include sum expended in purchase of debentures**

The sum of one million dollars so expended as aforesaid in the purchase of the debentures of the Company shall be deemed and taken to be part of the said purchase-money of the railway, land, and property of the Company, and the debentures so purchased and held by the Crown are hereby cancelled and released accordingly.

The reference to “one million dollars” was substituted, as from 10 July 1967, for a reference to “five hundred thousand pounds” pursuant to section 7(1) Decimal Currency Act 1964 (1964 No 27).

**5 Payment of residue of purchase-money**

The residue of the said purchase-money, after deducting the said sum of one million dollars, shall be paid by the Crown to the Company on the twenty-seventh day of February, nineteen hundred and nine.

The reference to “one million dollars” was substituted, as from 10 July 1967, for a reference to “five hundred thousand pounds” pursuant to section 7(1) Decimal Currency Act 1964 (1964 No 27).

**6 Payment of interest by Company. Payment of interest by Crown**

- (1) The Company shall pay interest to the Crown on the said sum of one million dollars at the rate of four per centum per annum, computed from the said thirty-first day of August, nineteen hundred and eight, to the seventh day of December, nineteen hundred and eight, as if the said sum had been advanced by the Crown to the Company by way of loan.
- (2) The Company shall be entitled to receive from the Crown interest on the residue of the purchase-money (after deducting the said sum of one million dollars), or on such part thereof as is for the time being unpaid, at the rate of four per centum per annum, computed from the seventh day of December, nineteen hundred and eight, to the twenty-seventh day of February, nineteen hundred and nine, or until the purchase-money is fully paid.
- (3) The several sums of interest payable by and to the Company respectively under the provisions of this section shall be set off against each other, and the balance shall be payable by or to

the Company, as the case may be, on the said twenty-seventh day of February, nineteen hundred and nine.

The reference to “one million dollars” was substituted, as from 10 July 1967, for a reference to “five hundred thousand pounds” pursuant to section 7(1) Decimal Currency Act 1964 (1964 No 27).

**7 Additional payment of \$30,000 for possession of railway on 7th December, 1908**

In consideration of the delivery by the Company to the Crown of possession of the said railway on the seventh day of December, nineteen hundred and eight, in accordance with the foregoing provisions of this Act, the Crown shall pay to the Company on the twenty-seventh day of February, nineteen hundred and nine, the sum of thirty thousand dollars in addition to the purchase-money hereinbefore provided for.

The references to “30,000”, and “thirty thousand dollars” were substituted, as from 10 July 1967, for references to “£15,000”, and “fifteen thousand pounds” pursuant to section 7(1) Decimal Currency Act 1964 (1964 No 27).

**8 Residue of purchase money to be paid in cash or debentures at option of Company**

- (1) The residue of the said purchase-money, after deducting the said sum of one million dollars, shall, together with the said sum of thirty thousand dollars, be payable on the date hereinbefore provided for the payment thereof, either in cash or, at the option of the Company, in debentures issued by the Crown, or partly in cash and partly in such debentures.
- (2) All debentures so issued shall bear interest at the rate of four per centum per annum, and shall have a currency of seven years.
- (3) All such debentures shall be charged on the public revenues of New Zealand, and shall be issued under and subject to the provisions of the New Zealand Loans Act 1908.
- (4) All such debentures shall (if the Company so requires) be issued on terms conferring upon the holders thereof the right to convert the same into inscribed stock under the provisions of the New Zealand Loans Act 1908.
- (5) All such inscribed stock shall be issued at the rate of two hundred and two dollars of the capital amount of such stock

for every two hundred dollars of the capital amount of the debentures exchanged therefor, and the said stock shall bear interest at the rate of three and a half per centum per annum, and shall be redeemable at the same time and in the same manner as the three-and-a-half-per-cent. inscribed stock heretofore issued by the Government of New Zealand and current at the time of the passing of this Act.

The references to “one million dollars”, “thirty thousand dollars”, “two hundred and two dollars”, and “two hundred dollars” were substituted, as from 10 July 1967, for references to “five hundred thousand pounds”, “fifteen thousand pounds”, “one hundred and one pounds”, and “hundred pounds” pursuant to section 7(1) Decimal Currency Act 1964 (1964 No 27).

**9 Payment by Crown for railway stores. To be included in purchase-money**

- (1) All railway stores which are held by the Company in connection with its said railway on the sixth day of December, nineteen hundred and eight, shall be paid for by the Crown at the rate at which those stores are valued in the books of the Company at the date of the passing of this Act; or, in the case of any stores which are not so valued in the said books, then at a rate to be agreed upon between the Company and the Crown, or, in default of any such agreement, at a rate to be determined by arbitration in manner hereinafter provided in respect of disputes.
- (2) The amount so payable shall be deemed to be part of the purchase-money hereinbefore referred to, in addition to the said sum of one million eight hundred thousand dollars, and all the foregoing provisions as to the payment of purchase-money shall apply thereto accordingly.

The reference to “one million eight hundred thousand dollars” was substituted, as from 10 July 1967, for a reference to “nine hundred thousand pounds” pursuant to section 7(1) Decimal Currency Act 1964 (1964 No 27).

**10 Transfer of documents, etc, to Crown**

All plans, specifications, title-deeds, and other documents (other than books of account) belonging to the Company and having any reference to the land or other property hereby vested in the Crown shall, on the seventh day of December, nineteen hundred and eight, become the property of His

Majesty the King; but the Company shall at all reasonable times thereafter be entitled to the inspection thereof for all purposes connected with the rights, liabilities, or obligations of the Company or its shareholders.

**11 Prior to vesting of railway in Crown, authorised Government officials to have right of entry upon railway, etc**

- (1) In the interval between the passing of this Act and the seventh day of December, nineteen hundred and eight, the Company shall at all times permit the officers of the Government Railways Department and any other persons authorised in that behalf by the Minister of Railways to enter upon any part of the said railway and of the lands appurtenant thereto, and there to do all acts and things which the said Minister deems requisite or expedient for the efficient working of the railway as a Government railway on and after the said seventh day of December.
- (2) The powers conferred by this section on the aforesaid officers and persons shall not be exercisable in such a manner as to obstruct or interfere with the safe and convenient working of the railway by the Company in the manner in which the same has customarily been worked by the Company before the passing of this Act.

**12 Assignment of contracts by Company**

All contracts entered into by the Company for the carriage of goods or passengers upon the said railway, and subsisting on the seventh day of December, nineteen hundred and eight, shall, by virtue of this Act, be deemed to be assigned to the Crown on that day, and all rights and liabilities which arise out of any such contract in respect of the performance or breach thereof on or after the said seventh day of December, and which would otherwise be vested in or imposed upon the Company, shall be vested in or imposed upon the Crown exclusively.

**13 Company to maintain property in good repair prior to vesting in Crown**

The Company shall at all times after the passing of this Act and before the seventh day of December, nineteen hundred and eight, maintain all the land, rolling-stock, stores, and other property referred to in the Schedule hereto, and all buildings, fences, and other structures on the said land, in the same good order and condition in which they are at the passing of this Act, fair wear-and-tear only excepted, and will not remove, consume, destroy, or dispose of any such property save in the ordinary course of the management of the railway.

**14 Company not to create incumbrance over property after passing of Act**

After the passing of this Act it shall not be lawful for the Company to create any charge or incumbrance over any of the land or other property mentioned in the Schedule hereto, or to vest in any person any right, title, estate, or interest therein; nor shall any such charge or incumbrance arise by operation of law by reason of any event which happens before the vesting of the said land and property in the Crown by virtue of this Act.

**15 Company to maintain policies of fire insurance until property vested in Crown**

- (1) The Company shall at all times and from time to time after the passing of this Act and before the seventh day of December, nineteen hundred and eight, maintain and renew all policies of fire insurance which exist at the passing of this Act in respect of any of the land or property included in the Schedule hereto.
- (2) All such policies and all policies obtained in renewal thereof shall until the said seventh day of December (save so far as they relate to railway stores) be deemed by virtue of this Act to be held by the Company in trust for His Majesty the King, and thereafter shall be deemed to be held by the Company on its own behalf.



**16 Company to have use of head office for one year after passing of Act**

For a period of one year after the passing of this Act the Company shall be entitled at all reasonable times to use for the purposes of the winding-up of the Company the buildings now occupied as the head office of the Company in the City of Wellington, but those buildings shall remain in the occupation of the Crown and may be used by the Crown for the purposes of the said railway so far as such use is consistent with the use thereof by the Company for the purposes aforesaid.

**17 Purchase-money, etc, payable either in London or in New Zealand**

All sums payable by the Crown to the Company under this Act shall, at the option of the directors of the Company, be payable either in London or in New Zealand, or partly in London and partly in New Zealand.

**18 Act deemed to constitute a contract**

The provisions of this Act shall be deemed to constitute a contract lawfully and with due authority made between the Company, through the agency of its directors, of the one part, and His Majesty the King in respect of the Government of New Zealand of the other part, and shall be enforceable by and against either party accordingly.

**19 Disputes as to interpretation to be settled by arbitration**

If any dispute arises between His Majesty the King and the Company as to the interpretation of this Act, or as to any matter arising out of this Act, or as to any matter not provided for by this Act but connected with the transfer of the railway, land, and other property of the Company to the Crown, the dispute shall be referred to arbitration under the provisions of the Arbitration Act 1996, and shall be determined by two arbitrators, one to be appointed by the Minister of Railways and the other by the directors of the Company; and this Act shall be deemed to be a submission within the meaning and for the purposes of the said Act.

A reference to the Arbitration Act 1908 was substituted, as from 4 August 1908, for a reference to the Arbitration Act 1890 pursuant to section 2(1) Arbitration Act 1908 (1908 No 8). That reference was further substituted, as from 1 July 1997, by a reference to the Arbitration Act 1996 pursuant to section 18 Arbitration Act 1996 (1996 No 99).

**20 On date of vesting, railway deemed to be a Government railway opened for traffic. Application of by-laws and regulations**

- (1) On and after the seventh day of December, nineteen hundred and eight, the said railway shall be deemed to be a Government railway duly constructed under the authority of a special Act and of the Public Works Act 1981, and duly opened for traffic under the Government Railways Act 1908.
- (2) All by-laws and regulations in force on the seventh day of December, nineteen hundred and eight, under the Government Railways Act 1908, and applicable generally to Government railways, shall thereupon become applicable to the said railway.

The Public Works Act 1882 was repealed, as from 24 October 1894, by section 290 Public Works Act 1894 (1894 No 42). That Act was in turn repealed, as from 31 October 1905, by section 2 Public Works Compilation Act 1905 (1905 No 53). Appendix B of the repealing Act replaced the 1894 Act with a compiled Act enacted under the title of “The Public Works Act 1905”. That Act was in turn consolidated, as from 4 August 1908, by section 1(2) Public Works Act 1908 (1908 No 160). That Act was in turn repealed, as from 6 October 1928, by section 346 Public Works Act 1928 (1928 No 21). That Act was in turn repealed, as from 1 February 1982, by section 248(1) Public Works Act 1981 (1981 No 35).

**21 Outstanding debentures of Company to be paid by the Crown**

- (1) The capital amount of all debentures heretofore issued by the Company and outstanding and unpaid at the passing of this Act in the hands of any person other than the Crown, together with all interest heretofore accrued or hereafter to accrue due in respect thereof, shall be paid by the Crown to the holders of those debentures, and the Crown shall at all times indemnify the Company against all liability in respect of those debentures.
- (2) In consideration of the aforesaid undertaking and indemnity, all moneys which at the passing of this Act are held by the

Bank of New Zealand or by any other bank, whether in New Zealand or elsewhere, on behalf of the Company under any trust or engagement to expend the same in the payment of any such debentures, or any interest accrued or accruing due thereon, are hereby assigned to the Crown, and shall be held by any such bank on behalf of the Crown and in trust for the aforesaid purpose.

- (3) The Company hereby guarantees to the Crown that the total amount of all debentures so outstanding and unpaid at the passing of this Act, together with all interest then accrued due thereon, does not exceed the sum of twelve thousand dollars.

The reference to “twelve thousand dollars” was substituted, as from 10 July 1967, for a reference to “six thousand pounds” pursuant to section 7(1) Decimal Currency Act 1964 (1964 No 27).

**22 Rights of debenture-holders, mortgagees, etc, saved**

Nothing in this Act shall take away or prejudice the right of any person who by virtue of any debenture, mortgage, or charge is entitled at the passing of this Act to any security over the property of the Company or any part of that property, but, save as provided in the last preceding section, the Company shall indemnify His Majesty the King against all such liabilities.

**23 Public roads, etc, not affected**

The vesting of the railway and land of the Company in the Crown by virtue of this Act shall not affect the existence of any public road, street, or highway upon any part of that railway or land.

**24 Registration of title of Crown**

- (1) The District Land Registrar of any land registration district in which is situated any land vested in His Majesty by virtue of this Act shall, at the request of the Minister of Railways, duly register the title of His Majesty to that land, and for that purpose the said Registrar shall call in outstanding instruments of title and do whatever may be necessary in that behalf.
- (2) A certificate under the hand of the Minister of Railways that any piece of land is vested in His Majesty by virtue of this Act

shall be a sufficient authority to any such Registrar to effect any such registration as aforesaid.

**25 Minister of Finance may raise moneys for purposes of Act**

- (1) For the purpose of providing funds for the purposes of this Act the Minister of Finance is hereby empowered to raise from time to time, on the security of and charged upon the public revenues of New Zealand, such sums of money, not exceeding in the whole the sum of two million dollars, as he thinks fit.
- (2) The sums so raised shall bear interest at such rate (not exceeding four and a half per centum per annum) as the Minister of Finance prescribes.
- (3) This Act shall be deemed to be an authorising Act within the meaning of the New Zealand Loans Act 1908, and the moneys hereby authorised to be raised shall be raised under and subject to the provisions of that Act accordingly.

The reference to “two million dollars” was substituted, as from 10 July 1967, for a reference to “one million pounds” pursuant to section 7(1) Decimal Currency Act 1964 (1964 No 27).

**26 Moneys raised to be paid to Public Works Fund**

- (1) All moneys raised under the authority of the last preceding section shall, as and when raised, be paid into the Public Account to the credit of the Public Works Fund, and shall from time to time be applied without further appropriation than this Act to the purposes hereinafter specified in this section.
- (2) The Minister of Finance shall from time to time expend so much of the moneys so raised as may be required for any such purpose in paying, in accordance with the provisions of this Act, the several sums to which the Company is for the time being entitled under those provisions, and in making any refunds required in connection with the aforesaid expenditure of the sum of one million dollars in the purchase of the Company’s debentures.
- (3) The residue of the moneys so raised may be expended by the Minister of Railways from time to time, whether before or after the seventh day of December, nineteen hundred and eight, in making such improvements, additions, and alterations

in respect of the said railway and the rolling-stock and other appurtenances thereof as he deems necessary or desirable to enable the same to be effectively worked as a Government railway.

- (4) For the purpose of estimating the amount so available for expenditure under the last preceding subsection prior to the final payment to the Company on the twenty-seventh day of February, nineteen hundred and nine, the total payments required to be made under subsection two of this section shall be provisionally taken and deemed not to exceed the sum of one million eight hundred and sixty thousand dollars.

The references to “one million dollars”, and “one million eight hundred and sixty thousand dollars” were substituted, as from 10 July 1967, for references to “five hundred thousand dollars”, “nine hundred and thirty thousand pounds” pursuant to section 7(1) Decimal Currency Act 1964 (1964 No 27).

**27 Servants of Company may be appointed permanent officers in Government Railways Department**

- (1) Notwithstanding anything to the contrary contained in any Act or regulations, it shall be lawful for the Governor, within one month after the seventh day of December, nineteen hundred and eight, to appoint as permanent officers in the Government Railways Department any persons who on the sixth day of December, nineteen hundred and eight, were employed in the service of the Company.
- (2) Every such appointment shall relate back to and be deemed to have taken effect from the sixth day of December, nineteen hundred and eight, and every person so appointed shall be deemed to have been continuously in the employment of the Government Railways Department from that time.

**28 Provisions as to contributors to Government Railways Superannuation Fund who become officers of Government Railways Department**

*[Repealed]*

Section 28 was repealed, as from 9 September 1926, by section 128 Government Railways Act 1926 (1926 No 17).

**29 Provisions as to contributors who do not become officers of Government Railways Department**

- (1) With respect to every person who on the sixth day of December, nineteen hundred and eight, is in the service of the Company, and is a contributor to the Government Railways Superannuation Fund, and who is not appointed as a permanent officer of the Government Railways Department in pursuance of section twenty-seven of this Act, the following provisions shall apply.
- (2) If any such person is on the said sixth day of December less than sixty years of age, he shall as from that date be deemed to have ceased to be a contributor to the said fund, and he shall be entitled to a refund of all contributions made by him to that fund.
- (3) If any such person is on the said sixth day of December not less than sixty years of age, he shall as from that date be deemed to have ceased to be a contributor to the said fund, and he shall be entitled to the same retiring-allowance or other benefits from the fund as if he had on that date retired from the service of the Company.

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**Schedule**

Section 2.

**Property vested in the Crown by virtue of this Act.****1**

ALL land situated outside the boundaries of the City of Wellington and occupied for railway purposes by the Wellington and Manawatu Railway Company (Limited) at the time of the passing of this Act.

**2**

All land situated outside the boundaries of the City of Wellington which abuts upon any land so occupied as aforesaid and which is vested in the Company for an estate in fee-simple, whether legal or equitable, at the time of the passing of this Act, save and except all portions thereof which the Company has agreed to sell to any person under a contract of sale existing at the time of the passing of this Act.

**3**

All that piece of land situated in the City of Wellington, containing approximately 13 acres 2 roods 21 perches, and occupied for railway purposes by the said Company at the time of the passing of this Act, as shown within red lines on a plan, dated the 25th day of July, 1908, signed by the Minister of Railways and by James Marchbanks, the engineer of the Company, marked with the letters and figures PWD 23933, and deposited in the office of the Minister of Public Works at Wellington.

**4**

All that piece of land situated in the City of Wellington, and lying between the land described in the aforesaid plan and the point at which the said railway enters the said city, and occupied by the Company as a railway-line at the time of the passing of this Act.

**5**

All rolling-stock, machinery, appliances, goods, and chattels (other than railway stores) owned by the Company at the time of the passing of this Act, or at any time thereafter acquired by the Company before the 7th day of December, 1908, and used or intended for use in connection with the said railway.

**6**

All railway stores owned by the Company on the 6th day of December, 1908, and intended for use in connection with the said railway.