

**GOVERNMENT RAILWAYS AND TRANSPORT
(AMENDMENT) ACT.**

Act No. 60, 1957.

An Act to make further provisions in respect of promotions of, and appeals by, officers of the Departments of Railways, Government Transport and Motor Transport; for this and other purposes to amend the Government Railways Act, 1912, the Transport Act, 1930, and certain other Acts; to validate certain matters; and for purposes connected therewith. [Assented to, 9th December, 1957.]

Elizabeth II,
No. 60, 1957.

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

1. (1) This Act may be cited as the "Government Railways and Transport (Amendment) Act, 1957".

Short title
and
citation.

(2) The Government Railways Act, 1912, as amended by subsequent Acts and by this Act, may be cited as the Government Railways Act, 1912-1957.

(3) The Transport Act, 1930, as amended by subsequent Acts and by this Act, may be cited as the Transport Act, 1930-1957.

(4) The Attachment of Wages Limitation Act, 1957, is amended—

Amendment
of Act No.
23, 1957.

(a) by omitting subsection two of section six;

Sec. 6.
(Consequen-
tial.)

(b) by omitting subsection two of section seven.

Sec. 7.
(Consequen-
tial.)

2.

Government Railways and Transport (Amendment) Act.

No. 60, 1957. 2. The Government Railways Act, 1912, as amended by subsequent Acts, is amended—

Amendment
of Act No.
30, 1912.

Sec. 76.
(Promo-
tions.)

(a) by inserting at the end of section seventy-six the following new subsection:—

(4) This section shall not apply to promotions to vacant offices to which section 76B of this Act applies.

New sec.
76B.

(b) by inserting next after section 76A the following new section:—

Promotions
to positions
with salaries
in excess
of that of
special
class clerk.

76B. (1) This section shall apply only where any vacancy occurs in any branch of the railway service not open for competitive examination as hereinafter provided and the maximum salary for the vacant office at the date of the filling of such vacancy exceeds the maximum salary then applicable to a special class clerk.

(2) Where any vacancy to which this section applies occurs in any branch of the railway service it shall be filled by the appointment to the vacant office of an officer in the branch in which the vacancy occurs, regard being had to the comparative fitness and rank, position or grade of the officers in such branch; and no officer next in rank, position or grade shall be passed over unless the head of his branch, in writing, so advises the Commissioner.

In all cases rank, position or grade shall be subordinated to considerations of special fitness.

“Fitness” in this section means aptitude, qualifications and ability for the discharge of the duties of the office to be filled.

(3) Where a decision has been made by the Commissioner to promote an officer to fill any vacancy in any branch of the railway service and such officer is not the officer next in rank, position or grade, notice in writing of such decision shall be given, as soon as practicable after such decision is made, to any officer who is to be passed over. Such decision shall not be carried

carried into effect until the expiration of the time for lodging an appeal to the Appeals Board constituted under this Act and if an appeal is lodged within such time the decision shall not be carried into effect until the appeal is heard and determined by the Appeals Board. No. 60, 1957.

- (c) by inserting at the end of section eighty-six the following proviso:— Sec. 86.
(Appeals concerning promotions.)
- Provided that no appeal shall lie from any such decision where the salary attached to the office to be filled exceeds two thousand five hundred pounds per annum.

3. The Transport Act, 1930, as amended by subsequent Acts, is amended— Amendment of Act No. 18, 1930.

- (a) by omitting section one hundred and three and by inserting in lieu thereof the following section:— Subst. sec. 103.

103. The Commissioner for Government Transport and the Commissioner for Motor Transport may, in respect of the service administered by him— Examinations, etc.

- (a) determine conditions and examinations for admission to the service and for promotion to higher grades;
- (b) appoint competent persons to deal with the selection of suitable candidates for such admission or to be examiners for the conduct of examinations for admission to and promotion in the service.
- (b) (i) by omitting from subsection one of section one hundred and four the words “as provided for in the regulations”; Sec. 104.
(Promotions.)
- (ii) by inserting at the end of the same section the following new subsection:—
- (5) This section shall not apply to promotions to vacant offices to which section 104c of this Act applies.

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No. 60, 1957.

New sec.
104C.Promotion
to positions
with salaries
in excess of
that of
special grade
clerk.

(c) by inserting next after section 104B the following new section:—

104c. (1) This section shall apply only where any vacancy occurs in any branch of the service of the Commissioner for Government Transport or the Commissioner for Motor Transport not open for competitive examination and the maximum salary for the vacant office at the date of the filling of such vacancy exceeds the maximum salary then applicable to a special grade clerk.

(2) Where any vacancy to which this section applies occurs in any branch of the service of the Commissioner for Government Transport or the Commissioner for Motor Transport it shall be filled by the appointment to the vacant office—

- (a) where the appointment is to be made from officers in such branch, of an officer of such branch; or
- (b) where applications are invited from officers in all branches, of one of such officers,

regard being had in either of such cases to the comparative fitness and rank, position or grade of the officers in such branch or branches, as the case may require; and no officer next in rank, position or grade shall be passed over unless the head of the Staff Branch of the Department of Government Transport or Department of Motor Transport, as the case may require, in writing, so advises the Commissioner for Government Transport or the Commissioner for Motor Transport, as the case may require.

In all cases rank, position or grade shall be subordinated to considerations of special fitness.

“Fitness” in this section means aptitude, qualifications and ability for the discharge of the duties of the office to be filled.

(3)

(3) Where a decision has been made by the Commissioner for Government Transport or the Commissioner for Motor Transport to promote an officer to fill any vacancy in any branch of the service administered by him and such officer is not the officer next in rank, position or grade, notice in writing of such decision shall be given, as soon as practicable after such decision is made, to any officer who is to be passed over. Such decision shall not be carried into effect until the expiration of the time for lodging an appeal to the Appeal Board constituted under this Act and if an appeal is lodged within such time the decision shall not be carried into effect until the appeal is heard and determined by the Appeal Board. No. 60, 1957.

(d) by inserting at the end of section one hundred and thirteen the following proviso:— Sec. 113.
(Appeals concerning promotions.)
Provided that no appeal shall lie from any such decision where the salary attached to the office to be filled exceeds two thousand five hundred pounds per annum.

4. (1) (a) In subsection two of this section "Principal Act" means the Government Railways Act, 1912, as amended from time to time by subsequent Acts before the commencement of this Act. Validation of promotions.

(b) In subsection three of this section "Principal Act" means the Transport Act, 1930, as amended from time to time by subsequent Acts before the commencement of this Act.

(2) Any action taken by the Commissioner for Railways since the first day of January, one thousand nine hundred and forty-six, to promote or purporting to promote officers of the Department of Railways in rank, position, grade or pay pursuant to invalid provisions of any award made or purporting to have been made under or by virtue of any Act of the Parliament of the Commonwealth is hereby validated, and such invalid provisions

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No. 60, 1957. provisions in so far as they relate to promotion and the right of appeal to the Appeals Board as constituted from time to time under section eighty-seven of the Principal Act shall be deemed as from the said first day of January, one thousand nine hundred and forty-six, until the date of commencement of this Act:—

- (a) to have been enacted in the Principal Act, and
- (b) to have prevailed over the provisions of sections seventy-six and eighty-six of the Principal Act, to the extent of any inconsistency therewith.

(3) Any action taken since the first day of January, one thousand nine hundred and forty-six, by—

- (a) the Commissioner for Road Transport and Tramways to promote or purporting to promote officers of the Department of Road Transport and Tramways;
- (b) the Commissioner for Government Tram and Omnibus Services to promote or purporting to promote officers of the Department of Government Tram and Omnibus Services;
- (c) the Superintendent of Motor Transport or the Commissioner for Motor Transport to promote or purporting to promote officers of the Department of Motor Transport;
- (d) the Director of Transport and Highways or the Minister administering the Transport (Division of Functions) Further Amendment Act, 1952, to promote or purporting to promote officers of the Department of Transport and Highways; or
- (e) the Commissioner for Government Transport to promote or purporting to promote officers of the Department of Government Transport,

in rank, position, grade or pay pursuant to invalid provisions of any award made or purporting to have been made under or by virtue of any Act of the Parliament
of

of the Commonwealth is hereby validated, and such ^{No. 60, 1957.} invalid provisions in so far as they relate to promotion and the right of appeal to the Appeal Board as constituted from time to time under section one hundred and fourteen of the Principal Act shall be deemed as from the said first day of January, one thousand nine hundred and forty-six, until the date of commencement of this Act:—

- (i) to have been enacted in the Principal Act; and
 - (ii) to have prevailed over the provisions of sections one hundred and four and one hundred and thirteen of the Principal Act, to the extent of any inconsistency therewith.
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