

District Railways Acts Amendment Act 1883

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An Act to amend the District Railways Acts.

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

1 Short Title.

The Short Title of this Act is “The District Railways Acts Amendment Act, 1883.”

2 Certificate of completion of railway to be given.

Notwithstanding anything contained in section seven of “The District Railways Acts Amendment Act, 1882,” the following provisions shall apply:—

- (1.) When any part or section of a railway shall have been completed and is open for traffic it shall be lawful for the company constructing the same to apply to the Governor in Council for such certificate as hereinafter mentioned:
- (2.) The Governor in Council, upon receipt of such application as aforesaid, and upon being satisfied that such part or section has been completed and is open for traffic, and that the same is beneficial or of advantage to the ratepayers and owners of property within the railway district, and that a majority in number of the ratepayers and owners of property within the railway district, representing not less than one-half of the value of the rateable property within such railway district, consent thereto, may authorize the grant to the company of a certificate, under the hand of the Minister for Public Works, to the effect set forth in the First Schedule hereto:
- (3.) Such certificate shall be conclusive evidence that such part or section has been completed, and that the same is open for traffic, and is of such benefit or advantage as aforesaid; and the company shall, as from the time mentioned in such certificate, be entitled to such guaranteed interest as is mentioned in section seven aforesaid upon the cost of the completed part or section of the railway, and any rate leviable by the said “District Railways Act, 1877,” “The District Railways Act 1877 Amendment Act, 1878,” and “The District Railways Acts Amendment Act, 1882” (hereinafter referred to as “the said Acts”), may be levied over the whole of the railway district.
- (4.) The Governor shall, before granting such certificate, appoint an Assessor or Assessors to revise the classification, for the purposes of section ten of “The District Railways Act, 1877,” of the lands comprised within the railway district; and, if such Assessor or Assessors shall recommend the Governor to reclassify any of such land, the Governor may, by notice in the *Gazette*, remove the same or any part thereof out of either of the classes in which the same shall be then classified and place it in any other of such classes, or in any new class, or altogether omit it from any of the classes, apportioning in every case as nearly as may be the liability to rate to the degree of benefit conferred by the completed section on the several rateable lands. When any further section of the railway shall be completed and open for traffic an Assessor or Assessors shall be again appointed, and the lands within the railway district shall be again

reclassified, and the liability to rate of the several rateable lands readjusted in manner aforesaid, and such reclassification shall entirely supersede any previous classification.

- (5.) If such certificate has been granted to any company prior to the coming into operation of this Act, the Governor in Council, upon receipt of an application from the company, and upon being satisfied that it is consented to by a majority in number of the ratepayers and owners of property within the railway district, representing not less than one-half of the value of the rateable property within such railway district, may, if he think fit, at any time prior to the thirtieth day of June, one thousand eight hundred and eighty-four, appoint an assessor or assessors in manner aforesaid: Provided that such revision shall not affect any creditor of the company, but the original classification shall remain in full force as a security to such creditor.
- (6.) Before reporting to the Governor any recommendation as aforesaid as to the reclassification of the railway district, the Assessor or Assessors shall notify the railway company and the ratepayers and property-owners interested, by a notice in writing addressed to the registered office of such company, or to the last-known address of each such ratepayer and property-owner, not less than fourteen clear days before the date of bearing, of a time and place at which such company or ratepayers or property-owners may appear before such Assessor or Assessors and be heard as to the proposed rateable classification of any property comprised within the railway district.
- (7.) A certificate may be granted in respect to any part or section of a railway completed and opened for traffic prior to the passing of this Act, and in such case the Governor may declare that such guaranteed interest shall be payable and such rate leviable as provided in sections seven, eight, nine, and ten of "The District Railways Acts Amendment Act, 1882," except as hereinbefore provided in respect of section seven, as from a period not earlier than the thirty-first day of March, one thousand eight hundred and eighty-three, or from any subsequent day to be named in such certificate, and such interest shall be paid and such rate leviable accordingly.
- (8.) The cost of a completed part or section of a railway shall, for the purposes of this Act, be estimated in the same manner as is provided by the said Acts for estimating the cost of the railway, and section eighty-five of "The District Railways Act, 1877," shall apply accordingly.

3 Certificate of deficiency of rates.

Section seven of "The District Railways Acts Amendment Act, 1882," shall be read as if the following had been inserted therein:—

"The Minister for Public Works shall, upon being satisfied as to the deficiency to be raised by rates, give his certificate in the form of the Second Schedule hereto. Such certificate shall be conclusive proof that the deficiency therein mentioned requires to be raised by rates in the railway district, in the respective

amounts fixed in such certificate as applicable to the several classes of land as in such certificate mentioned. It shall not be necessary to prove that such certificate was signed by the Minister for Public Works if the same so purports to be signed.

4 Guaranteed interest to be paid notwithstanding dissolution of company.

Notwithstanding the winding-up or dissolution of a company, the guaranteed interest provided by section seven of “The District Railways Acts Amendment Act, 1882,” shall be payable to any Receiver appointed under section twenty-nine of “The District Railways Act 1877 Amendment Act, 1878,” and any Receiver shall have all the powers and authorities and may do all such acts and things for the purpose of receiving and recovering such interest as the company itself could exercise or do if not wound up or dissolved.

5 Receiver may be appointed notwithstanding dissolution of company.

The power to appoint a Receiver given by section twenty-nine of “The District Railways Act 1877 Amendment Act, 1878,” may be exercised, notwithstanding that the company is wound up, or is in course of being wound up, or is dissolved.

6 Interest limited to a term of fifteen years.

Notwithstanding anything contained in the said Acts, the fifteen years’ guarantee of interest by the ratepayers provided thereby shall be computed from the period when the first rate is made, but in no case shall a company be guaranteed interest for more than fifteen years.

7 Expenses of administration of Act.

All expenses incurred in giving effect to this Act in respect of any railway shall be borne and paid by the company to whom such railway belongs.

8 Section 65 of Act of 1877 amended as regards fixing of tolls, &c., and regulation of trains.

Parts one and two of section sixty-five of “The District Railways Act, 1877,” are hereby repealed, and in lieu thereof there shall be and be deemed and construed to have been inserted as follows:—

- (1.) For fixing the tolls, rates, fares, and rent to be charged for the carriage by the railway of passengers, animals, produce, merchandise, goods, chattels, and things, and for the storage of goods, chattels, and things, in any of the company’s warehouses, sheds, or yards:
- (2.) For regulating the number of trains to run each day, and the time of their arrival and departure from the terminal and intermediate stations: Provided that every by-law or regulation made or altered by the company relating to any of the subjects referred to in this and the last preceding subsection shall be approved by the Governor before the same shall have any legal force or effect, and such

approval shall be notified in the *Gazette*, and the production in evidence of such *Gazette* notice shall be *primâ facie* proof that such by-law or regulation was duly made by the company and approved by the Governor.

9 Waimea Plains Railway Company (Limited) and Rakaia and Ashburton Forks Railway Company (Limited) empowered, on direction of the Minister, to make, levy, and collect a rate to cover in part the deficiency of interest for the year ending the 31st March, 1883, and to receive the proportion of guaranteed interest for the same year payable by the Government.

Whereas by "The District Railways Act, 1877," a company constructing a railway thereunder was guaranteed interest on the cost of the railway, such guarantee including a special rate to be levied and raised yearly, upon the direction of the Minister, by each Borough Council and County Council in the district in which the railway was constructed: And whereas by "The District Railways Acts Amendment Act, 1882," which came into force on the fifteenth day of September, one thousand eight hundred and eighty-two, the guarantee of interest aforesaid was preserved, and each company was protected in the enjoyment of any rights it possessed immediately before the coming into operation thereof, and, in lieu of certain of the provisions of "The District Railways Act, 1877," the company was empowered, as a local body within the meaning of "The Rating Act, 1882," to levy and raise a rate yearly to make up in part the deficiency between profits and the interest guaranteed in any year ending the thirty-first day of March, and the substituted provisions of "The District Railways Acts Amendment Act, 1882," so empowering each company were declared to be deemed to have been in force and hereafter to be in force: And whereas the Waimea Plains Railway Company (Limited) and the Rakaia and Ashburton Forks Railway Company (Limited), being railways constructed under the Acts aforesaid, had ascertained the deficiency of guaranteed interest for the year ending the thirty-first March, one thousand eight hundred and eighty-three, but were unable to proceed further because "The Rating Act, 1882," was only applicable from and after the thirty-first day of March, one thousand eight hundred and eighty-three: And whereas, contrary to the intention of the Legislature, the said companies have thus been prevented from making, levying, and collecting a rate, and have not received the proportion payable by the Government to cover the deficiency of guaranteed interest for the year ending the thirty-first day of March, one thousand eight hundred and eighty-three:

Upon application made by or on behalf of the Waimea Plains Railway Company (Limited) and the Rakaia and Ashburton Forks Railway Company (Limited), or either of them, for guaranteed interest for the year ending the thirty-first day of March, one thousand eight hundred and eighty-three, and for power to raise, by means of a rate, a part of such guaranteed interest payable upon the examination of accounts and books for such year, the Minister, if

he is satisfied that the said companies, or either of them, are or is entitled to raise such rate under "The District Railways Act, 1877," and the amendments thereof, hereinafter called "the said Acts," shall direct that such rate shall be made, raised, levied and collected: And the company so directed shall make, raise, levy and collect such rate in manner provided in the said Acts and "The Rating Act, 1882," except that the valuation roll in force for purposes of local rating in each borough or county within the railway district for the year ending the thirty-first day of March, one thousand eight hundred and eighty-three, shall be the valuation roll for the purposes of such rate, which rate shall be made payable within twelve months from the date hereof, in two equal instalments, upon such dates as the Minister may direct.

The proportion unpaid of the deficiency of guaranteed interest payable out of the Consolidated Fund upon the examination of accounts and books for the year ending the thirty-first day of March, one thousand eight hundred and eighty-three, shall be paid to the said companies, or either of them, as the case may be, so soon as the Minister shall have directed the rate aforesaid to be raised.

SCHEDULES**FIRST SCHEDULE**

Form

Certificate of Completed Railway

I do hereby certify that it has been made to appear to the satisfaction of the Governor in Council that the _____ Railway Company (Limited) has completed that part or section of the railway known as _____, described in the schedule at the foot hereof, and that the same is open for traffic, and is beneficial or of advantage to the ratepayers and owners of property in the railway district (except such part as has been omitted from classification as provided in this Act), constituted for the purposes of the said railway; and I do hereby certify that the said company is entitled to the guaranteed interest mentioned in section seven of "The District Railways Acts Amendment Act, 1882," upon the cost of the said completed part or section of the railway, as and from the _____ day of 18____, and that the rate leviable by "The District Railways Act, 1877," "The District Railways Act 1877 Amendment Act, 1878," and "The District Railways Acts Amendment Act, 1882," may be levied over the whole of the said railway district (excepting such part thereof as has been omitted from classification as provided by this Act), and shall be, and be deemed to have been, so leviable as and from the _____ day of _____, 18____.

In witness whereof I have hereunto set my hand, this _____ day of _____, 18____.

Minister for Public Works.

SECOND SCHEDULE

Form

Certificate of Deficiency of Rates

I do hereby certify that it has been made to appear to me that there is a deficiency of rates, in respect of the several classes of lands hereunder respectively mentioned, to the amounts herein stated, and that such amounts require to be raised by the Railway Company (Limited), under the provisions of the various Acts relating to the construction of district railways; that is to say:—

Class of Land.	Amount of Rate deficient.

Minister for Public Works.