

GOVERNMENT RAILWAYS AMENDMENT BILL

EXPLANATORY NOTE

THIS Bill makes miscellaneous amendments to the Government Railways Act 1949.

Clause 1 relates to the Short Title of the Bill.

Clause 2 empowers the General Manager of Railways to purchase liquor for the purposes of the clause, to establish and maintain facilities for the sale and consumption of liquor in suitable railcars and railway carriages, and to authorise and make provision for the sale and consumption of liquor in any such railcar or carriage. Certain offence provisions in the Sale of Liquor Act 1962 are to apply to any railcar or carriage in which liquor facilities are maintained. It will be an offence, punishable with a fine not exceeding \$100, to take any liquor sold in any such railcar or carriage away from the railcar or carriage. It will be an offence, punishable with a fine not exceeding \$20, to consume liquor in any such railcar or carriage if the liquor has not been purchased there.

The term "liquor" has the same meaning as in section 2 of the Sale of Liquor Act 1962.

Consequential amendments are being made to section 3 of the Sale of Liquor Act 1962 (which section relates to the application of that Act) and to section 3E of the Police Offences Act 1927 (which section, *inter alia*, makes it an offence to drink, supply, offer, or be in possession or control of liquor on a railway train or railcar).

Clause 3 authorises the General Manager, or any restaurant manager nominated by him, to apply to the Licensing Control Commission for a restaurant licence under the Sale of Liquor Act 1962 in respect of any railway station restaurant. Generally speaking the provisions of the Sale of Liquor Act 1962 are to apply in respect of any such restaurant, but the Commission is empowered under the clause to authorise the sale of liquor during different hours from those specified in section 65 of that Act (which section relates to the terms and conditions on which restaurant licences are granted) and to modify the requirements of that section relating to the partaking of meals with liquor. No more than five restaurant licences are to be in force in respect of railway station restaurants at any one time.

A consequential amendment is being made to section 27 (g) of the principal Act (which section relates to offences on railways by fine or imprisonment).

Clause 4 rewrites section 36 of the principal Act, which relates to the purposes for which money in the Works and Trading Account (formerly the Working Railways Account) is to be expended. The existing section provides (*inter alia*) for interest on the total amount of capital money expended in respect of the railways and any annual net profits arising from the operation of the railways to be paid into the Consolidated Revenue Account. Under the re-enacted section the General Manager is, after provision has been made for debt services, adequate working capital and reserves, and capital investment needs, to declare a dividend in respect of the capital of the railways of such amount as may be fixed by the Minister of Finance. The Minister of Finance may determine that no dividend shall be declared if he considers the financial position of the railways does not warrant it. The amount so declared, together with any sum by way of repayment of any loan advanced pursuant to section 35 of the principal Act, is to be paid into the Consolidated Revenue Account. Provision is being made in the clause for the repayment of any loan obtained from the International Bank for Reconstruction and Development for the purposes of the railways. Subsections (2) and (6) of the existing section are redundant and are not being re-enacted.

Clause 5 repeals the proviso to subsection (2) of section 90 of the principal Act. The proviso provides that no member or apprentice of the Railways Department is to be dismissed except by direction of the Minister. The repeal will give the General Manager this power.

Hon. Mr Gordon

GOVERNMENT RAILWAYS AMENDMENT BILL

ANALYSIS

1. Short Title	3. Restaurant licences under the Sale of Liquor Act in respect of railway restaurants
2. Power of General Manager to purchase and authorise sale of liquor on railway	4. Payments in respect of the railways to be made out of the Works and Trading Account
	5. Dismissal of members and apprentices

A BILL INTITULED

An Act to amend the Government Railways Act 1949

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

1. **Short Title**—This Act may be cited as the Government Railways Amendment Act 1968, and shall be read together with and deemed part of the Government Railways Act 1949* (hereinafter referred to as the principal Act).
- 10 2. **Power of General Manager to purchase and authorise sale of liquor on railway**—(1) The principal Act is hereby further amended by inserting, after section 14, the following section:
- “14A. (1) Subject to the provisions of this section, the General Manager may from time to time—
- 15 “(a) Purchase such quantities of liquor of any description as may be necessary for the purposes of this section:

*1957 Reprint, Vol. 5, p. 693

Amendments: 1959, No. 66; 1961, No. 39; 1962, No. 13; 1962, No. 138; 1963, No. 124; 1964, No. 38; 1967, No. 158

“(b) Establish and maintain liquor facilities in any suitable railcar or railway carriage, or in any part of any such railcar or carriage:

“(c) During such hours as he may determine and subject to such terms and conditions as he may direct, authorise and make provision for the sale and disposal of any liquor so purchased to any person for consumption in any such railcar or carriage. 5

“(2) Where the General Manager maintains liquor facilities in any railcar or carriage, he shall designate a member of the Department to be the manager of those facilities. 10

“(3) The provisions of sections 238, 241, 243 to 248, 259, 260, and 269 of the Sale of Liquor Act 1962 shall, so far as they are applicable and with the necessary modifications, apply to every railcar and carriage in which liquor facilities are established and maintained and to every manager designated under subsection (2) of this section in the same manner as if the railcar or carriage were licensed premises within the meaning of section 2 of the Sale of Liquor Act 1962 and as if the manager of the liquor facilities were a licensee within the meaning of that section. Where any liquor facilities are established and maintained pursuant to this section in any place other than one in which substantial meals of two courses or more are served, that place shall, for the purposes of the application of the said section 259, be deemed to be a bar. 15 20 25

“(4) Every person commits an offence, and is liable on summary conviction to a fine not exceeding one hundred dollars, who without lawful excuse takes away from any railcar or carriage in which liquor facilities are established and maintained any liquor sold in that railcar or carriage, as the case may be. 30

“(5) Every person commits an offence, and is liable on summary conviction to a fine not exceeding twenty dollars, who, in any railcar or carriage in which liquor facilities are established and maintained, consumes any liquor knowing that it has not been sold in the railcar or carriage, as the case may be. 35

“(6) Where liquor facilities are established and maintained only in part of a railcar, or carriage, every reference in this section to a railcar or carriage shall be construed as meaning that part of the railcar or carriage in which the facilities are established and maintained. 40

“(7) For the purposes of this section—

“‘Liquor’ means liquor as defined in section 2 of the Sale of Liquor Act 1962:

“ ‘Liquor facilities’, or ‘facilities’, means any facilities or amenities for the sale, dispensing, supply, or consumption of liquor:

5 “ ‘Sale’ includes keeping for sale, exposing for sale, and offering for sale.”

(2) Section 3 of the Sale of Liquor Act 1962 is hereby amended by adding to subsection (2) the following paragraph:

10 “(f) Except as expressly provided in section 14A of the Government Railways Act 1949, to any person who supplies, keeps for sale, or sells any liquor in any part of a railcar or railway carriage in which the General Manager of Railways for the time being maintains liquor facilities pursuant to that section.”

15 (3) Section 3E of the Police Offences Act 1927 (as inserted by section 3 (1) of the Police Offences Amendment Act (No. 2) 1960) is hereby amended by inserting, after subsection (1), the following subsection:

20 “(1A) Nothing in subsection (1) of this section shall apply to any person in any part of a railcar or railway carriage in which the General Manager of Railways for the time being maintains liquor facilities pursuant to section 14A of the Government Railways Act 1949.”

3. Restaurant licences under the Sale of Liquor Act in
25 **respect of railway restaurants**—(1) The principal Act is hereby further amended by inserting, after section 14A (as inserted by section 3 of this Act), the following section:

30 “14B. (1) The General Manager, or any restaurant manager nominated by him, may from time to time apply under section 107 of the Sale of Liquor Act 1962 to the Licensing Control Commission for a restaurant licence in respect of any railway station restaurant. In making any such application it shall not be necessary to comply with the requirements of subsection (2) of the said section 107, but all the other provisions relating to the application for, and the granting and
35 issuing of, a restaurant licence under the said Sale of Liquor Act shall apply so far as they are applicable.

40 “(2) If the Commission decides to grant the application, it may, notwithstanding the provisions of section 65 of the Sale of Liquor Act 1962,—

“(a) Authorise the General Manager, or the restaurant manager, as the case may be, to sell and serve table wine, beer, and stout in the restaurant to any person actually partaking of a meal therein, for consumption by that person as part of the meal on any day at any time between such hours, being not earlier than ten o’clock in the morning and not later than eleven o’clock at night, as the Commission may order: 5

“(b) Modify the requirements of the said section 65 relating to the minimum number of meal courses of which a person is to partake when consuming liquor in the restaurant. 10

“(3) The opening and closing times for the sale and service of liquor in the restaurant shall be specified in the licence. 15

“(4) The Commission may from time to time, on the application of the licensee, make an order varying, within the limits specified in paragraph (a) of subsection (2) of this section, the hours within which liquor may be sold and served under the licence; and the provisions of the licence shall be read subject to any such order. 20

“(5) Where any restaurant licence is issued in respect of a railway station restaurant, the provisions of paragraph (c) of subsection (2) of section 65 of the Sale of Liquor Act 1962 shall not apply, but it shall be a condition of the licence that every bottle or other container in which liquor is supplied in the restaurant, and every vessel used for the consumption of liquor, shall be removed not later than the expiration of half an hour after the closing time or times specified in the licence. 25

“(6) No more than five restaurant licences may be in force in respect of railway station restaurants at any one time. 30

“(7) Subject to the provisions of this section and of any order made by the Commission under this section, while a restaurant licence continues in force in respect of any railway station restaurant, all the provisions of the Sale of Liquor Act 1962, so far as they are applicable to licensed restaurant premises, and with all necessary modifications, shall apply in respect of the restaurant.” 35

(2) Section 27 of the principal Act is hereby consequentially amended by inserting in paragraph (g), before the words “Gives or offers to give any intoxicating liquor”, the words “Except when acting in the course of his duties in connection with the purchase, sale, or disposal of intoxicating liquor pursuant to section 14A or section 14B of this Act”. 40

4. Payments in respect of the railways to be made out of the Works and Trading Account—(1) The principal Act is hereby further amended by repealing section 36 (as amended by section 19 of the Public Revenues Amendment Act 1963),

5 and substituting the following section:

“36.(1) After provision has been made from the net revenue as disclosed in the annual profit and loss account of the railways for—

“(a) Servicing any debt incurred in respect of the railways:

10 “(b) Adequate working capital and reserves for the purposes of the railways:

“(c) The capital investment requirements of the railways,—
the General Manager shall in each financial year declare a dividend in respect of the capital of the railways of such
15 amount as may be fixed in that behalf by the Minister of Finance. If the Minister of Finance considers that the financial position of the railways in any financial year does not warrant the declaration of a dividend, he may determine that no dividend shall be payable for that year.

20 “(2) The General Manager shall from time to time pay out of the Works and Trading Account into the Consolidated Revenue Account—

“(a) The amount of any dividend declared by him under subsection (1) of this section; and

25 “(b) Such amount as may be necessary to repay any loan advanced pursuant to section 35 of this Act from the Consolidated Revenue Account to the Works and Trading Account in respect of the railways, together with any interest that may be due in respect
30 of the loan.

“(3) In addition to payments made out of the Works and Trading Account as aforesaid, there shall be paid out of that account—

35 “(a) In accordance with the appropriation of Parliament, all money required for the purposes of the railway or of any other service lawfully undertaken by the Minister:

40 “(b) Into the Loans Redemption Account, such amount as may be necessary to meet from time to time as they fall due any amounts agreed to be paid to the International Bank for Reconstruction and Development under any loan agreement in respect of any loan raised from the bank for the purposes of the railways:

“(c) All money received by the Minister as agent for any person and payable to or by the authority of that person.

“(4) Except as provided in paragraph (a) of subsection (3) of this section, all payments to which this section relates may be made without further appropriation than this Act. 5

“(5) If, for the purposes of this Act, any question arises as to the total amount of capital money spent in respect of the railways and other services lawfully undertaken by the Minister, it shall be determined by the Governor-General by Order in Council. Any such Order in Council may from time to time be amended in like manner.” 10

(2) Section 19 of the Public Revenues Amendment Act 1963 is hereby consequentially amended by repealing paragraphs (f) to (k). 15

5. Dismissal of members and apprentices—(1) Section 90 of the principal Act (as amended by section 9 (6) of the Government Railways Amendment Act 1956 and by section 4 (2) of the Government Railways Amendment Act 1967) is hereby further amended by repealing the proviso to subsection (2). 20

(2) The Government Railways Amendment Act 1956 is hereby consequentially amended by repealing so much of the Second Schedule as relates to section 90 of the principal Act.

(3) Section 4 of the Government Railways Amendment Act 1967 is hereby consequentially amended by repealing subsection (2). 25