

Reprint
as at 31 August 2012

District Railways Purchasing Act
1885

Public Act 1885 No 52
Date of assent 22 September 1885

District Railways Purchasing Act 1885: repealed, on 31 August 2012, by section 3 of the Regulatory Reform (Repeals) Act 2012 (2012 No 71).

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Note

Changes authorised by section 17C of the Acts and Regulations Publication Act 1989 have been made in this eprint.

A general outline of these changes is set out in the notes at the end of this eprint, together with other explanatory material about this eprint.

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An Act to authorize Her Majesty to purchase certain railways within the Dominion constructed under the District Railways Acts and the Railways Construction and Land Acts.

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

Preamble

Whereas on 30 October 1884, the House of Representatives resolved, "That the Government be requested to come to the best arrangements they can with the district railway companies with a view to the acquisition of the lines by the colony; such arrangements to be subject to the ratification of Parliament."

And whereas the companies owners of the railways mentioned in the Schedule are desirous of selling their railways to the Government of New Zealand: And whereas it is expedient that the Governor should be empowered on behalf of Her Majesty to purchase the said railways in the manner provided by this Act, and on the terms contained in a certain provisional agreement and certain draft agreements setting forth the proposed conditions of sale and purchase, copies whereof have been presented to Parliament in its present session, and are included in a Parliamentary Paper lettered 1885, D No 5B.

1 Short Title

The Short Title of this Act is the District Railways Purchasing Act 1885.

2 Interpretation

In this Act, if not inconsistent with the context,—

the District Railways Acts means the District Railways Act 1877, together with all Acts passed in amendment thereof

the Railways Construction and Land Acts means the Railways Construction and Land Act 1881, together with all Acts passed in amendment thereof

the said Acts means the District Railways Acts and the Railways Construction and Land Acts as herein defined

Railway means a railway constructed under any of the said Acts, and includes the land upon which the railway is constructed, and any land or interest therein taken, purchased, agreed to be purchased, or acquired and used for the purposes of the railway, and all buildings and erections of every kind thereon, or used therewith, and all permanent works and buildings, rolling-stock, machinery, and plant of every kind used for the purposes of or in connection with such railway

railway district means a railway district declared to be such under any of the said Acts

Company means a company as defined by the District Railways Act 1877, being the owner of any railway mentioned in the Schedule hereto, and includes the Official Liquidator of any such company.

3 Governor may purchase district railways in terms of provisional agreements

The Governor, in the name, and on behalf of Her Majesty the Queen, may enter into a contract with any company to purchase the railway of any such company, such railway being named in the Schedule , upon the terms and conditions of the provisional agreement or draft agreements above mentioned.

4 And may issue debenture bonds for amount of purchase money

The Governor in Council may authorize the Minister of Finance from time to time to issue to the company, or the holders of the bonds of the company, debenture bonds for any sum not exceeding the total sum agreed to be paid, in terms of any contract entered into under the authority of the last-preceding section; or may authorize any 1 or more persons, either within or beyond the dominion, to be agents for the issue of such debenture bonds.

The reference to “Minister of Finance” was substituted, as from 19 November 1907, for a reference to “Colonial Treasurer” by section 2 Parliamentary and Executive titles Act 1907 (1907 No 50).

The reference to “dominion” was substituted, as from 26 September 1907, for a reference to “colony” by proclamation. *See Gazette 1907, p 2837.*

5 Form of bonds, &c

Every such debenture bond—

- (1) Shall be for a sum of not less than \$200, and shall bear interest at a rate not exceeding \$8 per centum per annum;
- (2) Shall be payable at a date of not more than 20 years from the date of the issue thereof;
- (3) Shall be numbered consecutively, so that no 2 bonds shall at any time bear the same number;
- (4) Shall be payable, both as to principal and interest, at a place, within or without the dominion, named in the bond;
- (5) Subject to the foregoing provisions, shall be in such form and shall contain such other provisions as the Governor in Council or the agents aforesaid may from time to time approve.

The references to “two hundred dollars”, and “eight dollars” were substituted, as from 10 July 1967, for references to “one hundred pounds” and “four

pounds” respectively, pursuant to section 7(1) and (2) Decimal Currency Act 1964 (1964 No 27).

The reference to “dominion” was substituted, as from 26 September 1907, for a reference to “colony” by proclamation. *See* Gazette 1907, p 2837.

6 Bonds a charge on Crown Bank Account

All such debenture bonds and the interest thereon shall be a charge upon and shall be paid out of the Crown Bank Account.

The words “Consolidated Revenue Account” were substituted for the words “Consolidated Fund”, as from 1 April 1964, pursuant to section 4(4) Public Revenues Amendment Act 1963 (1963 No 46). Those words were in turn substituted, as from 1 April 1978, by the words “Consolidated Account” pursuant to section 114(6) Public Finance Act 1977 (1977 No 65). Those words were in turn substituted, as from 1 July 1989, by the words “Crown Bank Account” pursuant to section 83(7) Public Finance Act 1989 (1989 No 44).

7 Treasurer may make certain payments in cash

The Minister of Finance may, without further appropriation, pay out of the Crown Bank Account all such moneys as may, under any such contract, become payable in cash; and may issue debenture-bonds under the provisions of the foregoing sections to an amount sufficient to provide for such payments.

The reference to “Minister of Finance” was substituted, as from 19 November 1907, for a reference to “Colonial Treasurer” by section 2 Parliamentary and Executive titles Act 1907 (1907 No 50).

The reference to “Crown Bank Account” was substituted, as from 1 July 1989, by section 83(7) Public Finance Act 1989 (1989 No 40).

8 Minister of Finance to prepare annual account of receipts and payments on account of each railway

Within 6 months after 31 March in the year 1886, and within the same period in each succeeding year for 19 years thereafter, the Minister of Finance shall cause an account to be prepared in respect of each railway constructed under the District Railways Acts and purchased under this Act, so far as the same is from time to time open for traffic, setting forth the total receipts and expenditure from and on account of the same during such year, including in such expenditure the cost of working and maintaining the railway and the annual interest payable, on the debenture bonds issued for the purchase of the same, and showing the deficiency, if any, of the receipts to meet

such expenditure; and in case any such deficiency shall appear therein, the Minister of Finance shall send such account, when certified by the Controller and Auditor-General, to the Property-Tax Commissioner.

Section 8 was amended, as from 22 September 1885, by section 12 District Railways Purchasing Act 1885 Extension and Amendment Act 1886 (1886 No 32), by substituting the words “within six months after the thirty-first day of March in the year one thousand eight hundred and eighty-six, and within the same period in each succeeding year” for the words “within forty days after the thirty-first day of March in the year one thousand eight hundred and eighty-six, and on the same day in each succeeding year”.

The reference to “Minister of Finance” was substituted, as from 19 November 1907, for a reference to “Colonial Treasurer” by section 2 Parliamentary and Executive titles Act 1907 (1907 No 50).

9 Property-Tax Commissioner to raise rate on railway district

It shall be the duty of the Property-Tax Commissioner forthwith, upon the receipt of such account, to raise, by means of rates upon all rateable property within the railway district within which such railway lies, a sum equal to one-half of the amount of such deficiency, together with the amount of the estimated cost of making and collecting such rate: Provided that the amount so to be raised shall not in any case exceed 2 per centum on the amount of the debenture bonds issued for the purchase of such railway: And provided, further, that it shall not be incumbent on the Property-Tax Commissioner to collect rates of less than \$20 in amount.

The expression “twenty cents” was substituted, as from 10 July 1967, for the expression “two shillings” pursuant to section 7(1) Decimal Currency Act 1964 (1964 No 27).

10 Rates to form part of Crown Bank Account

All rates so raised shall be paid into and shall form part of the Crown Bank Account, and all expenses connected with the making and collecting the same shall, without further appropriation, be paid out of the Crown Bank Account.

The words “Consolidated Revenue Account” were substituted for the words “Consolidated Fund”, as from 1 April 1964, pursuant to section 4(4) Public Revenues Amendment Act 1963 (1963 No 46). Those words were in turn substituted, as from 1 April 1978, by the words “Consolidated Account” pursuant to section 114(6) Public Finance Act 1977 (1977 No 65). Those words

were in turn substituted, as from 1 July 1989, by the words “Crown Bank Account” pursuant to section 83(7) Public Finance Act 1989 (1989 No 44).

11 Property-Tax Commissioner to be a local body

For the purpose of making and collecting any such rate, the Property-Tax Commissioner shall be deemed to be a local body within the meaning of the Rating Act 1882 and any Act amending the same or passed in substitution thereof, and the provisions of the Rating Act 1882 and of every other such Act shall apply to the making and collecting any such rate.

12 To prepare valuation-rolls and rate-books

The Property-Tax Commissioner shall prepare a valuation-roll and rate-book for each railway district in which rates may be levied under this Act, and for such purpose may adopt the valuations in the valuation-rolls of the local bodies for the time being in force in such district; and in railway districts where a classification of lands has been made under the said Acts, he shall prepare a separate rate-book in respect of each of such classes of land.

13 Rates payable in two instalments

Each rate may be made payable in two equal instalments, at such dates respectively, in the year in which it shall be made, as the Governor may from time to time appoint.

14 Of properties lying in 2 districts

In any case in which a property lies partly within and partly without a railway district, the Property-Tax Commissioner shall determine the proportionate value of the part lying within such district and shall enter the same in the valuation-roll and rate-book, and shall collect the rate accordingly.

15 Where only portion of railway completed

Where a portion only of a railway is completed and open for traffic, the rates leviable under this Act may be made and collected upon a part only of the railway district; and the part of the railway district so rateable shall, if not already determined, be determined as provided by the second section of the District

Railways Acts Amendment Act 1883; and such part shall, for the time being and until such railway is extended or completed, be deemed to be a railway district for the purposes of this Act.

16 Property-Tax Commissioner may delegate powers

All acts and things necessary to be done by the Property-Tax-Commissioner for the purpose of giving effect to the provisions of this Act, for making, or collecting a rate, may be done in his name by such person or persons as he may from time to time appoint; and no person shall be entitled to dispute or refuse payment of any such rate on the ground of any informality in the mode of making or collecting the same.

17 Classification of land

The lands comprised in any railway district shall, unless reclassified as hereinafter provided, be deemed to be classified for the purposes of this Act according to the gazetted notice of the classification thereof, under section 9 of the District Railways Act 1877, or under the fourth subsection of the second section of the District Railways Acts Amendment Act 1883, or under the seventy-seventh section of the Railways Construction and Land Act 1881, as the case may be.

If a numerical majority of the ratepayers in the railway district apply to the Property-Tax Commissioner complaining that their land is not fairly classified the Governor may appoint an assessor or assessors to hear and determine upon the merits of such complaint, and to recommend such revision of the classification of the lands in the railway district as shall seem just. Upon the report of such assessor or assessors, the Governor may, by notice in the *Gazette*, reclassify any of such land or any part thereof, and may remove the same or any part thereof out of either of the classes in which the same is then classified, and place it in any other of such classes, or in any new class, or altogether omit it from any of the classes. But no such reclassification shall be made at intervals of less than 5 years. Every such reclassification of land shall, except as above provided, be final, and shall supersede any previous classification of the same. The separate rate-books in respect of the original classification of lands in the district shall be amended in ac-

cordance with such reclassification, and every ratepayer shall be liable in respect of any rate levied upon his land under such reclassification in the same way as he would have been liable for a rate levied upon such land under the previous classification.

18 Amount in dollar of rate to vary according to original amounts fixed for rate

When the lands in a railway district have been classified under the said Acts or under this Act, the amounts in the dollar of the rates on the lands in the several classes shall be in the same proportion as the rates proposed in the original specification provided for in the fifth subsection of the eleventh section of the District Railways Act 1877.

19 After purchase of railway, half rates remitted

On completion of the contract for the purchase of any railway under this Act, one-half of all rates payable for the period prior to 31 March 1885, under any authority given by the Minister for Public Works for the levying of such rates, shall be remitted.

If any ratepayer has paid more than such one-half the company shall repay such excess to the ratepayer.

If any ratepayer has paid less than such half, he shall become and is hereby declared to be absolutely liable for such deficiency, and the company may recover the same in a summary way.

Upon the payment by any ratepayer of the half rates for which he is hereby made liable, any proceedings against him for the recovery of rates pending at the passing of this Act shall cease, and each of the parties to such proceedings shall pay their own costs.

After the completion of any such contract for the purchase of a railway, no rates in respect thereof shall be levied except as provided by this Act.

20 Railway to be subject to Public Works Acts

Every railway purchased by the Governor under this Act shall be deemed to be a railway within the meaning of the Public Works Act 1882, and its amendments, and of any Act for the time being affecting any railway the property of Her Majesty the Queen, and all the provisions of such Acts, and all by-laws and regulations from time to time in force thereunder, shall apply to railways purchased under this Act; and this Act shall be deemed to be a Special Act within the meaning of the Public Works Act 1882.

21 Powers, &c, of company to vest in Governor

All powers and authorities conferred by the said Acts upon any company mentioned in the Schedule, in respect of the construction, maintenance, and working of such railway, and otherwise in connection therewith, shall, upon the purchase of such railway under this Act or otherwise, cease to be exercisable by such company, and shall vest in, and be exercisable by, the Governor.

22 On purchase of property railways to vest in the Queen

Upon the purchase of any railway under this Act, all the estate, property, and interest of the company in the said railway, and everything appurtenant thereto, shall absolutely cease, and shall become and is hereby declared to be vested in Her Majesty.

Outstanding mortgages—

If the railway and property of the company is subject to any mortgage such mortgage shall, upon the mortgagee being paid his principal and interest, be deemed to be and is hereby declared to be absolutely discharged. But in the event of the mortgagee refusing to accept the principal moneys until maturity, then the company shall, on the completion of such contract, deposit with the Governor sufficient securities to provide for the payment of such principal moneys when due.

Outstanding purchase-money of lands, etc—

If upon the completion of the contract for the purchase of any railway any moneys are still unpaid by the company on

account of the purchase of any land hereby vested in Her Majesty, or on account of any contract made or to be made by the company, or on any other account, the Governor may retain so much of the debenture-bonds payable to the company as may be sufficient for the payment of any such moneys, and may sell or otherwise dispose of the debenture-bonds so retained for the purpose of such payment; but such debenture-bonds shall be deemed to have been delivered to the company for the purpose of this section.

23 Debenture-bonds may be redeemed

The Governor may, if he thinks fit, agree with any company to redeem the debenture-bonds issued to it under this Act, by payment in cash, at a price not exceeding \$195 for each \$200, within 2 months after 31 March, in the year 1887.

This section shall not apply to debentures issued under the twenty-fourth section of this Act.

The references to “one hundred and ninety-five dollars”, and “two hundred dollars” were substituted, as from 10 July 1967, for references to “ninety-seven pounds ten shillings”, and “hundred pounds” pursuant to section 7(1) Decimal Currency Act 1964 (1964 No 27).

24 Sections 75 to 85 of District Railways Act 1877, inoperative

After the passing of this Act sections 75 to 85 of the District Railways Act 1877, shall not apply to any railway authorized to be constructed under the District Railways Acts, or any of them, or under the Railways Construction and Land Acts, or any of them.

Kaihu Valley Railway

25 Guarantee for \$100,000 of debentures for Kaihu Railway

On receiving from the company owner of the Kaihu Valley Railway such security as he shall think sufficient to insure repayment, the Governor by Order in Council may authorize the said company to issue debentures for any amount not exceeding \$100,000, to be applied towards the continuation and completion of the said railway.

The said debentures shall be secured by first mortgage on the railway and other works to cost between \$170,000 and

\$180,000, with such other security, if any, as the Governor in Council may consider necessary.

All such debentures shall be issued in such form, and be subject to such conditions and other provisions as the Governor in Council shall prescribe, but the currency of the debentures shall not exceed 15 years, and shall, to any amount not exceeding the aforesaid sum of \$100,000, be deemed to be guaranteed under this Act, together with interest thereon, until paid, at any rate not exceeding \$10 per centum per annum.

All such debentures shall, both as to principal and interest, be made payable in New Zealand.

The references to “100,000”, “one hundred thousand”, “one hundred and seventy and one hundred and eighty thousand dollars”, and “ten dollars” were substituted, as from 10 July 1967, for references to “50,000”, “fifty thousand pounds”, “eighty-five and ninety thousand pounds”, and “five pounds” pursuant to section 7(1) and (2) Decimal Currency Act 1964 (1964 No 27).

Schedule

Railways constructed under the District Railways Acts

The Rakaia and Ashburton Forks Railway.

The Waimate Railway.

The Duntroon and Hakateramea Railway (Official Liquidator of).

The Thames Valley and Rotorua Railway, from Morrinsville to Lichfield.

Railways constructed under the Railways Construction and Land Acts

The Thames Valley and Rotorua Railway, from Lichfield to Rotorua.

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Notes

1 *General*

This is an eprint of the District Railways Purchasing Act 1885. The eprint incorporates all the amendments to the Act as at 31 August 2012. The list of amendments at the end of these notes specifies all the amendments incorporated into this eprint since 3 September 2007.

Relevant provisions of any amending enactments that contain transitional, savings, or application provisions that cannot be compiled in the eprint are also included, after the principal enactment, in chronological order.

2 *About this eprint*

This eprint has not been officialised. For more information about eprints and officialisation, please *see* <http://www.pco.parliament.govt.nz/eprints/>.

3 *List of amendments incorporated in this eprint (most recent first)*

Regulatory Reform (Repeals) Act 2012 (2012 No 71): section 3
