

## New Zealand



### ANALYSIS.

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1894, No. 35.

AN ACT to make better Provision for the Maintenance and Management of the Government Railways in New Zealand. Title.

[18th October, 1894.]

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

1. The Short Title of this Act is “The Government Railways Act, 1894”; and it shall come into operation on the first day of January, one thousand eight hundred and ninety-five, with the exception of sections nine, eleven, and twelve, which shall come into operation at the passing hereof. Short Title.

2. In this Act, if not inconsistent with the context,— Interpretation.  
 “The said Act” means “The Government Railways Act, 1887”:

“The Commissioner” and “Commissioners” respectively mean the Railway Commissioners appointed under the said Act:

“Railways” means any railway or railways vested by the said Act in the Commissioners, and includes any additions to or reconstruction of any such railway:

“The Minister” means the Minister for Railways appointed under this Act.

3. A Minister of the Crown shall be appointed from time to time by the Governor on behalf of Her Majesty, to be called the Minister for Railways (hereinafter referred to as “the Minister”), who, in addition to the authorities and duties conferred upon him by this Act, shall exercise all the powers, authorities, and functions, and shall have all the duties in respect of Government railways open for Minister for Railways.

traffic, excepting the power of taking lands for railway purposes, which the Minister for Public Works has hitherto exercised or had.

Every such Minister shall be a member of the Executive Council holding one or more of the offices mentioned or included in the Third Schedule of "The Civil List Act 1863 Amendment Act, 1873," or either of the offices of Minister of Defence or Minister of Education.

Railways to be  
revested in Her  
Majesty the Queen.

4. On and after the date of the coming into operation of this Act, the railways in the colony, now vested in the Commissioners, shall again be vested in Her Majesty, and the management of the said railways shall pass to the Minister, to be controlled and regulated under "The Public Works Act, 1882," and the several Acts amending the same, and this Act.

- (1.) "The Government Railways Act, 1887," shall thereupon be repealed:
- (2.) The appointments of the Commissioners shall thereupon be determined:
- (3.) All persons now in the service of the Railway Commissioners and who were in the Civil Service immediately before the twenty-eighth day of January, one thousand eight hundred and eighty-nine, shall upon and after the coming into operation of this Act be in the same position respectively as if they had continued in the service of the said Commissioners, and as if section seventy-six of "The Government Railways Act, 1887," had not been repealed. The provisions of that section shall apply, *mutatis mutandis*, to any of such persons who shall hereafter retire from the service of Her Majesty.
- (4.) All persons in the employ of the Commissioners who are not within the terms of the last-preceding subsection shall be deemed to be the servants and employés of Her Majesty:
- (5.) The two preceding subsections shall also apply, *mutatis mutandis*, to the persons holding the office of Commissioners at the date of the passing of this Act who were in the Civil Service of the colony at the commencement of "The Government Railways Act, 1887."
- (6.) All property of every description which by the said Act was vested in the Commissioners for any estate or interest, and all property, rights, and interests of any kind acquired by the Commissioners under the said Act, shall vest absolutely in Her Majesty for the same estate or interest:
- (7.) All purchases, sales, grants, conveyances, deeds, securities, bonds, and agreements and transactions of any kind entered into, made, or given by or to the Commissioners in connection with any property whatever vested in the Commissioners, and which are operative or capable of taking effect, shall be binding and may be enforced as if Her Majesty or the Minister, as the case may be, had been a party thereto:
- (8.) All powers of Her Majesty, the Governor in Council, or the Governor or Minister, under any Act relating to the management, working, and maintenance of railways, and all rights and privileges accrued or accruing under or by

virtue of any such Act, and which by the said Act were authorised to be exercised, enforced, and enjoyed by the Commissioners, shall revert to and be exercised, enforced, and enjoyed respectively in manner as before the said Act was passed :

- (9.) All by-laws and regulations made by the Commissioners shall continue in operation as if they had been made under "The Public Works Act, 1882," and the several Acts amending the same, and any penalty, forfeiture, or other punishment incurred or to be incurred thereunder respectively may be enforced and recovered in the same manner as provided by that Act :
- (10.) No action or other proceeding whatsoever commenced by or against the Commissioners shall abate or be discontinued, or be prejudicially affected, but the same shall continue and take effect in favour of or against Her Majesty or the Minister, as the case may be :
- (11.) All judgments, decrees, or orders made in favour of or against the Commissioners, and all fines and penalties imposed or incurred under "The Government Railways Act, 1887," or under any other Act, in respect of any matter or thing vested in the Commissioners and unsatisfied or unperformed, or that have not been recovered or enforced, shall be respectively enforced, levied, proceeded for, and recovered by, against, with reference to, and in the name of Her Majesty, or the Minister, in the same manner as they might have been enforced, levied, proceeded for, and recovered by, against, with reference to, and in the name of the Commissioners :
- (12.) All rights, powers, duties, obligations, and liabilities now by law conferred and imposed upon the Commissioners are hereby transferred to Her Majesty ; and all references to the Commissioners in any statute or regulation thereunder, or in any Order in Council, Proclamation, or other similar instrument, shall be construed as references to Her Majesty.

5. For the purpose of completing the title of Her Majesty to any land or any estate or interest therein vested in Her Majesty by this Act, the District Land Registrar of the land district in which such land is situated shall, upon the production of a statutory declaration by the Minister to the effect that the land or the estate or interest described therein is subject to the provisions of this Act, cause the name of Her Majesty to be entered as registered proprietor of such land, estate, or interest respectively, and may make and issue all instruments necessary for that purpose or consequent thereon.

Her Majesty the Queen to be registered proprietor of lands vested in Her Majesty under this Act.

6. An Appeal Board is hereby constituted for the North Island and Middle Island respectively, each of which Boards (herein referred to as "the Board") shall consist of—

Board of Appeal.

- (1.) A Judge of the District Court or a Stipendiary Magistrate to be appointed from time to time by the Governor, and such Judge or Magistrate shall be the Chairman ;

(2.) One person to be elected by the officers of the railway service in the North Island and Middle Island respectively from among their number; and

(3.) One person to be elected by the employés of such service in the aforesaid islands respectively from among their number.

The Governor in Council may make regulations for the conduct of the elections of the aforesaid persons respectively, and provide facilities to the officers and employés of the aforesaid service for voting at such elections, and for the attendance of the elected persons at any sittings of the Board to which they may be elected.

Mode of appeal.

7. Every appeal shall be lodged with the Minister, or with some officer appointed by him for the purpose, within seven days after the date of the decision which is appealed against, and shall be heard within thirty days from the date of the appeal being so lodged.

(1.) The Chairman of the Board by or before whom any appeal shall be heard shall have authority and is hereby authorised to administer an oath or affirmation to every witness at such hearing, and shall on application of the appellant administer such oath or affirmation to all witnesses in any appeal the decision of which may result in the dismissal of the appellant.

(2.) Every appeal or application whatever from officers or employés (except for fines inflicted upon them by officers) may be heard, confirmed, modified, or otherwise determined, and any decision of any officer may be reviewed, confirmed, modified, or otherwise determined by the Board. The decision of two members of the Board shall be the decision of the Board.

Every decision of the Board shall be submitted for the approval of the Minister before it takes effect.

(3.) The Minister may hear all appeals from employés against fines inflicted upon them by any officer at the head of a branch in the railway service, and may confirm or modify any decision of such officer.

Leave of absence.

8. The Minister shall, at such times as may be convenient, grant to every officer or employé leave of absence; such leave of absence to be for one week in each year, and to be given at one time:

Provided, however, that nothing in this section shall be deemed to limit any leave of absence usually heretofore granted under regulations now existing.

Regulations in respect of employés.

9. The Governor may, by Order in Council, from time to time make, alter, or repeal regulations, not inconsistent with this Act,—

(1.) For determining into what branches the railway service shall be divided, and for organizing and classifying the same:

(2.) For determining which of the employés in the railway service shall be permanent and which shall be temporary, and which of them shall be required to give security for the performance of their duties:

(3.) For prescribing the qualifications required of all candidates for permanent employment, and the ages at which they shall be admitted to each of the various branches of the

railway service, and, if necessary, in each grade of such branches :

- (4.) For determining the nature or character and extent of qualifications, examinations, or tests, according to the requirements of each of the higher grades in the railway service, which employés in the lower grades desiring to compete for and to be promoted to such higher grades shall possess or undergo :
- (5.) For determining the rate of salaries, wages, or other allowances to be paid or made to the employés in the permanent employ of Her Majesty under this Act, and also in the case of temporary employments :
- (6.) For regulating the relative rank, position, grade, or class in the duties and conduct of the employés in each of the various branches of the railway service; and for determining which of such grades shall be deemed the higher and lower grades respectively in such railway service :
- (7.) For regulating the duties to be performed by employés in the several branches of the railway service, the discipline to be observed in the performance of such duties, the granting of leave of absence from time to time, and arranging for the performance of duties during holidays :
- (8.) For fixing the ages at which employés shall retire in the different branches of the railway service :
- (9.) For affixing to breaches of such regulations, according to the nature of the offences, such penalties as by or under this Act are authorised.

A list shall be prepared and laid before Parliament each year, setting out the name, status, and salary of each officer and employé in the order of his rank; also the number of years he has been in the service.

10. The officer at the head of each branch of the railway service shall, in the prescribed manner, have the power, with respect to any employé in his branch who has been guilty of misconduct or of breaking any rule, by-law, or regulation of the railway service,—

Misconduct of employés.

- (1.) To suspend him ;
- (2.) To fine him in a sum not exceeding five pounds ;
- (3.) To reduce him in rank, position, or grade, and pay.

But every such employé shall have the right of appeal to the Board of Appeal constituted by this Act or to the Minister, as the case may require.

11. The several Proclamations and the Order in Council enumerated in the First Schedule hereto, issued by the Governor for the taking of land for railways, or otherwise relating to railways open for traffic, are hereby validated for all purposes, and shall be and be deemed to have been from the dates thereof respectively of the same effect as if the same respectively had been made by the Railway Commissioners appointed under the said Act; and the Proclamation named in the Second Schedule is cancelled so far as regards the Onehunga Town and Borough endowments mentioned therein.

Proclamations, &c., validated.

12. Nothing in this Act contained, or in any Act now passed or hereafter passed during the present session of Parliament, shall be

Rights of the Commissioners reserved.



held to affect or abridge the powers, duties, rights, or liabilities at present vested in or imposed upon the Commissioners, but the same shall respectively exist, continue, and have effect until the thirty-first day of December, one thousand eight hundred and ninety-four, but no longer.

On the termination of the present engagements of the Commissioners, on the twenty-second day of October, one thousand eight hundred and ninety-four, the said Commissioners may be reappointed at their present rates of salary, but so that such appointments shall expire upon the coming into operation of this Act.

Schedules.

## SCHEDULES.

## FIRST SCHEDULE.

## PROCLAMATIONS VALIDATED.

Date of Proclamation.	Railway.	Object of Proclamation.
January 28, 1889 ...	Waitaki-Bluff ...	Taking land near Stirling.
" 30, " ...	Foxtton-New Plymouth ...	" near Oroua Bridge.
March 14, " ...	" " " ...	" at New Plymouth.
April 22, " ...	North Island Main Trunk	Undertaking to maintain fences.
May 11, " ...	Foxtton-New Plymouth ...	Taking land near Kai-iwi.
" 16, " ...	Duntroon Branch ...	" at Duntroon.
June 26, " ...	Wellington-Woodville ...	" at Pitone.
July 9, " ...	Kaipara-Waikato ...	" for Kaukapakapa Section
" 9, " ...	Kaukapakapa Northwards	" " " " "
" 9, " ...	Foxtton-New Plymouth ...	" at New " Plymouth."
August 28, " ...	North Island Main Trunk	" at Rangatira.
October 6, " ...	Foxtton-New Plymouth ..	" at Ngaire.
<i>Order in Council.</i> September 16, 1889	Waitaki-Bluff .. ...	Authorising sale of land at Balclutha.

## SECOND SCHEDULE.

## PROCLAMATION CANCELLED IN PART.

Date of Proclamation.	Railway.	Object of Proclamation.
March 20, 1885 ...	Kaipara - Waikato, Onehunga Branch	Taking land in Onehunga, being portion of the Onehunga Town endowment of 1 acre 2 roods 12 perches mentioned therein as taken from Lot 11, Section 17, Borough of Onehunga.