

[AS REPORTED FROM THE STATUTES REVISION COMMITTEE]
House of Representatives, 17 October 1956

Amendments made by the Statutes Revision Committee are as contained in Supplementary Order Paper No. 19, and are shown in roman with rule down side; additional words inserted by Statutes Revision Committee are shown in roman within bold square brackets.

[AS REPORTED FROM THE COMMITTEE OF THE WHOLE]
House of Representatives, 23 October 1956

Words struck out by the Committee of the Whole are shown in italics within bold round brackets; words inserted are shown in bold within double bold square brackets or in roman with double rule down side.

Hon. Mr McAlpine

GOVERNMENT RAILWAYS AMENDMENT

ANALYSIS

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A BILL INTITULED

An Act to amend the Government Railways Act 1949

BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same,
5 as follows:

1. Short Title—This Act may be cited as the Government Railways Amendment Act 1956, and shall be read together with and deemed part of the Government Railways Act 1949 (hereinafter referred to as the principal Act).

Hutt Valley Passenger Services

2. Hutt Valley passenger services—(1) For the purposes of this section the term “defined route” means all that portion of the Hutt Road from its junction with the Ngauranga – Palmerston North Main Highway to the nearest point thereto at which it joins the approaches to the bridge over the railway approximately half a mile from the Petone Railway Station on the Wellington side of that station. 5

(2) It shall not be lawful after the commencement of this Act for any person other than the Minister to carry on over the defined route or any part thereof a regular passenger service within the meaning of the Transport Act 1949. 10

(3) Subsection *two* of this section shall not apply to the carriage of passengers in a regular passenger service over the defined route— 15

(a) If that passenger service carries passengers past Point Howard, and the route lies through Petone Esplanade, Buick Street, Jackson Street, Jessie Street, Hutt Estuary Bridge, and Seaview Road, or is approved by the Minister; or 20

(b) If all of those passengers are carried by that passenger service past the road summit on the Rimutaka Hill, or the road summit on the Akatarawa Hill, or the junction at Pauatahanui of State Highway number ninety-five and Main Highway number four hundred and thirty-seven. 25

(4) Notwithstanding anything in the Transport Act 1949 or in any licence granted under that Act, the Minister may abandon, suspend, or curtail any authorised passenger service over the defined route; and the abandonment, suspension, or curtailment of any authorised passenger service over the defined route shall not of itself be a breach of the terms and conditions of any such licence. 30

Miscellaneous Provisions

3. Interpretation—(1) Section two of the principal Act is hereby amended by repealing the definition of the term “Administrative officer”, and substituting the following definition: 35

“‘Administrative officer’ means a person holding a position in the Department classified in a higher grade than Grade Special 2 of Class 5 of the 1953 Classification, or such other grade as the Minister from time to time declares to be equivalent to that grade:” 40

(2) Section two of the principal Act is hereby further amended by inserting in their appropriate alphabetical order the following definitions:

5 “Level crossing’ means any place where a railway line crosses a road or street on the level or where the public is permitted to cross a railway line on the level; and includes a bridge used for both railway and road traffic:

10 “Railway line’ means any set of rails; and includes the area within eight feet of a line drawn midway between those rails:”.

4. **Authorisation of railway**—(1) Section forty-seven of the principal Act is hereby amended by omitting from subsection one the words “which is authorised under any of the enactments repealed by this Act, and”.

15 (2) The First Schedule to the principal Act is hereby amended by adding the words “Wanganui Heads Railway: as described in the assent of the Governor dated 12 March 1884 and published in the *Gazette* of 1884, Volume 1, page 20 525.”

5. **Warning devices at level crossings**—The principal Act is hereby amended by repealing section sixty-three, and substituting the following section:

25 “63. (1) The *(Commission)* **[[Minister]]** may cause to be erected at a level crossing such notices and warning devices as he considers necessary for the protection of persons using the level crossing.

30 “(2) Neither Her Majesty the Queen nor the *(Commission)* **[[Minister]]** shall be liable in respect of any accident that may occur by reason of any failure of any such warning device.

35 “(3) Notwithstanding any rule of law to the contrary, Her Majesty the Queen and the *(Commission)* **[[Minister]]** shall not be deemed negligent in law if the *(Commission)* **[[Minister]]** fails to provide a crossing keeper or a bridge keeper or a warning device or a notice at any level crossing for the purpose of protecting locomotives, railcars, carriages, wagons, or other vehicles using the railway line when they are passing over the level crossing, or of warning road users of the approach of any such locomotive, railcar, carriage, wagon, or vehicle.”

6. **Traffic at level crossings**—The principal Act is hereby amended by repealing section sixty-four, and substituting the following section:

“64. (1) No person shall drive or attempt to drive any vehicle or animal onto or across a level crossing or elsewhere on a railway when there is any risk of the vehicle or animal being involved in a collision with any locomotive, railcar, carriage, wagon, or other vehicle using the railway line. 5

“(2) Every person driving a motor vehicle shall when approaching a level crossing reduce speed when within one hundred yards of the crossing to a rate not exceeding fifteen miles an hour, and shall not increase speed until he has crossed the railway line. It shall be his duty to keep a vigilant lookout for any approaching locomotive, railcar, carriage, wagon, or other vehicle using the railway line. 10 15

“(3) If at any level crossing there is erected either a “compulsory stop” sign in the form and of the dimensions specified in the regulations made under the Motor Vehicles Act 1924 and published in the *Gazette* in 1929 at page 833, or a “stop” sign in the form and of the dimensions specified in or permitted by the *Traffic Sign Regulations 1937* or any regulations substituted therefor, it shall be the duty of the person driving any motor vehicle as aforesaid to stop the motor vehicle clear of the railway line before crossing it for such time as may be necessary for him to ascertain whether there is any risk of the motor vehicle being involved in a collision with any locomotive, railcar, carriage, wagon, or other vehicle using the railway line. 20 25

“(4) If any person drives or attempts to drive any vehicle or animal onto or across a level crossing or elsewhere on a railway while any crossing keeper, or any bridge keeper, or any warning device of any kind whatsoever, is giving warning against so doing there shall [, for the purposes of subsections **one and three of this section,**] be deemed to be a risk of the vehicle or animal being involved in a collision with a locomotive, railcar, carriage, wagon, or other vehicle using the railway line. 30 35

“(5) Every person who acts in contravention of this section or who crosses or attempts to cross any railway line when it is unsafe to do so commits an offence and shall be liable on summary conviction to a fine not exceeding fifty pounds.” 40

7. Amending definition of Locomotive Running Branch—

Section ninety-one of the principal Act is hereby amended by omitting, from the definition of the term "Locomotive Running Branch" in subsection one, the words "firemen, or
5 cleaners", and substituting the words "locomotive assistants, or locomotive trainees".

New

8. Appeals against regrading—(1) Section ninety-five of the principal Act is hereby amended, as from the thirty-first day of March, nineteen hundred and fifty-six, by repealing
10 paragraph (g) of subsection one, and substituting the following paragraph:

"(g) Any grading or [maximum] salary of any position fixed on a regrading pursuant to section eighty-seven of this Act, if the appellant was the occupant of the
15 position at the effective date of the regrading or at the date of receipt by him of notification of that grading or [maximum] salary or, as the result of transfer arising out of the regrading, is confirmed in the position."

(2) The grading approved by the Minister on the twenty-ninth day of August, nineteen hundred and fifty-six, of positions created after the first day of April, nineteen hundred and fifty-six, shall be deemed to be a regrading for the purposes of paragraph (g) of subsection one of section ninety-five
25 of the principal Act.

*New**Abolition of New Zealand Railways Commission***9. Abolition of New Zealand Railways Commission—**

(1) The New Zealand Railways Commission is hereby
30 abolished on the first day of April nineteen hundred and fifty-seven, on which date this section and sections *ten, eleven, and twelve* of this Act shall come into force.

(2) Except as otherwise provided in this section, and without restricting the power to make regulations conferred by
35 the principal Act, it is hereby declared that every power, duty, and function which the said Commission had immediately before the commencement of this section under the principal Act or any other Act, or under any regulation or instrument is hereby transferred to and may thereafter be exercised by—

(a) The General Manager if he had the power, duty, or
40 function immediately before the commencement of the Government Railways Amendment Act 1952, or if the power, duty, or function was conferred on the said Commission by any of the regulations specified in the *First Schedule* to this Act:
45

(b) The Minister in every other case.

(3) Except as otherwise provided in this section, and without restricting the power to make regulations conferred by the principal Act, it is hereby declared that every reference to the said Commission in every provision of the principal Act or any other Act, or of any regulation or instrument shall be read as a reference to—

(a) The General Manager if the provision was in force immediately before the commencement of the Government Railways Amendment Act 1952, and then referred to the General Manager, or if the provision appeared in any of the regulations specified in the *First Schedule* to this Act:

(b) The Minister in every other case.

(4) All acts of authority of any nature by, or enuring as acts of authority of, the said Commission in exercise of powers, duties, or functions that are transferred by this section to the General Manager shall, if they are subsisting at the commencement of this section, enure for all purposes as if they were acts of authority by the General Manager; and all other acts of authority of any nature by, or enuring as acts of authority of, the said Commission shall, if they are subsisting at the commencement of this section, enure for all purposes as if they were acts of authority by the Minister.

(5) The following enactments are hereby consequentially repealed:

(a) Sections two to twenty-two of the Government Railways Amendment Act 1952, and the Schedule to that Act:

(b) Section twelve of the Government Railways Amendment Act 1953:

(c) The Government Railways Amendment Act 1955.

(6) The enactments specified in the *Second Schedule* to this Act are hereby consequentially amended in the manner indicated in that Schedule.

(7) Without limiting the provisions of the Acts Interpretation Act 1924, it is hereby declared that the repeal of section twenty-two of the Government Railways Amendment Act 1952 and of the Schedule to that Act shall not affect the amendment to paragraph (c) of subsection one of section ninety-two of the principal Act made by the said repealed section and set out in the said repealed Schedule.

10. **General Manager of Railways**—The principal Act is hereby amended by repealing section five, as set out in section eight of the Government Railways Amendment Act 1952 and amended by section two of the Government Railways Amendment Act 1955, and substituting the following section:

5 “5. (1) There shall from time to time be appointed a General Manager of Railways, who, under the control of the Minister, shall be charged with the administration of this Act and shall be the Permanent Head of the Department.

10 “(2) On the occurrence from any cause of a vacancy in the office of General Manager (whether by reason of death or resignation or otherwise), or if the General Manager is absent from duty or from his headquarters for any reason whatsoever, the powers, duties, and functions of the General Manager may be exercised and performed by any person authorised in that behalf by the Minister.

15 “(3) The fact that any person exercises or performs any power, duty, or function of the General Manager with the concurrence of the Minister shall be conclusive evidence of his authority so to do.

20 “(4) For the purposes of subsection *two* of this section the powers of the General Manager shall be deemed to include such of the powers of the Minister as the General Manager may for the time being be authorised to exercise pursuant to a delegation under section *six* of this Act.”

25 11. **Delegation of Minister's powers**—The principal Act is hereby amended by inserting, after section *five* (as set out in section *ten* of this Act), the following section:

30 “6. (1) The Minister may from time to time, by writing under his hand, either generally or particularly, delegate to the General Manager all or any of his statutory powers, but not including the power to delegate under this section or the power to consent to a delegation under section *seven* of this Act.

35 “(2) Subject to any general or special directions given or conditions attached by the Minister, the General Manager may exercise any powers delegated to him as aforesaid in the same manner and with the same effect as if they had been conferred on him directly by this section and not by delegation.

40 “(3) Where the General Manager purports to act pursuant to any delegation under this section, he shall be presumed to be acting in accordance with the terms of the delegation in the absence of proof to the contrary.

“(4) Every such delegation shall be revocable at will, and no such delegation shall prevent the exercise of any power by the Minister.

“(5) Until any such delegation is revoked, it shall continue in force according to its tenor. In the event of the Minister 5
by whom any such delegation has been made ceasing to hold office, it shall continue to have effect as if made by the person for the time being holding office as Minister and, in the event of the General Manager to whom any such delegation has been made ceasing to hold office, it shall continue to have 10
effect as if made to the person for the time being holding office as General Manager or, if there is no General Manager in office or if the General Manager is absent from duty or from his headquarters, to the person for the time being 15
authorised under section *five* of this Act to exercise and perform the powers, duties, and functions of the General Manager.”

12. General Manager may subdelegate certain powers—

The principal Act is hereby amended by inserting, after section *six* (as set out in section *eleven* of this Act), the 20
following section:

“7. (1) The General Manager may from time to time, by writing under his hand, either generally or particularly, delegate to such officer or officers or employee or employees of the Department as he thinks fit all or any of his statutory 25
powers, including any powers delegated to him under any enactment, but not including this present power of delegation:

“Provided that the General Manager shall not delegate any power delegated to him by the Minister without the written consent of the Minister. 30

“(2) Subject to any general or special directions given or conditions attached by the General Manager, the officer or employee to whom any powers are delegated under this section may exercise those powers in the same manner and with the same effect as if they had been conferred on him directly by 35
this section and not by delegation.

“(3) Every person purporting to act pursuant to any delegation under this section shall be presumed to be acting in accordance with the terms of the delegation in the absence of proof to the contrary. 40

“(4) Any delegation under this section may be made to a specified officer or employee or to officers or employees of a specified class, or may be made to the holder or holders for the time being of a specified office or class of offices.

“(5) Every delegation under this section shall be revocable at will, and no such delegation shall prevent the exercise of any power by the General Manager.

5 “(6) Any such delegation shall, until revoked, continue in force according to its tenor, notwithstanding the fact that the General Manager by whom it was made may have ceased to hold office, and shall continue to have effect as if made by the successor in office of that General Manager; and in the event of the holder of a specified office to whom any such delegation has been made ceasing to hold office it shall continue to have effect as if made to the person for the time being holding that office.”

SCHEDULES

FIRST SCHEDULE

Section 9 (2) (a),
9 (3) (a)

REGULATIONS UNDER WHICH POWERS, ETC., OF NEW ZEALAND RAILWAYS COMMISSION ARE TO BE TRANSFERRED TO THE GENERAL MANAGER

REGULATIONS 26, 28, 124, 137, 138, 142, 145, 147, 154, 155, 167, 169, 170, 173, 174, 175, 176, 179, 180, 181, 188, 193, 206, 210, 225, and 227 of the Government Railways (Staff) Regulations 1953 (S.R. 1953/34).

SECOND SCHEDULE

Section 9 (6)

CONSEQUENTIAL AMENDMENTS

Title of Act	Nature of Amendment
1949, No. 7— The Transport Act 1949	By omitting from section 145A, as set out in section 19 of the Transport Amendment Act 1955, the words “New Zealand Railways Commission” and also the word “Commission”, and substituting in each case the words “Minister of Railways”.
1949, No. 40— The Government Railways Act 1949 (as amended by the Government Railways Amendment Act 1952)	By repealing the definition in section 2 of the terms “New Zealand Railways Commission” and “Commission”. By omitting from the definition in section 2 of the term “official circular” the word “Commission”, and substituting the words “General Manager”.

SECOND SCHEDULE—*continued*CONSEQUENTIAL AMENDMENTS—*continued*

Title of Act	Nature of Amendment
<p>1949, No. 40—<i>continued</i> The Government Railways Act 1949 (as amended by the Government Railways Amendment Act 1952)</p>	<p>By omitting from section 9 (1) and also from section 9 (3) the words “seal of the Commission”, and substituting in each case the words “hand of the Minister”.</p> <p>By omitting from subsection (3) of section 11 the words “the Commission or the Minister of Works” where they first appear, and substituting the words “either of those Ministers”; also by omitting from that subsection the words “the Commission or the Minister of Works” where they secondly appear, and substituting the words “the said Ministers”.</p> <p>By omitting from subsection (1) of section 13A, as set out in section 5 of the Government Railways Amendment Act 1953, the words “or the Commission”, and from subsection (2) of the said section 13A the words “or the Commission, as the case may be”, and also the words “or the Commission” where they later appear; also by omitting the word “Commission” in each other place where it appears in the said section 13A, and substituting in each case the word “Minister”.</p> <p>By omitting from section 32 (1), as set out in section 7 of the Government Railways Amendment Act 1953, the word “Commission” in each place where it occurs in paragraphs (a), (i), and (j), and substituting in each case the word “Minister”.</p> <p>By omitting from section 40 (2) the word “Commission”, and substituting the word “Minister”.</p> <p>By omitting from section 42 (1) the words “Minister or the Commission”, and substituting the word “Minister”.</p>

SECOND SCHEDULE—*continued*CONSEQUENTIAL AMENDMENTS—*continued*

Title of Act	Nature of Amendment
<p>1949, No. 40—<i>continued</i> The Government Railways Act 1949 (as amended by the Government Railways Amendment Act 1952)</p>	<p>By omitting from the proviso to section 51 the words “Commission which shall”, and substituting the words “Minister upon the recommendation of the General Manager, who shall, before making his recommendation”; also by inserting in the said proviso, after the words “and shall”, the words “in making his recommendation”.</p> <p>By omitting from paragraph (b), and also from paragraph (c), of section 58 the words “the Commission or the General Manager”, and substituting in each case the words “the Minister or the General Manager”.</p> <p>By omitting from section 65, as set out in section 23 of the Government Railways Amendment Act 1952, the words “nor the Commission”, and the words “or the Commission”.</p> <p>By omitting from section 77 (1) the words “after he has considered the recommendation of the Commission”.</p> <p>By omitting from section 77 (2) the word “Commission”, and substituting the words “General Manager”.</p> <p>By omitting from section 79 (1) the words “sections seventy-seven and seventy-eight of this Act, the Minister or the Commission”, and substituting the words “sections seventy-seven and seventy-eight of this Act, the Minister or the General Manager”.</p> <p>By omitting from subsection (1) of section 82 the words “the appointment to which is made by the Commission”, and substituting the words “the appointment to which is made by the General Manager”; also by omitting the word “Commission” in each other place where it appears in the said section 82, and substituting in each case the words “General Manager”.</p>

SECOND SCHEDULE—*continued*CONSEQUENTIAL AMENDMENTS—*continued*

Title of Act	Nature of Amendment
<p>1949, No. 40—<i>continued</i> The Government Railways Act 1949 (as amended by the Government Railways Amendment Act 1952)</p>	<p>By omitting from section 84 (1) the words “the Minister or the Commission”, and substituting the words “the Minister or the General Manager”.</p> <p>By omitting from section 84 (8), as set out in section 2 (1) of the Government Railways Amendment Act 1954, the word “Commission” in each place where it appears, and substituting in each case the words “General Manager”.</p> <p>By omitting from section 84 (9), as set out in section 24 of the Government Railways Amendment Act 1952, the word “Commission” in each place where it appears, and substituting in each case the words “General Manager”.</p> <p>By adding to section 90 (2) the following proviso: “Provided that no member shall be dismissed except by direction of the Minister”.</p> <p>By omitting from paragraph (a) of subsection (2) of section 100 and also from paragraph (c) of that subsection the word “Commission”, and substituting in each case the word “Minister”.</p>