



ANNO DUODECIMO

GEORGII V REGIS.

A.D. 1921.

No. 1486.

An Act to amend the South Australian Railways Commissioners Acts, 1887 to 1918, and for other purposes.

[Assented to, December 7th, 1921.]

BE it Enacted by the Governor of the State of South Australia, with the advice and consent of the Parliament thereof, as follows :

PART I.

PART I.

PRELIMINARY.

1. (1) This Act may be cited alone as the "South Australian Railways Commissioners Act Further Amendment Act, 1921." Short titles.

(2) The South Australian Railways Commissioners Acts, 1887 to 1918, and this Act may be cited together as the "South Australian Railways Commissioners Acts, 1887 to 1921."

(3) The South Australian Railways Commissioners Act, 1887, is hereinafter referred to as "the principal Act," and the South Australian Railways Commissioners Act Amendment Act, 1894, as "the amending Act of 1894." No. 414 of 1887. No. 612 of 1894.

2. This Act is incorporated with the other Acts mentioned in section 1 of this Act, and those Acts and this Act shall be read as one Act. Incorporation with other Acts.

3. The provisions of Part II. of this Act shall come into operation on a date to be fixed by proclamation. Commencement of Part II. of this Act.

4. The Acts mentioned in the Schedule hereto are hereby repealed to the extent therein mentioned. Repeal of Acts.

5. The

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PART I.

Arrangement of Act.

5. The provisions of this Act are arranged in Parts as follows :—

PART I.—Preliminary.

PART II.—The South Australian Railways Commissioner.

PART III.—Miscellaneous Provisions.

PART II.

PART II.

THE SOUTH AUSTRALIAN RAILWAYS COMMISSIONER.

Interpretation.

6. In this Part of this Act “the present Commissioner” means the person holding the office of the South Australian Railways Commissioner at the commencement of this Part of this Act.

Two Commissioners instead of one.

7. (1) Upon the commencement of this Part of this Act there shall be two Commissioners, instead of one Commissioner as provided for by the amending Act of 1894, and such two Commissioners, in place of the said one Commissioner, shall be the body corporate incorporated by the amending Act of 1894, but without change of name or corporate entity.

(2) One of the said two Commissioners shall be a person appointed by the Governor to be Chief Commissioner. The other Commissioner shall be the present Commissioner.

(3) For the purpose of giving effect to the objects of this section—

Acts applying to Commissioner to apply to the two Commissioners.

I. Every provision of the principal Act and of this Act and of any other Act referring to the Commissioners incorporated by the principal Act or to any of such Commissioners, or to the Commissioner incorporated by the amending Act of 1894, shall apply to and in respect of the said two Commissioners, or to either of such Commissioners (as the case may require), in the same manner as if such last-mentioned Commissioners had been the Commissioners incorporated by the principal Act, or the Commissioner incorporated by the amending Act of 1894 (as the case may require);

Reference to Commissioner deemed to be reference to the two Commissioners.

II. Any reference in the principal Act or this Act or any other Act, or in any by-law, rule, or regulation made under the principal Act or any other Act, or in any bond, contract, agreement or other document, to the Commissioners incorporated by the principal Act or to any of such Commissioners, or to the Commissioner incorporated by the amending Act of 1894, shall be read as a reference to the said two Commissioners, or to either of such Commissioners (as the case may require).

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8. The following provisions shall apply with respect to the meetings of the said two Commissioners and the conduct of their business:—

Provisions with respect to meetings and conduct of business.

(1) A meeting of the Commissioners shall be held at least once in every month:

Meeting to be held once a month.

(2) The Chief Commissioner shall preside at all meetings of the Commissioners:

Chief Commissioner to preside at meetings.
414, 1887, s. 16.

(3) The Chief Commissioner alone or the two Commissioners together shall constitute a quorum. In the event of the Chief Commissioner being absent from his office on leave of absence, or absent from the Commonwealth, the present Commissioner alone shall constitute a quorum:

Conduct of business of Commissioners.
Cf. *ibid.*, s. 9.

If the Chief Commissioner differs from or disapproves of the decision of the present Commissioner with respect to any matter before the Commissioners for their decision and determination, such matter of difference or disapproval shall be determined according to the deliberate judgment of the Chief Commissioner, irrespective of the decision of the present Commissioner:

Decision of Chief Commissioner to prevail.
Cf. *ibid.*, s. 15.

In such case the Chief Commissioner shall enter or cause to be entered upon the minutes of the proceedings of the Commissioners his reasons at length for determining such matter in opposition to the decision of the present Commissioner, and shall forward to the Minister a copy of such minute, certified under his hand:

The present Commissioner may also enter upon such minutes his reasons for differing from the Chief Commissioner and in support of his own decision, and may forward to the Minister a copy of such minute, certified under his hand:

(4) The Commissioners shall keep minutes of all the proceedings of the Commissioners at meetings:

Minutes to be kept.
Cf. *ibid.*, s. 17.

(5) Section 62 of the principal Act shall be read and construed as if the word "one" were substituted for the word "two" in the twelfth line thereof:

Simple contract may be made by one Commissioner.

(6) The rights, powers, authorities, and functions of the Commissioner of Railways under the Railways Service Appeal Board Act, 1903, may be exercised by the two Commissioners together or by either of the Commissioners.

Functions of Commissioner under Act 829 of 1903 exercisable by one Commissioner.

9. No proceeding of the Commissioners shall be invalidated or illegal in consequence only of there being any vacancy in the number of Commissioners at the time of such proceeding.

Vacancy not to invalidate.
Ibid., s. 10.

10. The Chief Commissioner and the present Commissioner shall be paid such salaries as are fixed by the Governor from time to time

Salaries of Commissioners.

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time, and such salaries shall be paid to each of the said Commissioners out of moneys from time to time provided by Parliament for such purpose: Provided that neither the salary of the Chief Commissioner nor the salary of the present Commissioner shall be diminished during the term for which he is appointed.

Functions of Board of Advice suspended.

11. The functions of the Board of Advice provided for by the amending Act of 1894 are hereby suspended.

Upon present Commissioner ceasing to hold office, there to be one Commissioner.

12. (1) Upon the present Commissioner ceasing to hold office, whether by reason of the expiration of his term of office and his not being re-appointed or otherwise—

- (a) the foregoing provisions of this Part of this Act shall cease to be in force;
- (b) thenceforth there shall be one Commissioner instead of two Commissioners, as provided for by this Part of this Act, and such one Commissioner, in place of the said two Commissioners, shall be the body corporate incorporated by the amending Act of 1894, but without change of name or corporate entity; and
- (c) thenceforth all the provisions of the principal Act and of this Act and of any other Act shall be read and construed as if the foregoing provisions of this Part of this Act had not been passed.

Salary of Commissioner.
Cf. 612, 1894, s. 5.

(2) Such one Commissioner shall be paid such salary as is fixed by the Governor from time to time, and such salary shall be paid to the Commissioner out of moneys from time to time provided by Parliament for such purpose: Provided that the salary of a Commissioner shall not be diminished during the term for which he was appointed.

(3) The person holding the office of Chief Commissioner at the time the present Commissioner ceases to hold office shall be the first Commissioner for the purposes of this section, and his term of office shall date from the time he was appointed Chief Commissioner.

Past acts validated.
612, 1894, s. 7.

13. Nothing herein contained, or hereby implied, shall invalidate or, except so far as is necessary to give effect to this Act, affect anything lawfully done or suffered—

- (a) prior to the commencement of this Part of this Act, by the Commissioner incorporated by the amending Act of 1894; or
- (b) subsequent to such commencement, by the Commissioners incorporated by this Part of the Act.

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PART III.

PART III.

MISCELLANEOUS PROVISIONS.

14. The by-laws made by the Commissioner on the tenth day of June, one thousand nine hundred and twenty, and published in the *Government Gazette* on the twenty-fourth day of June, one thousand nine hundred and twenty, shall be and continue in full force and effect until altered or repealed by subsequent by-laws made by the Commissioner, and shall be deemed to be enacted by this Act, and the validity thereof shall not be questioned in any Court of law in any manner howsoever.

Validation of
existing by-laws.

15. (1) Any person, while upon any railway vehicle or railway premises or upon quitting any railway vehicle or railway premises, shall, upon request by any stationmaster, guard, conductor, ticket examiner, porter, or other railway official, give to the said stationmaster, guard, conductor, ticket examiner, porter, or other railway official, his full name and address.

Persons using
railway to give
name and address
on demand.

(2) If any such person, upon being requested as aforesaid—

- (a) refuses or fails to give his full name or address ; or
- (b) gives a false name or a false address,

he shall be liable to a penalty not exceeding Ten Pounds.

16. (1) No person shall—

- I. while travelling in any tramcar belonging to the Commissioner, or after having travelled in any such tramcar, avoid or attempt to avoid payment of his fare ; or
- II. having paid his fare for a certain distance, proceed in any such tramcar beyond such distance, and neglect to pay the additional fare for the additional distance, or attempt to avoid payment thereof ; or
- III. refuse or neglect, on arriving at the point to which he has paid his fare, to quit such tramcar ; or
- IV. deface any notice on any part of any such tramcar ; or
- V. obstruct any person employed on any such tramcar in the performance of his duty ; or
- VI. behave in a violent or offensive manner to the annoyance of others on any such tramcar ; or
- VII. refuse to leave the platform or steps of any such tramcar when required to do so by the conductor or driver ; or
- VIII. while travelling upon any such tramcar, or upon quitting any such tramcar, refuse or neglect, when thereunto requested by the conductor or driver, to give to the conductor or driver his full name or address, or shall give a false name or a false address.

Penalties for offences
relating to tramcar
fares.
Cf. 913, 1906, s. 95.

(2) Any

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(2) Any person who is guilty of any contravention of this section shall be liable to a penalty not exceeding Ten Pounds.

Facilitation of proof
of offences.

17. (1) The allegation in any information laid in relation to any alleged offence against the principal Act or any of the Acts incorporated therewith—

- (a) that any property, real or personal, specified in the information belonged to or was the property of the Commissioner ; or
- (b) that any person mentioned in such information was employed by or was in the service of the Commissioner, or was employed in the Railway Service of the State, or was employed by or was in the service of the Commissioner in a specified capacity, or was employed in the Railway Service of the State in a specified capacity,

shall be accepted by the Court as proof of the truth of such allegations unless the contrary is proved.

(2) In any proceedings for an offence against the principal Act or any of the Acts incorporated therewith, of which offence the absence of authority, consent, or licence from the Commissioner, or from the Secretary of the Commissioner, or from any other person on behalf of the Commissioner or the said Secretary, is a material element, any such authority, consent, or licence may be proved by the defendant, but need not be specified or negatived in the information for such offence ; but whether it is or is not specified or negatived in the information, no proof in relation to it shall be required on the part of the informant.

In the name and on behalf of His Majesty, I hereby assent to this Bill.

W. E. G. A. WEIGALL, Governor.

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THE SCHEDULE.

Short Title and Number of Act.	Extent of Repeal.	Section 4.
The South Australian Railways Commissioners Act Amendment Act, 1891 (No. 512 of 1891)	Section 4	
The South Australian Railways Commissioners Act Amendment Act, 1894 (No. 612 of 1894)	Section 5	