

20 GEO. V. No. 20, 1929. *Railways Acts Amendment Act.*

RAILWAYS.

Railways Acts Amendment Act of 1929 20 *Geo. V. No. 20*
Railway Superannuation Investigation Board Act
of 1929 20 *Geo. V. No. 5*

An Act to Amend "The Railways Acts, 1914 to 1926," in certain particulars.

20 GEO. V.
 No. 20.
 THE
 RAILWAYS
 ACTS
 AMENDMENT
 ACT OF 1929.

[ASSENTED TO 17TH DECEMBER, 1929.]

BE it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Assembly of Queensland in Parliament assembled, and by the authority of the same, as follows:—

1. This Act may be cited as "*The Railways Acts Amendment Act of 1929*," and shall be read as one with *"*The Railways Acts, 1914 to 1926*," herein referred to as the Principal Act. Short title and construction.

The Principal Act and this Act may collectively be cited as "*The Railways Acts, 1914 to 1929*."

Amendments of the Principal Act.

2. The following proviso is added to subsection two of section eight of the Principal Act, as follows:— Amendment of s. 8.

"Provided, however, and notwithstanding any provisions in this Act to the contrary contained, it shall be lawful for the Commissioner with the approval of the Governor in Council to lease any land vested in the Commissioner, for a term of years exceeding five years."

3. Section seventeen of the Principal Act is amended by omitting from subsection four thereof all words from and including "Any employee" to and including "shall be final." Amendment of s. 17.

4. Section nineteen of the Principal Act is repealed. Amendment of s. 19.

5. Subsection three of section twenty of the Principal Act is repealed. Amendment of s. 20.

6. Section twenty-one of the Principal Act is repealed and a new section twenty-one is inserted in lieu thereof, as follows:— Amendment of s. 21.

"[21.] When any vacancy occurs in any branch of the service not open for competitive examination,

* 5 Geo. V. No. 24 and 6 Geo. V. No. 28, *supra*, page 7215; 14 Geo. V. No. 15 and 17 Geo. V. No. 13, *supra*, pages 10825 and 11697.

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it shall be filled by the appointment of the employee who in the opinion of the Commissioner is most suitable for the position :

Provided that any such vacancy shall be duly advertised as prescribed :

Provided also that in determining the claims of employees who are applicants for any vacancy, regard shall be given by the Commissioner, in the first place, to relative suitability, and in the event of an equality of suitability of two or more applicants, then to the relative seniority of the employees, for appointment to the vacancy :

Provided further that the Commissioner shall have regard to the recommendation (if any) submitted to him by heads of branches, whether in the Southern, Central, or Northern Divisions, before determining the final appointment for an applicant to the vacancy concerned.

Notwithstanding anything contained in any other Act or law or process of law to the contrary, no appeal from a decision of the Commissioner under the provisions of this section shall lie or be permitted to lie to the Board of Trade and Arbitration constituted under **“The Industrial Arbitration Acts, 1916 to 1926”* (or to any Court or Board or tribunal which may hereafter be substituted therefor) or to any other Court or tribunal whatsoever, and no writ of prohibition or *mandamus* or *certiorari* shall lie in respect thereof.”

Amendment of s. 22. 7. In subsection two of section twenty-two of the Principal Act the words “or the Deputy Commissioner concerned” are repealed.

Amendment of s. 22A. 8. In subsection one of section 22A of the Principal Act, after the words “absent from work” the following words are inserted, namely:—“and moreover such employee shall not be permitted to resume work without the authority of the Commissioner.”

Amendment of s. 30. 9. Section thirty of the Principal Act is amended as follows:—

Subsection 5. (a) Subsection five is repealed and a new subsection five is inserted in lieu thereof:—

“(5.) Appeals in the Southern Division may be heard in Brisbane or elsewhere within the said Division as decided by the Commissioner ; appeals in the Northern

* 7 Geo. V. No. 16 and amending Acts, *supra*, page 7538, and sessional volumes.

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and Central Divisions may be heard at Townsville and Rockhampton or elsewhere within the said Divisions respectively, as decided by the Commissioner."

(b) Subsection six of the said section is amended Subsection 6. by repealing all words from and including "or in the case of" to and including "is published."

After the words "appealed against" the comma (,) is deleted and a full stop (.) is inserted in lieu thereof.

(c) Subsections 9A, 9B, and 9C of the said section Subsections 9A, 9B, 9C. are repealed.

(d) In subsection ten of the said section, all words Subsection 10. from and including "and also shall" to and including "such appeal" are repealed.

(e) In subsection 11B of the said section, the words Subsection 11B. "Board shall have power to grant" are repealed and the words "Board shall grant" are inserted in lieu thereof.

In the said subsection 11B, after the words "any reasonable expenses" the words "not exceeding ten pounds" are inserted; also, the proviso to the said subsection is repealed.

Such expenses so granted by the Board to the Commissioner shall be deemed to be a debt due to the Commissioner, and may be recovered in the Magistrates Court constituted under **The Magistrates Courts Act of 1921.*"

(f) After subsection 11B of the said section the Subsection 11c. following new subsection (11c) is inserted, namely:—

"(11c.) In any case where an appellant appeals to the Board, and the Board dismisses such appeal, such appellant shall not be entitled to be paid any salary or wages or other emoluments or to claim any expenses in Restriction of payment of salary or wages during appeal. respect of the time involved in respect of his attendance before the Board."

10. Section 32A of the Principal Act is amended as Amendment of s. 32A. follows:—

(a) In subsection one, the words "and to give any explanation in writing which he desires to furnish as to such charge" are repealed and the words "and to give a full written explanation as to such charge" are inserted in lieu thereof.

* 12 Geo. V. No. 22, *supra*, page 9713.

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(b) In subsection two of the said section, all words from and including "If upon such charge" to and including "accused is employed" are repealed and the following words are inserted in lieu thereof:—"The head of the branch shall make such investigation as may appear to him to be necessary in the circumstances, and shall convey his decision as early as possible to the accused.

The Commissioner or head of the branch may order an inquiry into a charge which has been made against an employee, in which case the inquiry shall be held by a Board of Inquiry consisting of one or more officers appointed by the Commissioner or the head of the branch (which officer, or in case more than one officer is appointed, one of such officers, shall be chairman) and a representative of the employees of the branch in which the accused is employed."

Amendment
of s. 32B.

11. In section 32B of the Principal Act, after the words "necessary in his absence" all words from and including "the Union concerned" to and including "the head of the branch concerned" are repealed; also the words "such member" occurring after the words "shall nominate" are repealed and the words "another member" are inserted in lieu thereof.

12. After section 32D of the Principal Act the following sections are inserted:—

Employees
to give
information.

"[32E.] It shall be the duty of every employee, whether such employee is a person accused, or not, when called upon so to do by the Commissioner or officer acting under his authority, to furnish full, true, and complete information to the best of his knowledge and belief, including the furnishing of written reports and statements if so required in respect of any matter or thing concerning any inquiry or investigation under this Act, or in respect of any matter or thing concerning the administration of the railways generally:

Provided that such information, reports, and statements given or made by such employee as aforesaid shall not be admissible in evidence in any proceeding against such employee, except a prosecution for perjury, or for giving or making false information, reports, or statements.

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Any omission, neglect, or failure on the part of any employee to comply with the provisions of this section shall render such employee liable to be charged with misconduct or neglect of duty under this Act, and such officer shall be dealt with accordingly.

[32F.] The Commissioner shall have power to appoint employees appertaining to the Railway refreshment-rooms, and such employees shall hold office only during the pleasure of the Commissioner. Moreover the provisions of this Act concerning any rights and privileges appertaining to employees of the Railway Department pursuant to this Act, including rights of appeal under this Act, shall not extend and apply to employees of the Railway refreshment-rooms.”

13. Subsection one of section thirty-six of the Principal Act is amended by inserting after the words “structures thereon” the words “and moreover may provide, construct, and maintain open level crossings (with or without cattle grids) along, over, and across any public reserve or road.”

14. The following new subsections are added to section fifty of the Principal Act, namely:—

“(4A.) In any case where—

- (a) Land is held by any person being a licensee or lessee of land held under any Act relating to Crown land; or
- (b) Land is held under any Act relating to Crown land of which an estate in fee-simple may be acquired by the occupier or other person immediately or at a future time;

and such land as aforesaid is taken by the Commissioner, the Commissioner shall deliver the duplicate original of the notice of resumption, with a plan of resumption survey by an authorised surveyor and descriptions of the resumed area and of the lands (if any) severed, to the Secretary of the Land Administration Board, who shall thereupon cause the land to be registered in the name of the Commissioner and issue the proper document of title in respect thereof.

(4B.) The provisions of the last preceding subsection shall, *mutatis mutandis*, be applied in respect of any lands held under any mining tenure pursuant to the Mining

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Acts and in which an estate in fee-simple has not been obtained, and to that intent for the purposes of this subsection the term "Under Secretary, Mines Department" shall be read and construed in and for the term "Secretary, Land Administration Board" accordingly."

Amendment
of s. 72.

15. Subsection five of section seventy-two of the Principal Act is amended by the deletion of the words "and at all times maintain" occurring after the words "shall make."

Amendment
of s. 101.

16. The following additional subsection is added to section one hundred and one of the Principal Act, namely:—

"(5.) Notwithstanding anything contained in this Act or any other Act or in any rule of law or process of law to the contrary, the liability of the Commissioner under any contract made in pursuance of this section shall apply and extend only to such portion of the transit as is upon the Queensland Railways, and not otherwise, and any limitation of the liability of the Commissioner under or pursuant to this Act with respect to the carriage of passengers or goods upon the Queensland Railways shall also apply and extend in respect of any contract made in pursuance of this section. Moreover in any such contract the Commissioner may by any exceptions or conditions therein further limit his liability to any extent and in any respect or manner whatever, and any contract heretofore made or hereafter to be made shall be read and construed accordingly."

17. The following new section is inserted after section one hundred and one of the Principal Act, as follows:—

Power of
Commis-
sioner to
contract for
accommoda-
tion.

"[101A.] The power of the Commissioner to make contracts shall also extend and apply to the making by the Commissioner of contracts with respect to the providing for accommodation of persons and for enabling persons to be provided with meals, to the intent that there may be issued to any person applying for the same any necessary coupons or requisitions or such other forms as may be prescribed whereby such coupon or requisition or form may entitle such person to accommodation and/or meals, as the case may be.

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Regulations may also be made, where necessary or expedient, to carry out the objects and purposes of this section."

18. In the proviso to section one hundred and two of the Principal Act, after the words "fifty pounds or upwards" the words "per annum" are inserted. Amendment
of s. 102.

The following provision is also added to the said section, namely :—

"Any leases made or purporting to be made pursuant to the provisions of this section and existing at the passing of **The Railways Acts Amendment Act of 1929*" are hereby validated and are approved, ratified, and confirmed for all purposes. Validation of
existing
leases.

19. Section one hundred and eight of the Principal Act is amended as follows :— Amendment
of s. 108.

(a) The paragraph beginning with the words "No reduction" to and including the words "deem necessary." shall form subsection three of the said section one hundred and eight.

(b) The following words are added after the words "deem necessary" at the end of this subsection three, as follows :— "and moreover the Commissioner may, if he thinks fit and proper, direct that such deductions shall extend and apply only to those persons who shall undertake to place with the Commissioner the transportation on the Queensland Railways of the whole of their goods requiring conveyance between any places where railway communication in the State exists; and moreover the Commissioner may, if he thinks it fit and proper, and with the approval of the Governor in Council, direct that, on commodities which are classified at any lower rate of classification than the highest rate of classification of freight charges as are prescribed in accordance with the by-laws in that behalf for the time being in force, such additional charges as he may deem necessary and advisable shall be imposed or levied over and above the freight charges as are so prescribed on such commodities as are consigned to and/or from persons or on behalf of such persons who do not place with the Commissioner the transportation on the Queensland railways of the whole of their goods requiring conveyance between any places where railway communication in the State exists."

* 20 Geo. V. No. 20 (this Act).

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The full stop (.) after "deem necessary" is repealed and a semicolon (;) is inserted in lieu thereof.

Amendment
of s. 117.

20. The third paragraph of section one hundred and seventeen of the Principal Act, namely, all words from and including "There shall be" to and including "branch lines" are repealed.

Relief in
respect of
amounts due
under
Railway
Guarantee
provisions.

21. Whereas pursuant to **"The Railways Guarantee Act of 1895"* (subsequently repealed by **"The Railways Act of 1906"* with certain savings) and **"The Railways Act of 1906"* (subsequently repealed by †*"The Railways Act of 1914"* with certain savings) and Part IV. of †*"The Railways Act of 1914,"* certain railways were constructed in Queensland on the principle of guarantee; that is to say, that if and as often as the earnings of a railway concerned in any year amounted to less than a sum equal to the cost of maintaining and working the railway during such year, together with interest upon the certified cost of construction thereof, that then in every such case the ratepayers of the railway district concerned should be liable to make good to the Commissioner the amount of such deficiency:

And whereas Part IV. of †*"The Railways Act of 1914"* was by virtue of section fourteen of †*"The Railways Act Amendment Act of 1915"* repealed with certain savings:

And whereas by virtue of section fourteen of such last-mentioned Act it was *inter alia* provided that (with exception in case of the North Coast Railway being constructed under §*"The North Coast Railway Act of 1910"*) all amounts due and payable to the Commissioner on the first day of July, one thousand nine hundred and twelve, in respect of any deficiency (as set forth in section eighty-one of †*"The Railways Act of 1914"*), and which were outstanding and in arrear at the passing of †*"The Railways Act Amendment Act of 1915"* should be collected and paid, and for that purpose the provisions of the said Part IV. should remain in force:

And whereas it was further provided that no amount which had become due and payable to the Commissioner

* See previous volumes.

† 5 Geo. V. No. 24, *supra*, page 7215.

‡ 6 Geo. V. No. 28, *supra*, page 7215.

§ 1 Geo. V. No. 12, *supra*, page 2928.

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since the first day of July, one thousand nine hundred and twelve, in respect of any deficiency and which was outstanding and in arrear at the passing of **"The Railways Act Amendment Act of 1915"* should be collected or hereafter chargeable :

And whereas there is appearing on the accounts of the Commissioner an amount of seven thousand five hundred and ten pounds (more or less) representing the amount due and payable on the first day of July, one thousand nine hundred and twelve, in respect of a deficiency as aforesaid and which was outstanding and in arrears at the passing of **"The Railways Act Amendment Act of 1915"* and is still, at the passing of this Act, outstanding and in arrears :

And whereas it is expedient that such amounts outstanding and in arrears shall be written off and forgiven so that no further liability to pay such amounts outstanding and in arrears shall remain :

It is hereby declared that from and after the passing of this Act the amount of seven thousand five hundred and ten pounds (more or less) representing the amounts due and payable on the first day of July, one thousand nine hundred and twelve, in respect of the deficiency as aforesaid, and which is outstanding and in arrears as set forth aforesaid, shall be written off and forgiven so that no further liability to pay such amounts outstanding and in arrears shall remain, and the provisions of this section shall apply accordingly to the Commissioner and to all persons concerned, and shall be obeyed.

Moreover no action, indictment, information, or other proceeding shall be commenced, presented, prosecuted, or maintained against the Government of Queensland or the Commissioner or a Local Authority or any other person for or in respect of the writing-off and the forgiving of such amounts outstanding and in arrears as aforesaid, or for or in respect of any claim for any refund by any person who may have paid any such rates pursuant to the Acts mentioned in the first paragraph of this section.

* 6 Geo. V. No. 28, *supra*, page 7215.