



ANNO QUARTO

EDWARDI VII REGIS.

A.D. 1904.

No. 865.

An Act to authorise the Government to Purchase certain Tramways and to provide for Working them by Electric Traction, and for other purposes.

[Assented to, November 24th, 1904.]

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

1. This Act may be cited as “The Tramways Electric Traction Act, 1904.” Short title.

2. The Adelaide and Suburban Tramways Electric Traction Act, 1901, is hereby repealed as from the first day of January, one thousand nine hundred and five, but the right of the Government or the Treasurer of the State in respect of the sum of Eight Thousand Pounds deposited with the Treasurer in pursuance of the thirty-fifth Joint Standing Rule and Order of the Parliament of South Australia shall not be prejudiced by this repeal. Repeal.

3. In the construction of this Act, so far as the context and subject-matter permit— Interpretation.

“Lessee” shall mean any lessee under this Act of any tramways or tramway:

“Government” shall include any Minister, corporation, officer, or other person for the time being authorised by the Governor to exercise the powers of the Government under this Act, or any of such powers:

The Tramways Electric Traction Act.—1904.

“Deposited plans” shall mean the plans of the tramways which were deposited in the office of the Surveyor-General, in Adelaide, on the sixteenth day of August, one thousand nine hundred and four, and marked “E. M. Smith”:

“Company” shall mean and include any company or person from whom the Government shall purchase or propose to purchase any tramway or undertaking under section 7.

“Cost of purchase” shall mean the price paid by the Government for any purchase under section 7, *plus* all costs, charges, and expenses of and incidental to such purchase:

“Tramways Trust” shall mean any Municipal Tramways Trust hereafter formed by the Corporation of the City of Adelaide in conjunction with the Municipal Corporations and District Councils within whose limits any tramways or any alterations or extensions thereof shall be laid or worked under this Act, or in conjunction with any of such Corporations or Councils:

“Tramway” shall include tramways and *vice versa*:

“Movable plant” shall mean horses, cars, and all things connected with the working of horse tramways except tramway lines, land, and buildings.

Incorporation.

4. The General Tramways Act, 1884, and the Acts mentioned in the First Schedule hereto shall, subject to the provisions hereof, be incorporated with this Act, and shall, so far as applicable, apply to the works and undertakings hereby authorised or that may be authorised or carried out pursuant to this Act.

Persons carrying out works to be deemed promoters.

5. Any person or persons who may pursuant to this Act be authorised to execute and carry on any works or undertakings, and every lessee and contractor under this Act, shall be deemed to be “the promoters” within the meaning of The General Tramways Act, 1884: Provided that section 54 of The General Tramways Act, 1884, shall not apply to them or to any corporation or company which shall through them become the lessee or contractor.

Arbitration Act to apply to arbitrations under this Act.

6. The Arbitration Act, 1891, shall, subject to this Act, apply to every arbitration, reference, and award under this Act, and this Act shall be deemed a submission within the meaning of the said Arbitration Act.

Government may purchase tramways.

7. (1) The Government may at any time, after one month's notice in writing to the company of its intention so to do, purchase the whole of the tramways and undertakings referred to in the Acts mentioned in the First Schedule hereto at a price to be determined, in default of agreement, as hereinafter mentioned: Provided that such notice be given within two years from the date when this Act shall come into force.

(2) The

The Tramways Electric Traction Act.—1904.

(2) The words "Special Act" in section 19 of The General Tramways Act, 1884, shall be construed to have meant the several Acts mentioned in the First Schedule hereto.

(3) Failing agreement in writing as to price within one month after the expiry of the said notice, one arbitrator shall be appointed by the Government and one by the company, and all matters relating to such purchase shall be submitted to the decision of such arbitrators; and such arbitrators shall state the value of the movable plant of such tramways and undertakings. Arbitrators.

(4) The parties to the arbitration, or either of them, may apply to the Supreme Court or a Judge thereof to settle the principle upon which the purchase-money is to be estimated, and may bring the matter before such Court or Judge by summons, petition, or special case, or otherwise, as the said Court or Judge may order, and the decision or direction of such Court or Judge upon the matter of the said principle shall be subject to the like appeal as any judgment or order of the said Court in its ordinary jurisdiction. Application to Court.

(5) The Government shall not carry out the purchase unless, within twelve months after such awards or any agreement in writing as to price entered into between the Government and the company, a tender shall have been accepted under section 10 hereof. In such case the power of the Government to purchase the tramway and undertaking may be exercised within two months after such tender has been accepted, and not otherwise. In case the Government do not make the said purchase within the said period of two months, the power of the Government to purchase the tramways, otherwise than by agreement with the companies, shall be and become exercisable at the expiry of every successive period of five years from the expiry of the said period of two months, subject to six calendar months' notice to the companies of the intention of the Government so to do.

(6) The Government shall pay all costs and charges of and incidental to the reference and award. Costs of award.

(7) If the Government shall give notice of their intention to complete the purchase, the Government may pay the purchase-money at any time within six months after such last-mentioned notice, and until the purchase shall be completed the company shall without interruption carry on their undertaking in the same manner as immediately prior to the giving of the notice mentioned in sub-section (1) hereof. Time for payment of purchase-money.

(8) The company shall, until such purchase be completed, maintain their undertaking in as good an order and condition as the same was in at the time of the said award. Company to maintain undertaking.

(9) Upon completion of any such purchase the Government shall, subject to this Act, have all the rights, powers, immunities, and privileges which the company had prior to such purchase being effected. Powers of company vested in Government

The Tramways Electric Traction Act.—1904.

Powers vested in
Government.

8. In addition to the powers mentioned in the last preceding section, the following powers are hereby vested in the Government in reference to all or any of the said tramways which shall be purchased by the Government:—

- i. To convert the system of horse traction into a system of electric traction, with or without overhead trolleys:
- ii. Until the whole of the lines of tramways shall be electrified, to use electric traction either alone or together with horse traction:
- iii. For the purposes of this Act, to form, lay down, make, construct, work, maintain, repair, and use the tramways described in the First Schedule hereto on the lines shown in the deposited plans, and such curves and turnouts as the Government may think expedient, with all proper rails, plates, links, sidings, junctions, stations, approaches, and conveniences connected therewith:
- iv. To construct, work, maintain, repair, equip, and use all works necessary for the construction, establishment, adaptation, and maintenance of such system of electric traction upon the tramways, and for all purposes incidental thereto or in connection therewith:
- v. To relinquish and remove any portions of the existing tram-lines:
- vi. With the consent of the road authorities to make deviations, modifications, and alterations in existing routes along which the tramlines now run when such deviations, modifications, and alterations shall be found necessary or expedient for the efficient running of the tramcars.

9. (1) The Government shall, upon such terms and conditions, subject to this Act, as it shall think fit, grant a lease of the tramways and undertakings acquired under this Act to the person who shall tender for the shortest term in consideration of such person agreeing to effect the conversion of the system of horse traction of the tramways and undertakings so acquired into a system of electric traction, and otherwise complying with the provisions of this Act, and may confer upon such person during such lease all or any of the powers vested in the Government by sub-section (9) of section 7 and by section 8 of this Act.

Tenders to be called
for electrifying
tramways.

(2) The Government shall forthwith call for tenders, upon such terms and conditions, subject to this Act, as it shall think fit, from persons desirous of obtaining a lease under this section.

Conditions of tender
and lease.

10. (1) Each tender shall state the number of years' lease of the tramways and undertakings required by the tenderer in consideration of effecting the conversion and constructing the works specified in the conditions of tender and in plans and specifications to be prepared by the Government.

(2) The

The Tramways Electric Traction Act.—1904.

(2) The tenderer shall purchase, at the same price as that paid by the Government, all the tramways and undertakings bought by the Government under section 7 of this Act.

(3) The tender and the specifications shall, so far as possible, be framed so as not to advantage any particular person, firm, or company.

(4) The work of conversion shall commence within six months from the date of acceptance of tender, and as regards the tramways mentioned in the Second Schedule shall be completed as to twenty miles of tramways within one year from such date, and as to the remaining portions of such last-mentioned tramways within two years from such date.

(5) As to the rest of the tramways acquired by the Government under this Act the lessee shall convert the same into a system of electric traction within twelve years from the passing of this Act, but so that not less than nine miles of tramway shall be so converted in every three years after the expiration of the time limited by sub-section 4 hereof until the whole of the tramlines mentioned in the First Schedule shall have been electrified.

(6) Until the whole of the tramways shall be electrified the lessee shall, as to those portions of the tramways which are agreed to be electrified, agree to work and shall work the same, or such portions thereof as shall not have been electrified, with the plant as taken over by the Government and purchased by him, with as little interruption and diminution of the then existing traffic as possible, until the process of conversion is complete.

(7) The lessee shall work the whole of the tramways comprised in his lease so that at least the same number of cars shall run thereon as are now run and as are specified in the time-tables published on the first day of August, one thousand nine hundred and four, by the various companies to which such tramways belong.

(8) Every tenderer shall deposit with the Treasurer of the State such sum of money, not being less than Twenty Thousand Pounds, as the Government shall require, as security for the due performance by him of the covenants, provisions, and conditions of his tender, which sum of money shall be forfeited to the Government for non-compliance with the covenants, provisions, and conditions of his tender, under circumstances to be specified in the conditions of tender for the lease.

Tenderer to give security.

(9) The conditions of tender shall state that neither the lowest nor any other tender shall be necessarily accepted, and the lease shall state that no employé shall work more than forty-eight hours per week, except in cases of emergency, for which overtime shall be paid, and contain such other terms and conditions as to the Government may appear to be necessary.

11. (1) Section 19 of The General Tramways Act, 1884, shall not apply to the tramways mentioned in the First Schedule after the said tramways have been electrified.

Sec. 19 of Tramway Act, 1884, excluded.

(2) At

The Tramways Electric Traction Act.—1904.

Government or Trust
may purchase from
lessee.

(2) At any time after the expiration of fourteen years from the commencement of the term of any lease of tramways under this Act the Government or the Tramways Trust may, after six months' notice in writing to the lessee of its intention so to do, purchase the tramways and undertakings at a price to be determined, in default of agreement, as hereinafter mentioned.

Arbitrators.

(3) In case of difference as to price, one arbitrator shall be appointed by the Government or Tramways Trust and one by the lessee, and all matters relating to such purchase shall be submitted to the decision of such arbitrators.

Purchase not
necessarily carried
out.

(4) The Government or the Tramways Trust need not carry out the purchase if within one month from the making of the award it shall give to the lessee notice in writing that it does not intend to do so. In such case the power of the Government or Tramways Trust to purchase the tramway and undertaking otherwise than by agreement with the lessee shall be suspended for five years from the making of the award, after which time the rights of the Government or Tramways Trust shall be the same as before the arbitration.

Costs.

(5) The Government or the Tramways Trust shall pay all costs and charges of and incidental to the reference and award.

Priority of rights.

(6) As between the Government and the Tramways Trust, the latter shall have the prior right of purchase under this section.

Trust may purchase
from Government.

(7) The Tramways Trust shall have the right, on giving six months' notice in writing to the Government, to buy from the Government any tramway and undertaking purchased by the Government under this section at a price equal to the cost of purchase by the Government.

Purchase-money may
be paid in bonds, &c.

12. Any purchase-money due by the Government under this Act may, with the payee's consent, be paid by Government bonds or Treasury bills, or both, bearing interest at Four Pounds per centum per annum, and payable twenty-one years from date, and the Government is hereby authorised to issue such bonds and bills.

Tramway to vest in
Government at end
of lease.

13. (1) Upon the termination of any lease granted under this Act the tramways comprised therein and the undertakings belonging to such tramway shall vest in the Government.

Resale to Trust.

(2) The Government may assign such tramways and undertakings to the Tramways Trust upon payment of the agreed value thereof.

(3) The Government may accept from the Tramways Trust, in payment of the purchase-money, bonds of the said Trust, bearing such rate of interest and repayable at such time or times as may then be agreed upon.

Manner of construc-
tion.

14. (1) The tramways hereby authorised shall be constructed and maintained with two rails, the running surface of which shall be laid not less than four feet eight inches apart.

(2) The

The Tramways Electric Traction Act.—1904.

(2) The uppermost surface of every rail shall be and be maintained on a level with the surface of the road.

(3) The rails shall be of iron or steel, and shall weigh not less than ninety pounds to the yard.

(4) The rails shall be grooved, and the groove shall not exceed one and a quarter inch in width.

(5) The rails shall be suitably and properly bonded, and the return circuit shall be of such a character as to comply with the regulations of the British Board of Trade, and the whole of the works shall be carried out to the satisfaction of the South Australian Railways Commissioner.

15. This Act, as regards the lessee, is subject to all rights acquired by or vested in the Eastern Extension, Australasia, and China Telegraph Company, Limited, and the lessee shall in all things so construct the works provided for by this Act as not to prejudicially interfere in any way with the said company's subterranean telegraph line connecting the said company's submarine telegraph cable at the Grange with its terminal office in the City of Adelaide, and shall not construct any works over, or under, or across such subterranean line without giving to the manager of the said company, at Adelaide, seven days' previous notice in writing of his intention so to do.

Submarine Cable Company's cables to city to be protected.

16. The lessee shall repair and make good any damage to subterranean water pipes and sewers, the property of the Government, caused by any works constructed under the authority of this Act.

Water pipes to be repaired.

17. The lessee shall make full compensation to the South Australian Gas Company and the South Australian Electric Light and Motive Power Company, Limited, for any loss or damage which may occur to any of its mains, branch and service pipes, wires, or other works owing to or arising from the supply of and use of electrical power under the provisions of this Act, including damage due to or arising from electricity in or escaping from any of the works of the Government lessee, and shall free and relieve the South Australian Gas Company and Electric Light Company from all liability in respect of any loss or damage due to or arising therefrom.

18. For the purpose of constructing, maintaining, renewing, or reconstructing any works or appliances necessary or expedient for the efficient working of the tramways by electric traction the lessee or the Government may, from time to time—

Powers in addition to those contained in The General Tramways Act, 1884.

- i. Erect and maintain in, over, or under any street, road, roadway, or pathway along or across which the tramways are laid, and in, over, or under any street, road, roadway, or pathway leading thereto from the power stations, and (with the consent of the owner and occupier thereof) attach to any house or building in any such street, road, or pathway such posts, conductors, tubes, mains, plates, brackets, electric cables, and apparatus of wood, iron, or other material as may be necessary

The Tramways Electric Traction Act.—1904.

necessary for supporting the wires, cords, cables, and conductors used for transmitting the electric energy; and place thereon and suspend, and maintain suspended therefrom, such cables, wires, cords, conduits, and apparatus as may be necessary for transmitting such energy:

- ii. Lay any cables, troughs, wires, cords, conductors, and apparatus underneath any such street, road, roadway, or pathway for transmitting electric energy:
- iii. Make and maintain such openings and ways in, on, or under the surface of any such streets, roads, roadways, or pathways as may be necessary or convenient either for the working of the tramways or for providing access to or forming connections with any power stations, engines, machinery, or apparatus:
- iv. Open and break up a street, road, roadway, or pathway, but not so as to open or break up at any one time and place a greater length than two hundred yards:
- v. Alter the position of sewers, gas pipes, or water pipes, or (with the approval of the Commonwealth Postmaster-General) raise, lower, alter, or remove any telegraphic, telephonic and electric wires, posts, and apparatus:
- vi. Make alterations in any existing works and appliances belonging to the tramways and undertakings mentioned in the First Schedule hereto, and execute other works and provide other appliances, whether temporary or permanent:
- vii. Take up and relay and (if necessary) alter the position and situation of the existing last before-mentioned tramways, and make such extensions thereof, variations therefrom, and alterations therein as may be necessary or expedient for the purpose of adapting the same to electric traction, and rendering the tramlines fit and proper for the use of carriages propelled by electric power. The centre line of every track shall be parallel with the centre line of the street or road in which such track shall be laid, and, in case of double lines, shall not be less than five feet nor greater than ten feet from such centre of street or road. In the case of a single line of track running at the side of a street or road its centre line shall not be less than three feet six inches nor greater than eight feet distant from the adjacent kerbing, and where a single line of track is centrally located in a road or street its centre line shall not be more than four feet from the centre line of such street or road; but this provision shall not apply where the lines of a tramway shall be a curve, as shown in the deposited plans; and all provisions regulating the centre lines and the positions of tramlines in the streets and roads contained in the Acts mentioned in the First Schedule hereto are hereby repealed:

viii. Make

The Tramways Electric Traction Act.—1904.

viii. Make new or alter existing junctions and sidings:

ix. Enter into working agreements or traffic arrangements with any Corporation, District Council, company, or person willing and competent to enter into the same:

x. With the consent of the Government, discontinue the working of any tramline, and temporarily remove and construct the same in the road or street in which such tramline is laid or in a road or street adjacent thereto, and use such temporary tramline in lieu of the tramline so removed or discontinued, and, subject to the like consent, maintain and work the same so long as occasion may require.

19. If any difference shall arise between the lessee and the Government as to the refusal or withholding of such consent after the same shall have been applied for in writing, the same shall be referred to the decision of two arbitrators, one to be appointed by each party. Differences to be referred.

20. The lessee or the Government may purchase and take, under the provisions of The Lands Clauses Consolidation Act and any Acts amending the same, any land or lands and buildings (except lands subject to a public right-of-way) necessary for any undertaking authorised by or under this Act, including such land or land and buildings as may from time to time be required for the erection of power or storage stations, with all necessary offices and appurtenances, and for that purpose all the provisions of those Acts are incorporated in this Act. Incorporation of Lands Clauses Acts.

21. Subject to the next succeeding section, the system of electric traction into which the said tramways are to be converted shall, from the beginning of such conversion, be divided into sections, each of which shall be not less than one mile in length, and fares shall not exceed One Penny per section for each passenger. Penny sections.

22. The lessee, or the Government if working the tramway, shall not demand or take from any passenger travelling upon the tramways authorised by this Act, or upon any part thereof (including tolls for the use of the said tramways and the carriages, and for motive power, and every other expense incidental to such conveyance), any tolls exceeding the fares charged on the first day of August, one thousand nine hundred and four, by the various companies to which such tramways belong. Tolls and fares.

23. The foregoing restrictions as to fares which may lawfully be demanded shall not extend to special cars, but shall apply only to the ordinary cars appointed from time to time for the conveyance of passengers; neither shall such restrictions interfere with the right of the Government or lessee to demand and take freight and charges for the carriage of mails and parcels. Extra cars.

The Tramways Electric Traction Act.—1904.

Liability for rates.

24. The Government or the lessee shall be liable as a ratepayer on all ratable property to the Municipal Corporations and District Councils within whose limits the tramways, or alterations, or extensions thereof shall be situated, for Municipal and District Council rates and taxes and licences and other fees. The tramway lines shall be rated in manner prescribed by section 23 of The General Tramways Act, 1884.

Payments to Municipal Corporations and District Councils.

25. The lessee shall make the following payments for the Municipal Corporations and District Councils within whose limits the tramways alterations or extensions shall be laid, namely:—From the date of the completion of the said work of conversion, and during each of the next following seven years of his lease, One Pound per centum upon the gross takings of the tramways for each year, and during each of the remaining years of his lease One Pound Ten Shillings per centum upon such takings for each year. Such payments shall be made on or before the thirty-first day of March in each year in respect of the immediately preceding year to the Treasurer of the Corporation of the City of Adelaide, to be distributed amongst the Corporations and District Councils entitled thereto in the proportions and manner determined upon by them; the first of such annual payments, or for the proportionate part of the first year, to be made on or before the thirty-first day of March next after the completion of the work of conversion.

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

GEORGE R. LE HUNTE, Governor.

The Tramways Electric Traction Act.—1904.

SCHEDULES.

THE FIRST SCHEDULE.

- “ Adelaide and Suburban Tramways Act, 1876.”
- “ The Adelaide, Unley, and Mitcham Tramways Act, 1877.”
- “ Adelaide and Hindmarsh Tramways Act, 1877.”
- “ Adelaide and Hindmarsh Tramways Extension Act, 1881.”
- “ The Adelaide and Parkside South Tramway Act, 1881.”
- “ Adelaide and Goodwood Tramway Act, 1881.”
- “ Adelaide and Suburban Tramways Extension Act, 1881.”
- “ The Adelaide and Hyde Park Tramways Act, 1882.”
- “ Adelaide and Suburban Tramways Extension Act, 1882.”
- “ Prospect, Nailsworth, and Enfield Tramway Act, 1882.”
- “ The Adelaide, Payneham, and Paradise Tramways Act, 1882.”
- “ Adelaide and Parkside Tramway Extension Act, 1883.”
- “ The General Tramways Act, 1884.”
- “ The Adelaide, Unley, and Mitcham Tramways Act, 1877, Amendment and Tramways Enlargement Act, 1891.”
- “ The Adelaide and Parkside Tramway Enlargement Act, 1896 ”
- “ The Adelaide, Payneham, and Paradise Tramways Act, 1882, Amendment and Tramways Extension Act, 1889.”

THE SECOND SCHEDULE.

The following portions of the tramways constructed under the Acts mentioned in the First Schedule, that is to say, all the tramways between their present *termini* in the City of Adelaide and—

- (a) The corner of Barton Terrace and O'Connell Street in North Adelaide,
- (b) The terminus of the Walkerville tramway,
- (c) The Payneham tramsheds,
- (d) The Maylands tramsheds,
- (e) The Kensington terminus,
- (f) The Parkside tramsheds,
- (g) The cross roads between Unley and Mitcham,
- (h) The Henley Beach terminus.