

Local Railways Act 1914

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Contents

		Page
	Title	4
1	Short Title.	5
2	Interpretation.	5
3	Railway districts may be constituted.	5
	<i>Railway Boards</i>	
4	Constitution of Railway Boards.	5
5	Disqualifications of members of Boards.	6
6	Railway district electors lists.	6
7	Electors roll.	7
8	Objections to electors list or roll.	7
9	Board may amend list or roll.	8
10	Corrections in descriptions.	8
11	Rolls to be closed.	8
12	Rolls to be open to inspection.	8
13	Date of elections.	8
14	Appointment of Returning Officer, &c.	9
15	Duration of office of members.	9
	<i>Extraordinary Vacancies</i>	
16	How extraordinary vacancies arise.	9
17	Validity of acts of Board not affected by irregularity of election.	10
	<i>Ouster of Office</i>	
18	Ouster of office.	10

<i>The Chairman</i>		
19	Election of Chairman.	11
20	Chairman's annual allowance.	11
<i>Proceedings of Board</i>		
21	Majority of Board.	11
22	Questions to be decided by open voting.	12
23	Chairman to preside at meetings.	12
24	Member of Board not to vote on matter in which he has pecuniary interest.	12
25	Ordinary meetings.	12
26	Special meetings.	13
27	Adjourned meetings.	13
28	Postponed meetings.	13
29	Meetings to be open to public.	13
30	Notice to be given of extraordinary business.	13
31	Revocation or alteration of resolutions.	13
32	Failure to give notice of meeting, or of business to be transacted, not to invalidate proceedings.	14
33	Minutes of meetings to be kept.	14
34	Travelling-expenses of members.	14
<i>Special Orders</i>		
35	Procedure for making special orders.	15
<i>Regulation of Procedure</i>		
36	By-laws as to procedure.	15
<i>Public Office</i>		
37	Board may provide and maintain public offices.	16
<i>Officers</i>		
38	Officers of Board.	16
39	Acting officers.	16
<i>Finance</i>		
40	Power to borrow.	17
41	Annual estimate to be made.	17
42	Power to rate.	17
43	Rate to be levied on classification of lands.	17
44	Overdraft.	19
45	Unauthorized expenditure.	19
46	Special funds.	19
47	Bank to be appointed.	20
48	Books and accounts to be kept.	20
49	Balance-sheet and audit.	20

Construction of Railways

50	Order in Council may be issued authorizing construction of railway by Board.	20
51	Plan and book of reference to be deposited.	21
52	Notice of deposit of plan, &c., to be published.	21
53	Preliminary steps may be taken by Board without special authority.	22
54	On issue of Order in Council Board may construct and maintain railway.	22
55	Gauge.	22
56	Entry on lands for purposes of survey, &c.	22
57	Powers of Board for purposes of construction of railway.	23
58	Protection of lands against trespass, &c.	23
59	General powers of Board with respect to railway.	23
60	Provisions to apply where railway crosses road.	24
61	Alteration of roads, &c., for purposes of railway.	24
62	Temporary occupation of land for purpose of constructing or repairing railway.	25
63	Notice to be given to occupiers before entry on land.	25
64	Owner may require Board to take land,	26
65	Deviation from plan.	26
66	Omissions from plan or book of reference not to prejudice Board.	26
67	Board to proceed with construction of works with due diligence.	26
68	Governor may cause works to be inspected.	26
69	Board may sell or lease land not required for railway purposes.	26
70	Compensation for land taken or for injury caused by Board.	27

Management of Railways by Boards*Regulations for Traffic*

71	Board may make by-laws regulating traffic, &c., on railways.	27
72	Certain provisions of Government Railways Act incorporated with this Act.	27

Carriage of Goods, &c

73	Provisions as to carriage of goods on railways under this Act.	28
74		29

By-laws

75	Mode of making by-laws.	29
----	-------------------------	----

Penalty for breach of by-laws

76		30
77	Printed copies of by-laws to be available for sale.	30

Power of Purchase by the Governor

78	Governor may purchase Board's railway on giving twelve months' notice.	31
79	Board on payment of compensation to transfer property to Crown.	31
80	No compensation to be paid in respect of goodwill.	31
81	Additional compensation in certain cases.	31
82	Compensation to be accepted by Board in full satisfaction of all claims.	31
83	On purchase by Governor, railway to be subject to provisions affecting Government railways.	32
84	Protection of rights of debentureholders.	32
85	Receiver to give notice of intention to sell property charged by debenture.	32
86	Provisions to apply where railway, on purchase by Crown, is charged with borrowed moneys.	32

Miscellaneous Provisions

87	Contracts by Board, how to be made.	33
88	Contracts by Board, how to be made.	33
89	Service of legal process on Board.	33
90	Governor may take possession and assume management of railway in certain circumstances.	33
91	Board may appeal to Supreme Court.	34
92	If Board fails to refund expenses incurred by Crown, property may be permanently retained.	34
93	Property to vest in His Majesty without conveyance.	34
94	Exemptions from stamp duty.	34
95	Board may remove trees, &c., obstructing traffic on railway.	35
96	Penalty for trespassing on railway.	35
97	Obstruction of engineers, &c.	35
98	Recovery of fines.	35
99	Limitation of actions.	35
100	Regulations.	36

Repeal

101	Repeal.	36
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An Act to provide for the Construction of Local Railways by Railway Boards.

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.

This Act may be cited as the Local Railways Act, 1914.

2 Interpretation.

In this Act, if not inconsistent with the context,—

“Board” means a Railway Board of a railway district:

“Clerk” means the Clerk of a Railway Board constituted under this Act:

“District” means a railway district proclaimed by the Governor under this Act:

“Financial year” means a period of twelve months ending on the thirty-first day of March:

“Minister” means the Minister of Public Works.

“Prescribed” means prescribed by this Act or by regulations made under this Act.

3 Railway districts may be constituted.

- (1.) Any continuous area may be constituted a railway district under this Act in the manner following:—
 - (a.) A petition in accordance with regulations, praying that any area may be constituted a railway district, shall be presented to the Governor. Every such petition shall be signed by not less than one-fourth of the ratepayers within the said area.
 - (b.) Such petition shall describe the boundaries of the area proposed to be so constituted, and shall be publicly notified not less than one month before presentation in a newspaper circulating within the district.
- (2.) If after such inquiry as the Governor thinks fit he is of opinion that the petition should be granted, he may by Proclamation declare the said area a railway district, or he may alter the proposed boundaries and proclaim the district with such altered boundaries, and may assign a name to the district.

Railway Boards

4 Constitution of Railway Boards.

- (1.) In every railway district there shall be a Railway Board consisting of such number of members, not being less than five nor more than nine, as the Governor determines.
- (2.) The members of the Board shall be elected by the ratepayers of the district in the manner prescribed by the Local Elections and Polls Act, 1908, all the provisions of which Act shall, so far as they are not inconsistent with this Act, apply accordingly.

- (3.) Every such Board shall be a body corporate under the name of the “Railway Board,” having perpetual succession and a common seal, with power to purchase, take, hold, and dispose of property, real and personal, and to do and suffer all acts and things which bodies corporate may lawfully do and suffer.

5 Disqualifications of members of Boards.

- (1.) The following persons are incapable of being elected members of a Railway Board:—

- (a.) A minor:
- (b.) An alien:
- (c.) A person of unsound mind:
- (d.) A bankrupt who has not obtained his order of discharge, or whose order of discharge is suspended for a term not yet expired, or is subject to conditions not yet fulfilled:
- (e.) A person convicted of any offence punishable by imprisonment, unless he has received a free pardon, or has served his sentence, or otherwise suffered the penalty imposed on him:
- (f.) A person who holds any office or place of profit under or in the gift of the Board:
- (g.) A person who is concerned or interested (otherwise than as a member of an incorporated company in which there are not less than twenty members, and of which he is neither a director nor the general manager) in any contract made by the Board (other than a contract relating to land entered upon or taken, or proposed to be entered upon or taken, for the railway under the authority of this Act) if the payment made or to be made in respect of any such contract exceeds five pounds in the case of a single contract or ten pounds altogether in any financial year in the case of two or more contracts:

Provided that an interest in any loan raised by the Board (whether on security or otherwise), or in any newspaper in which the Board inserts advertisements, shall not constitute a disqualification under this section.

- (2.) Except as aforesaid, every ratepayer of the district is qualified to be elected a member of the Board.

6 Railway district electors lists.

- (1.) On the prescribed day in every year in which a general election of members of a Board is to be held the Clerk shall, in the prescribed form and manner, make out a list to be called “the railway district electors list,” setting forth the name, occupation, and address of every person whose name appears on the valuation roll of the district as the occupier of any property.

- (2.) Where the names of more than one person appear on the valuation roll as the occupier of any one property only the person whose name appears first on the roll shall be entered on the electors list.
- (3.) The name of any person shall not be entered more than once on the electors list of any district.
- (4.) The electors list shall indicate, in respect of each person whose name is entered therein, the number of votes to which he is entitled according to the following scale:—
 - (a.) If the property in respect of which he is rated (whether in one or more holdings) is valued on the valuation roll at not more than one thousand pounds, he shall have one vote;
 - (b.) If such property is valued at more than one thousand pounds but not more than two thousand pounds, he shall have two votes; and
 - (c.) If such property is valued at more than two thousand pounds, he shall have three votes.

7 Electors roll.

- (1.) The electors list of each district shall be corrected, completed, and authenticated in the prescribed manner and time, and shall on the prescribed day become the electors roll of the district, and shall remain in force until another electors roll comes into force for the same district.

Electors roll.

- (2.) All corrections and additions required to be made after the completion of the electors roll shall be made on a supplementary electors list, which shall be corrected, completed, and authenticated in the same manner as in the case of the electors list, and thereupon shall become a supplementary electors roll, and shall form part of the electors roll.

8 Objections to electors list or roll.

- (1.) Any person may, at and in the prescribed time, manner, and form, lodge with the Board an objection in writing under his hand to the electors list' on any of the following grounds:—
 - (a.) That any person whose name is on the said list in respect of any qualification does not possess that qualification at the time when the objection is lodged;
 - (b.) That any person whose name is not on the said list possesses the necessary qualification at the time when the objection is lodged and is entitled to have his name entered; or
 - (c.) That the number of votes allotted to any person is greater or less than that to which he is entitled.

- (2.) The Board shall forthwith, after receipt of any such objection, inquire into and dispose of the same.

9 Board may amend list or roll.

- (1.) The Board shall from time to time, upon any objection as aforesaid or of its own motion, amend the electors list or roll for its district by adding to the list or roll the name of any person who then in fact possesses the necessary qualification but is not entered thereon, and by erasing therefrom the name of any person who does not then in fact possess the necessary qualification but is entered thereon.
- (2.) The Board shall also from time to time make in the electors list or roll any necessary corrections in the statement of the names, addresses, and qualifications of persons enrolled thereon.
- (3.) Where the name of any person is erased from the roll for any reason other than the death of that person, notice in writing of the erasure shall forthwith be given by the Clerk by letter addressed to the person whose name is so erased.

10 Corrections in descriptions.

- (1.) Any person aggrieved by any decision or act of the Board or of the Clerk touching the electors list or roll may, in the prescribed manner and within the prescribed time, appeal therefrom to a Magistrate, who shall hear and determine the appeal, and may order such alterations in and additions to the list or roll to be made as he thinks just.
- (2.) All such alterations and additions shall be made by the Clerk and initialled by the Magistrate.

11 Rolls to be closed.

- (1.) The electors roll shall be deemed to be closed at five o'clock in the afternoon of the twenty-first day preceding the day appointed for any election or poll, and shall continue closed until the election is completed or the poll taken.
- (2.) Except pursuant to appeal under the last preceding section in cases where the appeal was pending at the time when the roll was closed, no alteration or addition shall be made in or to the electors roll for any district while it is closed as aforesaid.

12 Rolls to be open to inspection.

A copy of the roll shall be kept at the office of the Board, and shall at all times be open to public inspection during office hours.

13 Date of elections.

The first general election of members of a Board shall be held on a day to be fixed by the Governor, and on the same day in every second year thereafter a fresh general election of members shall be held.

14 Appointment of Returning Officer, &c.

For the purposes of the first election of members of a Board the Governor may appoint a Returning Officer, and generally do all things he deems necessary to bring this Act into operation in the district.

15 Duration of office of members.

Every member of a Board shall come into office on the day of his election, and shall, unless his office becomes sooner vacant as hereinafter mentioned, continue in office until his successor is elected.

*Extraordinary Vacancies***16 How extraordinary vacancies arise.**

- (1.) The office of a member shall become vacant if he—
- (a.) Dies; or
 - (b.) Designs his office by writing under his hand delivered to the Clerk or Chairman of the Board, or is ousted of office; or
 - (c.) Becomes bankrupt, or makes any composition with his creditors for less than twenty shillings in the pound, or makes an assignment of his estate for the benefit of his creditors; or
 - (d.) Becomes of unsound mind; or
 - (e.) Is convicted on indictment, or is sentenced by the Supreme Court on a plea of guilty to any charge of an indictable offence, or is sentenced for any offence to imprisonment without the option of a fine or to reformatory detention under any Act by any Court; or
 - (f.) Is absent without leave from four consecutive meetings of the Board; or
 - (g.) Holds any office or place of profit under or in the gift of the Board; or
 - (h.) Is concerned or interested, whether directly or indirectly (otherwise than as a member of an incorporated company in which there are not less than twenty members, and of which he is neither a director nor the general manager), in any contract made by the Board (other than a contract relating to land entered upon or taken or proposed to be entered upon or taken for the railway under the authority of this Act) if the payment made or to be made in respect of any such contract exceeds five pounds in the case of a single contract or ten pounds altogether in any financial year in the case of two or more contracts:

Provided that an interest in any loan raised by the Board, or in any newspaper in which the Board inserts advertisements, shall not constitute a cause of forfeiture under this section; or
 - (i.) Is convicted of an offence against section twenty-four hereof.

- (2.) If any person does any act as a member after his office has become vacant under this section, he shall be liable on summary conviction to a fine of fifty pounds.
- (3.) If any member becomes concerned or interested in any contract made by the Board so as thereby to forfeit his office under this section, he shall be liable on summary conviction to a fine of fifty pounds, and shall not be entitled to enforce that contract as against the Board; and all moneys paid to him by the Board in respect of the contract shall constitute a debt due by him to the Board and shall be recoverable by action accordingly in any Court of competent jurisdiction.
- (4.) Every member who knowingly takes part in the making by the Board of any contract in which any other member is so concerned or interested as thereby to forfeit his office under this section is liable on summary conviction to a fine of fifty pounds.
- (5.) It shall be the duty of the Audit Office to institute proceedings for the recovery of any fine under this section, but nothing herein shall be so construed as to prevent such proceedings from being taken by any other person.
- (6.) Any member who becomes concerned or interested in any contract made by the Board so as thereby to forfeit his office under this section shall be disqualified for three years after the date of that forfeiture from being elected or appointed as a member of the Board.

17 Validity of acts of Board not affected by irregularity of election.

The validity or legality of acts done by a Board shall not be affected by any error or defect in the election of any member, or by the fact that the full number of members has not been elected, or by the fact that any person acting as a member is disqualified or has vacated his office.

Ouster of Office

18 Ouster of office.

- (1.) Upon proof in the first instance by affidavit or otherwise that any member of a Board is or has become incapable under this Act of holding his office, any Magistrate's Court in or nearest the district may grant a summons calling upon the person holding such office to show cause why he should not be adjudged to be ousted of the same.
- (2.) If on the return of such summons it appears to the Court, on affidavit or oral evidence on oath, that such person is incapable under this Act of holding the said office, the Court may adjudge such person to be ousted of the same, and such person shall be ousted of such office accordingly.
- (3.) In any such proceeding the Magistrate's Court may exercise all the powers and authorities which it may exercise in its ordinary jurisdiction in civil cases.

- (4.) No matter in relation to a disputed election shall be heard by the Magistrate's Court under this section; and the procedure of such-Court shall, so far as applicable, apply generally to proceedings had under this section.
- (5.) No question which may be tried under this section shall be tried in the Supreme Court; and no proceedings in the Magistrate's Court hereunder shall be removable into the Supreme Court by *certiorari* or otherwise.

The Chairman

19 Election of Chairman.

- (1.) In every district the Board shall, at the first meeting of the Board after the constitution of a district, and thereafter at its annual meeting, elect one of its members to be Chairman of the Board.
- (2.) At every meeting for the election of a Chairman the Clerk shall preside, and in any case of an equality of votes shall determine the election by lot in such manner as the Board directs.
- (3.) The Chairman shall come into office on his election, and shall hold office until the election of his successor.
- (4.) The Chairman may resign his office by writing under his hand delivered to the Clerk; and in such case, or in the case of his ceasing from any cause to be a member of the Board, his office shall become vacant, and the Clerk shall forthwith convene a meeting of the Board for the election of a fresh Chairman.

20 Chairman's annual allowance.

- (1.) The Chairman may be paid out of the funds of the Board such annual allowance, not exceeding two hundred pounds, as the Board from time to time fixes, but no alteration in the amount of the allowance shall take effect during the term of office of the Chairman for the time being. The receipt of an allowance under this section shall not constitute a cause of forfeiture of office under section sixteen hereof.
- (2.) For the purposes of this section a person re-elected Chairman shall be deemed a new Chairman.

Proceedings of Board

21 Majority of Board.

- (1.) All acts of a Board, and all questions coming or arising before the Board, may be done and decided by the majority of such members of the Board as are present and vote at a meeting held in pursuance of this Act, or of any by-law made thereunder.

Quorum at meetings of Board.

- (2.) A meeting shall be duly constituted if a quorum is present thereat, whether voting or not.

- (3.) At a meeting of a Board a quorum is a number of members not less than one-half of the number of the whole Board when that number is even, or a majority of such number if odd.
- (4.) In case of equality of votes the Chairman of the meeting shall have a second or casting vote.

22 Questions to be decided by open voting.

Every question coming before a Board shall be decided by open voting.

23 Chairman to preside at meetings.

- (1.) The Chairman shall preside at every meeting of the Board at which he is present.
- (2.) If the Chairman is absent from any meeting of the Board, then such member as the members of the Board then present choose shall be chairman of that meeting.

24 Member of Board not to vote on matter in which he has pecuniary interest.

- (1.) A member of a Board shall not vote on or take part in the discussion of any matter before the Board in which he, or his partner in any business, calling, or undertaking, has directly or indirectly any pecuniary interest otherwise than as the occupier or owner of rateable property, or as a member of an incorporated company in which there are not less than twenty members, and of which he is neither a director nor the general manager.
- (2.) A member who knowingly offends against this section is liable on summary conviction to a fine of fifty pounds.
- (3.) It shall be the duty of the Audit Office to institute proceedings under this section, but nothing herein shall be so construed as to prevent such proceedings from being taken by any other person.

25 Ordinary meetings.

- (1.) The Board shall hold such ordinary meetings at such stated times and at such place as it from time to time appoints.
- (2.) The Chairman or the Clerk shall give notice in writing to each of the members of the time and place appointed from time to time for holding ordinary meetings, and the members shall attend such meetings without further notice of each meeting.
- (3.) The first ordinary meeting after a general election of members, and the first ordinary meeting held in the same month in every alternate year, shall be the annual meeting of the Board.

26 Special meetings.

- (1.) The Board may hold special meetings, and the Chairman or any three or more of the members may call a special meeting.
- (2.) No special meeting shall be held unless at least seven days' notice in writing thereof and of the business to be transacted thereat has been given to members, and no business shall be transacted at a special meeting unless notice thereof has been so given.

27 Adjourned meetings.

Any meeting of the Board may be adjourned to another day not later than seven days thereafter, and notice of such adjourned meeting shall be given to each member.

28 Postponed meetings.

If a quorum is not present within half an hour of the time appointed for any meeting, the Chairman or members or member (if there is only one) present, or the Clerk, if no member is present, shall postpone such meeting either to a later hour on the same day or to the next day at the usual hour of meeting. No notice of any such postponement need be given. A postponed meeting may be adjourned, but not postponed.

29 Meetings to be open to public.

- (1.) Meetings of the Board shall be open to the public, but the Board for sufficient cause, of which it shall be the sole judge, may exclude strangers altogether from any meeting.
- (2.) The Chairman at any meeting may order any constable or officer of the Board to exclude or remove any stranger from the meeting on account of noisy or disorderly conduct, or intoxication.

30 Notice to be given of extraordinary business.

- (1.) No extraordinary business shall be transacted at any ordinary meeting of a Board unless due notice of such business has been given at a prior meeting, or forwarded to the Chairman or Clerk ten days at least before the meeting at which it is to be brought forward, and notice in writing of such business sent to each member.
- (2.) Subject to the by-laws of the Board, the Chairman of the meeting shall determine what business shall be deemed to be extraordinary within the meaning of this section.

31 Revocation or alteration of resolutions.

- (1.) Any resolution of a meeting of the Board may (save as to anything theretofore lawfully done thereunder) be revoked or altered at the same meeting by the

unanimous vote of the members present when it was passed, or by a resolution passed at a subsequent meeting of the Board.

- (2.) Notice of such subsequent meeting and of the proposal to revoke or alter such resolution shall be given to each member seven days at least before such subsequent meeting.

32 Failure to give notice of meeting, or of business to be transacted, not to invalidate proceedings.

No act or proceeding of a Board shall be invalidated in consequence of any failure to give to any member of the Board due notice of any meeting, or of the business to be transacted thereat.

33 Minutes of meetings to be kept.

- (1.) The Clerk shall keep the minutes of the proceedings of the Board in a book, in which he shall enter, subject to the direction of the Board, the names of the members attending each meeting, and the names of the members voting on each question on which there is a division, and every resolution, order, or other proceeding of the Board, and any other matter directed by the Board to be entered upon the minutes.
- (2.) The minutes of the proceedings of every meeting shall be read at the next ordinary meeting succeeding, and, if approved by the Board, or when amended as directed by the Board, shall be signed by the Chairman of such succeeding meeting.

Minutes to be receivable in evidence.

- (3.) The minutes of proceedings of any meeting of the Board kept as above provided, or an extract thereof certified as correct by the Chairman or Clerk, shall, unless the contrary is proved, be received as evidence of such proceedings and of the due convening and holding of the meeting; and the validity of all such proceedings shall be presumed unless the contrary is proved.
- (4.) The minute-book of the Board shall be kept in the office of the Board, and shall be open to inspection, without fee, during all office hours, by any member of the Board, or by any creditor or elector of the district.

34 Travelling-expenses of members.

The Board may, out of its funds, pay to members such reasonable remuneration for their services and travelling-expenses as may be prescribed. The receipt of any payment under this section shall not constitute a cause of forfeiture of office under section sixteen hereof.

*Special Orders***35 Procedure for making special orders.**

- (1.) The power given by this or any other Act to a Board to do anything by special order shall be exercised only as follows:—
- (a.) Notice of the intention to move the resolution to do such thing shall be given as for extraordinary business, and the resolution shall be passed at the meeting for which the notice was given:
 - (b.) The resolution shall be confirmed at a subsequent meeting held not sooner than the twenty-eighth day and not later than the fifty-sixth day after the first meeting:
 - (c.) Public notice of the time and place fixed for the subsequent meeting, and of the resolution, shall be given once in each of the four weeks immediately preceding the day on which the subsequent meeting is to be held:
 - (d.) In publicly notifying the resolution, it shall be sufficient to set forth the object, purport, or general effect thereof if a copy of the resolution is deposited at the public office of the Board, and is open to the inspection of the public for at least twenty-one days immediately preceding the day appointed for the holding of the subsequent meeting.

Revocation or alteration of special orders.

- (2.) A special order may (save as to anything theretofore lawfully done thereunder) be revoked or altered by a subsequent special order.

Sealed copy of special order receivable in evidence.

- (3.) A document purporting to be a copy of any special order, sealed with the common seal of the Board, shall be received as evidence for all purposes of the special order of which such document purports to be a copy having been duly made in accordance with this Act, unless the contrary is proved.

Proceedings to quash special order to be commenced within six months.

- (4.) A special order shall not be quashed by any proceedings in any Court, or otherwise, unless such proceedings are commenced within six months from the making of the special order.

*Regulation of Procedure***36 By-laws as to procedure.**

A Board may, subject to the provisions of this Act, make by-laws or pass resolutions—

- (a.) Regulating the proceedings of the Board and the conduct of meetings thereof respectively:
- (b.) Regulating the adjournment of meetings of the Board:

- (c.) Directing notices of meetings to be given, and prescribing the form and mode and time of service thereof:
- (d.) Regulating debates:
- (e.) Providing for the custody of documents, and the custody and use of the common seal, and prescribing the mode and form of attestation thereof:
Provided that no by-law or resolution made or passed under this paragraph shall affect any person acting in good faith, and taking or to take any estate, interest, or advantage under any document having, or about to have, the common seal affixed thereto:
- (f.) Prescribing the duties of officers and servants:
- (g.) Prescribing forms of, and in connection with, any proceedings of the Board:
- (h.) Concerning anything incidental to any of the matters hereinbefore referred to.

Public Office

37 Board may provide and maintain public offices.

A Board may from time to time provide public offices within the district, with fitting furniture for the same, for holding its meetings and transacting its business, and for the use of its officers, and for other purposes; and may purchase or take on lease land or buildings for such purpose, or may cause buildings to be erected on any land belonging to or leased to the Board, or any such building to be added to or improved.

Officers

38 Officers of Board.

- (1.) A Board may by resolution from time to time appoint fit persons to be Clerk, Treasurer, Engineer, Surveyor, Manager, and all such other officers and servants as it thinks necessary to assist in the execution of this Act; and may pay such persons such salaries and allowances out of the funds of the Board as it thinks fit.
- (2.) No member of the Board shall be capable of holding any such office, unless without remuneration.
- (3.) One person may hold two or more of such offices.

39 Acting officers.

During the absence from duty of any officer of the Board by reason of illness, leave of absence, or other cause, the duties and powers of such officer may be performed and exercised by an acting officer appointed by resolution of the

Board; and any such appointment may be either general or for some occasion only.

Finance

40 Power to borrow.

- (1.) The Board may from time to time borrow such sums as are necessary for the undertaking authorized pursuant to this Act.
- (2.) Such sums shall be borrowed in the manner prescribed by the Local Bodies' Loans Act, 1913, all the provisions of which Act (save Parts II and III thereof) shall accordingly extend and apply as if the Board were a local authority and the railway district a district within the meaning of that Act.

41 Annual estimate to be made.

- (1.) The Board shall during the month of April in every year, or as soon thereafter as may be, make an estimate—
 - (a.) Of the amount of its expenditure during the financial year; and
 - (b.) Of the amount of its income during the same year.
- (2.) In this section the term “expenditure” includes any deficiency in the revenues of the Board during the preceding or any former financial year, but does not include capital expenditure; and the term “income” includes moneys in the hands of the Board at the commencement of the financial year, but does not include capital moneys borrowed under the authority of the last preceding section.

42 Power to rate.

In any year in which the amount of the estimated expenditure exceeds the amount of the estimated income the amount of the excess shall be raised by a rate on all rateable properties within the railway district.

43 Rate to be levied on classification of lands.

- (1.) Every rate made under this Act shall be levied on a graduated scale according to a classification to be made by the Board of the rateable property within the railway district.
- (2.) For the purposes of such classification the Board may from time to time appoint one or more fit persons to examine and classify all rateable property within the district into the following classes:—
 - (a.) Lands receiving or likely to receive immediate and direct benefit from the railway;
 - (b.) Lands receiving or likely to receive less direct benefit therefrom;
 - (c.) Lands receiving or likely to receive only an indirect benefit therefrom; and

(d.) All other lands.

- (3.) Every classification so made shall be set forth in a list to be sealed with the common seal of the Board, and the Board shall immediately cause public notice of such classification to be given, and of the place where the classification list may be inspected for a period of twenty-one days.

Appeal from classification.

- (4.) Any person who thinks himself aggrieved by such classification may appeal against the same on the ground that the land of the appellant, or any other land in the railway district, has not been fairly classified in accordance with the benefit received or likely to be received from the railway, or has not been classified.

Notice of appeal.

- (5.) A notice of appeal setting out the grounds thereof shall, not later than seven days next after the expiration of the twenty-one days appointed for the inspection of the classification list, be given to the Clerk of the nearest Magistrate's Court, and a copy thereof shall forthwith be lodged at the public office of the Board.
- (6.) The appeal shall be heard by the Magistrate at such convenient time and place as he appoints, of which not less than three days' notice shall be given to the Board and to the appellant.

Amendment of classification.

- (7.) On the hearing of any such appeal the Magistrate may cause the classification list to be amended in such manner as he thinks reasonable, and he shall sign the list as so amended, and the determination of the Magistrate shall be final and conclusive.

Sealed copy of classification list to be receivable in evidence.

- (8.) Every classification list sealed with the seal of the Board, or signed by a Magistrate in the case of any such appeal as aforesaid, shall, for the purpose of any proceedings for the recovery of rates, be sufficient evidence of a classification duly made by the Board in accordance with the requirements of this Act.

Amendment of classification list.

- (9.) The classification list may from time to time be amended by the Board:
Provided that no such amendment shall have effect until the expiration of two months after the service of notice of the amendment on all ratepayers affected thereby. The provisions of this section relating to appeals and to the authentication of the classification list shall apply to every such amendment of the list:

Provided further that no amendment of the classification list shall affect the incidence of any special rate or rates theretofore made and appropriated and pledged as security for the repayment of a loan, and the transfer by any such

amendment of any land from one class to another class shall have effect only with respect to liability to rates other than such special rates.

- (10.) The rate shall be imposed upon the several classes (*a*), (*b*), and (*c*) in such proportions as the Board in each case appoints:

Provided that before the appointment of such proportions the Board shall cause public notice to be given of the respective proportions it proposes to appoint; and shall, at a meeting of the Board to be held after the expiration of a period of twenty-eight days after the first publication of such notice, consider all objections in writing (if any) received by the Board to such proposed proportions.

44 Overdraft.

- (1.) The Board may, in anticipation of its income, from time to time borrow moneys from its bankers by way of overdraft.
- (2.) The Board may, for the purpose of providing for the cost of survey and other preliminary works and the expenses of administration, before borrowing moneys by special loan pursuant to section forty hereof, and notwithstanding that an Order in Council authorizing the construction of the railway may not have been granted, make and levy a uniform rate over the whole railway district without the classification required by section forty-three hereof.
- (3.) The Board may pledge such rate as security for moneys borrowed from its bankers.

45 Unauthorized expenditure.

The Board may in every financial year, out of the Railway Fund, expend for purposes not authorized by law any sum or sums not exceeding in the whole the sum of fifty pounds.

46 Special funds.

- (1.) The Board may appropriate in any year any part of the Railway Fund not appropriated for any special purpose towards the creation of a special fund to provide for the following contingencies:—
- (a.) Destruction of or injury to any of the property of the Board:
 - (b.) Depreciation in the value of any of the property of the Board:
 - (c.) Claims which may be made upon the Board by employees:
 - (d.) The strengthening of any sinking fund of any loan or the depreciation in any of the investments thereof:
 - (e.) Any other exceptional losses or expenditure.
- (2.) The Board may invest all moneys so appropriated and the interest and profits accruing therefrom in such securities as it from time to time determines.

- (3.) The Board may at any time, and from time to time, repay into the Railway Fund the whole or any part of the moneys so appropriated or invested and the accumulations thereof, except in the case of moneys set apart for the contingencies mentioned in paragraph (b) of this section.

47 Bank to be appointed.

- (1.) All moneys belonging to the Board shall be paid into such bank as the Board from time to time appoints to an account to be called “the Railway Fund Account.”
- (2.) No money shall be drawn out of the bank except pursuant to a resolution of the Board; and all moneys shall be paid by the Board in cash or by cheque signed by any two of such of the members as the Board from time to time authorizes to sign cheques and countersigned by the treasurer.

48 Books and accounts to be kept.

- (1.) The Board shall cause books to be provided and kept, and true and regular accounts to be entered therein, in the form prescribed by regulations, of all sums received and paid by the Board and of the several purposes for which such sums were received and paid.
- (2.) Such books shall at all reasonable times be open to the inspection of any member of the Board and any debenture-holder or creditor of the Board.

49 Balance-sheet and audit.

- (1.) The Board shall, not later than the month of May in every financial year, cause its accounts for the preceding financial year to be balanced, and a true statement and account to be prepared, in the form prescribed by regulations—
 - (a.) Of all contracts entered into during the financial year;
 - (b.) Of all moneys received or expended during that year;
 - (c.) Of the income and expenditure of the Board for that year; and
 - (d.) Of all assets and liabilities of the Board at the end of that year.
- (2.) All such accounts shall be audited by the Audit Office, which for that purpose shall have and may exercise all such powers as it has under the Public Revenues Act, 1910, in respect of public moneys.

Construction of Railways

50 Order in Council may be issued authorizing construction of railway by Board.

- (1.) It shall not be lawful for any Board constituted under this Act to commence the construction of a railway, or to enter into any contract, matter, or thing authorized by this Act to be done in or about the construction of a railway, unless and until an Order has been granted by the Governor in Council authorizing the construction of the railway.

- (2.) Every application for such Order shall be in writing under the common seal of the Board, and shall be left at the office of the Minister, together with—
 - (a.) A plan setting forth the middle-line and direction of the proposed railway, together with a book of reference showing the lands required to be taken for the same and the names of the owners and occupiers of such lands so far as the same can be ascertained. Every such plan shall be on a scale of one inch to ten chains, and shall show the limits of deviation, being a distance not exceeding one hundred yards on either side of the said line, and the several lands, streets, roads, and places through, over, or under which the railway is intended to pass, as described in the said plan and book of reference:
 - (b.) An estimate of the cost of the proposed railway and the equipment thereof signed by some competent engineer and approved by the Engineer-in-Chief of the Public Works Department.
- (3.) The Governor may require from the Board such further information as he deems necessary to enable him to judge of the necessity of the proposed work and the ability of the Board to carry it out, and may, if he thinks fit, direct an inquiry in the district to which the application relates, or may otherwise inquire as to the propriety of proceeding to deal with such application.
- (4.) Where it appears to the Governor in Council expedient and proper that the application should be granted, the Governor in Council may issue an Order authorizing a railway to be constructed in accordance with the provisions of this Act.
- (5.) The issue of an Order in Council shall be conclusive proof for all purposes that all proceedings, matters, and things required by this Act prior to the issue of such Order in Council have been duly taken, done, and fulfilled.

51 Plan and book of reference to be deposited.

- (1.) Copies of the plan and book of reference shall be deposited in some public place within the railway district and at such other public places as the Governor determines.
- (2.) The plan and book of reference shall be open to public inspection at each such place at all reasonable hours, and any person having the custody thereof who refuses or obstructs inspection thereof is liable to a fine not exceeding five pounds.

52 Notice of deposit of plan, &c., to be published.

- (1.) The Board shall, within seven days after the deposit of the plan and book of reference as aforesaid, cause notice thereof to be published in a newspaper circulating in the district, and such notice shall be published at intervals of not more than three days for four consecutive weeks from the date of such deposit.

- (2.) A copy of such notice shall be given to each owner or occupier of any land whose name is set forth in the book of reference in the manner hereinafter prescribed.
- (3.) Where the lands required to be taken comprise lands owned by Natives, a notice referring to such lands and stating generally the nature of the application shall be published in the *Kahiti*.

53 Preliminary steps may be taken by Board without special authority.

Notwithstanding anything in section fifty hereof, the Board, before obtaining the Order referred to in that section, may take all necessary preliminary steps for the future construction of the railway.

54 On issue of Order in Council Board may construct and maintain railway.

- (1.) On the issue of an Order in Council as aforesaid authorizing the construction of the railway the Board shall have power to construct and maintain the railway, and may enter into contracts with any person for the construction or maintenance of the railway, or for any other purpose authorized by this Act or by any Order in Council made thereunder, or for furnishing materials, or for any other things necessary for the purposes of this Act.
- (2.) The Board may enter into any such contract with the Minister of Public Works, and the Minister of Public Works is hereby authorized to make any such contract with the Board for the construction or maintenance of the railway by the Department of Public Works at the costs and charges of the Board, or for any such purpose or matter as is referred to in subsection one hereof.

55 Gauge.

- (1.) The gauge of every railway constructed under this Act shall be of the width of three feet six inches.
Part VIII of Public Works Act, 1908, to apply.
- (2.) Every railway constructed under this Act shall be subject to the provisions of Part VIII of the Public Works Act, 1908.

56 Entry on lands for purposes of survey, &c.

- (1.) Any surveyor appointed by the Board may from time to time enter upon any land within the railway district (whether before or after the deposit of a plan and book of reference as before provided), with such assistants as he thinks fit, for the purpose of making any survey of any line or intended line of railway; and may fix or set up thereon survey pegs, marks, or poles, and dig or bore into such land so as to ascertain the nature of the soil, and set out the lines of any works thereon.
- (2.) In all cases notice shall be given to the owner or occupier of the land to be entered upon before such entry is made, and the surveyor shall, when required

to do so, produce to the owner or occupier of any land the written authority of the Clerk or Chairman of the Board to make the survey.

- (3.) In case any damage is done by the surveyor in exercise of the powers hereby conferred upon him the Board shall be liable to make good the same, and the amounts thereof shall be ascertained in the mode hereinafter provided as to the assessment of compensation for land taken or affected by the works of the railway.

57 Powers of Board for purposes of construction of railway.

- (1.) Subject to the provisions of this Act, the Board may exercise all or any of the powers hereby conferred by this Act for the construction of the railway, and may enter upon or cause to be entered upon all lands which it is authorized to use or acquire under this Act for the purpose of making such surveys as may be necessary, and, subject as aforesaid, may take and hold all the lands specified in the plan and book of reference and required for the railway along the line to be set forth and described as aforesaid, or within the limits of deviation, and may temporarily occupy and use such lands as may be necessary on either side of the railway during the construction thereof.
- (2.) The Board shall be a local authority for all the purposes of the Public Works Act, 1908, and the railway and all works which the Board is authorized by this Act to undertake shall be deemed to be public works within the meaning of that Act.

58 Protection of lands against trespass, &c.

Nothing in this Act shall authorize the commencement of any work or the removal of any fencing upon any private lands until fences have been first made, so that all private lands adjacent to land taken or works executed under this Act shall be as effectually protected against damage by trespass as before the commencement of such work.

59 General powers of Board with respect to railway.

Subject to the restrictions herein specified, the Board may do the following things in respect of any railway authorized under this Act:—

- (a.) May make the railway on, over, or under any land necessary for the construction thereof lying along the middle-line defined in any plans deposited as hereinbefore provided, or within a distance of one hundred yards on either side thereof, and for this purpose may construct works of every description and of every material necessary to the working thereof;
- (b.) May make the railway on, over, or under any road or tramway or public reserve along such line, and may alter the level of any road or tramway for such purpose;

- (c.) May make the railway across any river or stream, but so as not to impede the navigation upon any navigable river, except as may be provided by a special Act;
- (d.) May alter the course or the level of any river not navigable, or of any stream, watercourse, ditch, or drain;
- (e.) May make and maintain drains or conduits on or under any land adjacent to and for the purpose of carrying water from off the railway;
- (f.) May remove or alter any drain or sewer, or any pipes or other material for the supply of water or of gas, belonging to any body or person within or beyond the limits of the railway;
- (g.) May provide all such buildings, stations, engines, machinery, piers, wharves, roads, approaches, and other works in connection with the railway as may be thought necessary; and
- (h.) Generally may do all acts necessary for making, maintaining, altering, repairing, and using the railway.

60 Provisions to apply where railway crosses road.

Where any part of a road, except where it crosses a railway on a level, is taken for a railway, such part of the road shall thereafter cease to be a highway; and where a road crosses a railway on a level the public right of way at such crossing shall cease whenever any engine or carriages on the railway are approaching and within a distance of a mile from such crossing, and shall at all other times extend only to the right of crossing the line of railway with all convenient speed, but not to stopping or continuing thereon.

61 Alteration of roads, &c., for purposes of railway.

- (1.) Where it is found necessary for the construction of a railway to alter any road, tramway, watercourse, sewer, or drain, or any other public work, or any water-pipe or gas-pipe for the supply of water or gas belonging to a private person or a company, such alterations shall be made in such manner as to interfere as little as possible with the work so altered, and so as to afford to the public and to every person entitled to use the same an equal use and convenience as before such alteration.
- (2.) Before commencing any such alteration the Board shall cause a plan thereof to be prepared and to be submitted to the local authority under whose control the work proposed to be altered is, or to the owner of such sewer, drain, water-pipe or gas-pipe, or other work, as the case may be; and, if such local authority or owner objects to the proposed alteration, the Board shall appoint a competent engineer to confer with such local authority or owner and to agree with it or him as to the manner in which such alteration shall be made.

- (3.) If no agreement can be come to between the parties, the matter shall be referred to two Justices, who shall make such order therein as they think fit; and the alteration shall be made in accordance with such order.

62 Temporary occupation of land for purpose of constructing or repairing railway.

Except as and subject to the conditions hereinafter provided, the Board may temporarily occupy and use any lands for the purpose of constructing or repairing the railway, and may do the following things thereon:—

- (a.) May take therefrom stone, gravel, earth, and other materials;
- (b.) May deposit thereon any such material;
- (c.) May form and use temporary roads thereon;
- (d.) May manufacture bricks or other materials thereon;
- (e.) May erect workshops, sheds, and other buildings of a temporary nature thereon.

63 Notice to be given to occupiers before entry on land.

- (1.) The engineer or other person having charge of the railway shall, before occupying or using any land as herein provided, and except in the case of accident to the railway requiring immediate repair, give to the owner or occupier thereof not less than twenty-one days' notice in writing, and shall state in such notice the use proposed to be made of such land.

Appeal from entry.

- (2.) The said owner or occupier may, within ten days after receiving such notice, and after giving notice to the said engineer or other person of his intention so to do, apply to any Justice, who may thereupon summon such engineer or other person to appear before two Justices, at a time and place to be named in the summons.
- (3.) If it appears to the Justices that the use proposed to be made of the said land is unreasonable and unnecessary, or that other neighbouring lands are more fitting to be used for the purpose proposed, the Justices may, by writing under their hands, order that the land in question shall not be occupied or used in the manner proposed.
- (4.) If it appears to the Justices that the use proposed to be made of the said land is reasonable and necessary, they may, in like manner, order that the said land may be occupied and used, or material taken therefrom, in such manner, and to such extent only, and subject to such limitations and restrictions, as they think fit; and all persons concerned shall be bound by any such order.

64 Owner may require Board to take land,

The owner of any land temporarily occupied as aforesaid may at any time during such occupation, by notice in writing to the Board, require the Board to take the land.

65 Deviation from plan.

The Board in constructing the railway may deviate from the middle-line laid down in the plan, but may not take or use for the purpose of such deviation any land not comprised within the limits of deviation set forth in the plan and book of reference without the consent in writing of the owner of the land.

66 Omissions from plan or book of reference not to prejudice Board.

No advantage shall be taken of or against the Board, either during or after the making of the railway, on account of any error or omission in such plan or book of reference in any case in which it appears to two Justices, to be certified in writing under their hands, that such error or omission proceeded from mistake.

67 Board to proceed with construction of works with due diligence.

- (1.) The Board shall, without any inexcusable delay, as soon as may be after the issue of the Order in Council referred to in section fifty hereof commence the construction of the railway in accordance with the plans approved by the Governor, and shall prosecute the same to completion without delay or intermission, unless hindered or prevented by some unforeseen cause.
- (2.) The Board shall also in like manner, and as the state of the railway-works permits and requires, proceed with the erection of all buildings, and supply the necessary accommodation for the safe, proper, and convenient conduct of passengers and goods on the railway.

68 Governor may cause works to be inspected.

During the construction of the railway and the execution of the works connected therewith, and after the completion thereof, the Governor shall be at liberty to direct any engineer to inspect the works, the rolling-stock, and buildings of the Board, and upon or after such inspection may require that such additions, alterations, or repairs shall be made by the Board in such manner as the Governor is advised are necessary or desirable for the utility or safety of the line of railway.

69 Board may sell or lease land not required for railway purposes.

If it is found that any land taken under this Act is not required for the purposes of the railway, the Board may, with the consent of the Minister publicly notified and gazetted, cause the same to be sold by public auction; or, with the like consent, may cause such land to be leased for any term not exceeding

twenty-one years, at such rent and upon such terms and conditions as the Board thinks fit.

70 Compensation for land taken or for injury caused by Board.

Every person having any estate or interest in any land taken under the authority of this Act or injuriously affected thereby, or suffering any damage from the exercise of any of the powers hereby given, shall be entitled to full compensation for the same from the Board. Such compensation may be claimed and shall be determined in the manner provided by the Public Works Act, 1908.

Management of Railways by Boards

Regulations for Traffic

71 Board may make by-laws regulating traffic, &c., on railways.

- (1.) When a Board has been authorized to construct and work a railway under this Act, then, subject to the terms of the authorizing Order in Council, the Board may from time to time make by-laws in respect of a railway open for traffic upon the following subjects:—
 - (a.) Fixing the fares, rates of freight, and rent to be charged for the carriage by the railway of passengers, produce, animals, goods, and merchandise, and for the storage of goods in any of the Board's sheds or warehouses;
 - (b.) Regulating the number of trains to run each day, and the time of their arrival and departure from the terminal and intermediate stations;
 - (c.) Regulating the loading and unloading of carriages and wagons, and the receipt and delivery of goods, and the storing and delivery of the same;
 - (d.) Regulating the use of cranes, hoists, or other machinery for the loading or unloading of goods, and the fees to be paid for the same; and
 - (e.) Generally for regulating the traffic on railways, and the conduct of all persons employed on or about the same or travelling thereon.
- (2.) All fares, rates of freight, rent, and fees as aforesaid shall be deemed to be authorized by this Act.
- (3.) The railway shall at all reasonable times be open to and freely used by every person who complies with the by-laws for the time being in force.

72 Certain provisions of Government Railways Act incorporated with this Act.

- (1.) The following provisions of the Government Railways Act, 1908, shall, so far as applicable, be deemed to be incorporated with this Act, that is to say,—
 - Sections sixteen to twenty-two.
 - Sections twenty-five to twenty-eight.

- (2.) Wherever in such sections any power, duty, or function is given to or imposed upon the Minister of Railways, such power, duty, or function shall be given to, imposed upon, and may be exercised by the Board.

Carriage of Goods, &c

73 Provisions as to carriage of goods on railways under this Act.

- (1.) In respect to the receiving, custody, and delivery of goods on or from a railway the following provisions shall apply:—
- (a.) All goods received on the railway shall, subject to any by-laws in that behalf, be deemed to be in the custody of the Board until delivered to the consignee thereof. The word “goods” means goods and chattels of every description, including live animals.
 - (b.) The Governor may, by regulations, from time to time declare certain kinds of goods of a nature liable to injury or goods over and above a certain value to be special goods; all other goods shall be deemed to be ordinary goods.
 - (c.) Every person before delivering any special goods at any railway-station shall first give to the person in charge of such station a statement in writing declaring the nature and value of such special goods, and the person so in charge shall give a receipt for the same, specifying the nature and value so declared.
 - (d.) No person, unless he has first delivered such statement and obtained such receipt, shall be entitled to recover, in respect to any loss or damage of or to any such special goods, any greater sum than ten pounds in respect of any parcel in which any such special goods are packed, fifteen pounds per head in respect of any horses, eight pounds per head in respect of any neat cattle, and fifteen shillings per head in respect of any sheep or swine.
 - (e.) The Governor may, by regulations, from time to time declare what additional sum over and above the charges payable in respect of ordinary goods shall be payable in respect of special goods in proportion to the value thereof.
 - (f.) In respect of all ordinary goods, and to the extent of the value declared as above provided in respect of all special goods, and in respect of all passengers carried upon any railway, the Board shall be subject to the same liabilities and obligations and shall be entitled to the same rights and protection as common carriers are subject or entitled to by any laws for the time being in force.
 - (g.) Nothing herein shall be interpreted to subject the Board to any liability in respect of any goods which by any by-law made under this Act are left on the premises of the railway at the risk of the person leaving the same.

- (h.) No action shall be brought against the Board for any loss of or damage to any goods in its custody on the railway unless the same is brought within three months after such loss or damage occurs.
 - (i.) No such action shall be commenced until one month after a notice in writing has been given to the Board stating the cause of action, the Court in which such action is intended to be brought, and the name and residence of the parties about to sue.
 - (j.) In any such action the Board may plead a general denial of the allegations contained in the statement of claim or plaint, and also set up any special matter of defence, or in any inferior Court may give any special matter of defence in evidence at the trial without notice.
- (2.) Every person who knowingly and wilfully makes a false statement as to the nature, quantity, and value of any goods delivered on a railway in any waybill or other document which by this Act, or by any by-law or regulation made thereunder, he is required to deliver in respect to such goods is liable to a fine not exceeding fifty pounds.

74

- (1.) The Governor may from time to time enter on behalf of the King into an agreement with the Board, on such terms and conditions as may be agreed, providing that any trains or rolling-stock the property of the Government may be run on the Board's, railway after the completion thereof, and that any trains or rolling-stock the property of the Board may be run on any Government railway.
- (2.) In any such agreement provision may be made as to stoppage at the terminal and other stations on any line of railway as may be specified in any such agreement.
- (3.) The Governor and the Board may also from time to time, in the manner aforesaid, agree as to the payments to be made by the one to the other of them of such rates of charges as may be fixed in that behalf, and as to the time and mode of payment of such charges, and the keeping of accounts between the Government and the Board in respect of any such agreement, and generally may agree upon such terms and conditions as may be necessary to give effect to this section.

By-laws

75 Mode of making by-laws.

- (1.) By-laws shall be made in manner and subject to the conditions following:—
- (a.) They shall be made only by special order:

Provided that in publicly notifying the resolution making such order it shall not be necessary to set forth the whole of the proposed by-law if the object or purport of the same is stated, and if a copy of the

proposed by-law is deposited at the office of the Board or at some other place in the railway district specified in the notification, and is open to the inspection of the public during office hours for at least seven days immediately preceding the meeting at which the said resolution is to be confirmed.

- (b.) They may be amended before confirmation of the special order making the same.
- (c.) They shall have the common seal of the Board affixed thereto.
- (d.) They shall come into force on a day to be fixed at the meeting last aforesaid, which day shall not be earlier than seven clear days after the date of that meeting.
- (e.) A copy of all by-laws relating to matters affecting the public shall be painted or printed in black letters on a white ground, and be fixed and maintained in a conspicuous place at every station at which tickets are sold:

Provided that the validity of any by-law, or the liability of any person under any by-law, shall not be affected by any non-compliance with this provision.

By-laws to be gazetted and laid before Parliament.

- (2.) All by-laws shall be gazetted, and a copy shall, within ten days after the publication thereof, be laid before Parliament if sitting, and if not, then within ten days after the commencement of the next ensuing session.
- (3.) The publication in the *Gazette* of any by-laws shall be evidence in all Courts of the same having been duly made under the authority of this Act.

Penalty for breach of by-laws

76

- (1.) Every person guilty of a breach of any by-law made under this Act is liable to a fine not exceeding twenty pounds; or where the breach is a continuing one, then to a fine not exceeding five pounds for every day or part of a day during which such breach continues.
- (2.) The Board may, after conviction for the continuing breach of any by-law, apply to the Supreme Court for an injunction to restrain the further continuance of such breach by the person so convicted.
- (3.) The continued existence in a state contrary to any by-law of any work or thing shall be deemed a continuing offence within the meaning of this section.

77 Printed copies of by-laws to be available for sale.

The Board shall cause printed copies of all by-laws to be kept at the office of the Board and to be sold at a reasonable charge to any person applying for the same.

Power of Purchase by the Governor

78 Governor may purchase Board's railway on giving twelve months' notice.

The Governor shall be entitled, at any time after the date the entire line of railway provided for in the Order in Council is opened for traffic, upon giving twelve months' notice in writing to the Board, to purchase the railway at a price to be determined by arbitration, the award being that of three arbitrators, or any two of them, one arbitrator being chosen by the Governor, another by the Board, and a third arbitrator by the two other arbitrators.

79 Board on payment of compensation to transfer property to Crown.

On payment of the compensation to be awarded under the provisions hereof the Board shall convey, assign, and transfer to His Majesty all the railway-works, plant, rolling-stock, and everything appurtenant thereto, free from all incumbrances.

80 No compensation to be paid in respect of goodwill.

- (1.) No compensation whatever shall be paid for the goodwill of the railway; but the arbitrators, in determining the price to be paid to the Board, shall take as a basis of the valuation the cost of other similar railway-works, plant, and rolling-stock at the time when the works forming the subject of the arbitration were constructed or the plant or rolling-stock was acquired, as the case may be.
- (2.) The arbitrators shall also take into consideration the depreciation in the permanent-way, plant and rolling-stock, buildings, and other works of the railway, including therein any onerous or burdensome provisions respecting the use of the railway or the works thereof, or any easements, rights, or privileges in connection therewith.

81 Additional compensation in certain cases.

- (1.) If such power of purchase is exercised by the Governor as aforesaid between the periods hereinafter respectively mentioned after the railway has been open for traffic, there shall be added to the amount of compensation to be ascertained as before provided the percentage hereinafter mentioned, that is to say,—

Ten years and not exceeding fourteen years, five per centum:

Fourteen years and not exceeding twenty-one years, ten per centum.

- (2.) The amount of such percentage, as the case may require, shall be ascertained by the arbitrators, and shall be deemed to be and shall be paid as part of the compensation.

82 Compensation to be accepted by Board in full satisfaction of all claims.

- (1.) The compensation so ascertained as aforesaid shall be accepted by the Board in full satisfaction of all claims and demands in respect of the purchase of the

railway-works, plant, rolling-stock, implements, and all the rights, powers, and privileges of the Board in respect thereof, and shall be paid out of moneys appropriated for that purpose by Parliament.

- (2.) Until Parliament has appropriated money for such purpose no agreement made by the Governor to purchase any railway constructed under this Act shall be binding on him or the Government.

83 On purchase by Governor, railway to be subject to provisions affecting Government railways.

Every railway purchased by the Governor under the provisions of this Act shall be and become subject to all laws, by-laws, and regulations in force at the time of such purchase in respect of any Government railway.

84 Protection of rights of debentureholders.

Nothing in this Act shall be deemed to authorize the Governor, on purchasing any railway under the authority of this Act, to require any person holding a debenture to receive payment of the principal moneys secured thereby unless and until the time prescribed in such mortgage for repayment has arrived.

85 Receiver to give notice of intention to sell property charged by debenture.

No receiver shall sell or make application to a Judge of the Supreme Court for an order to sell any portion of the Board's property charged by any debenture unless and until he has first given notice in writing to the Governor of his intention to sell or to apply for such an order, and unless the Governor within three months next after the receipt of such notice either fails to give to such receiver notice of his intention to purchase or gives to such receiver notice in writing that it is his intention not to purchase.

86 Provisions to apply where railway, on purchase by Crown, is charged with borrowed moneys.

- (1.) If the Governor exercises the power of purchase conferred by this Act, and the railway or any part thereof purchased is then charged with any moneys borrowed by the Board, and the moneys charged are less than the purchasing-price determined by arbitration as aforesaid, the moneys to be paid to the Board shall be the difference between the moneys charged and the price so to be determined.
- (2.) If the moneys charged are more than the price so determined the Board shall pay to the Governor the difference between the price so determined and the money charged.
- (3.) If the money charged, or any part thereof, bears interest at a higher rate than five per centum per annum, the arbitrators who determined the price to be paid for the purchase shall ascertain what (if any) is a proper sum to be allowed to the Governor as a rebate in respect of any interest on the amount charged in excess of five per centum per annum; and the amount so ascertained (if any)

shall be added to the principal money so charged, and as between the Governor and the Board shall be deemed an amount charged upon the railway.

Miscellaneous Provisions

87 Contracts by Board, how to be made.

- (1.) Any contract which, if made between private persons, must be by deed shall, if made by a Railway Board, be in writing under the seal of the Board.
- (2.) Any contract which, if made between private persons, must be in writing signed by the parties to be charged therewith may, if made by a Railway Board, be in writing signed on behalf of the Board by some person duly authorized in that behalf.
- (3.) Any contract which, if made between private persons, may be made verbally without writing may be similarly made by or on behalf of a Railway Board.

88 Contracts by Board, how to be made.

No Judge, Magistrate, or Justice shall be deemed to be interested in any case in which he is acting judicially solely on the ground that he is a ratepayer.

89 Service of legal process on Board.

Any summons, writ, or other legal proceedings requiring to be served on the Board may be served by being left at the office of the Board or given personally to the Clerk thereof.

90 Governor may take possession and assume management of railway in certain circumstances.

- (1.) In the event of any unreasonable or inexcusable delay by the Board in the prosecution of the works connected with any railway, or if, after the completion of the said works in whole or in part so that the whole or any complete part or section of such railway may be used for the purposes of traffic, the Board fails for the space of twenty-one clear days, without reasonable excuse, to run trains thereon, the Governor may take possession and assume the management of the railway, and, if he thinks fit, complete the same and conduct the traffic thereon, charging the Board with all outlay and expenditure which may be entailed, and crediting the Board with all earnings and receipts.
- (2.) In any such case there shall be paid by the Board to the Governor and by the Governor to the Board the balance from time to time found to be due from the one to the other of them, the accounts being computed and rendered at intervals of not less than six months; or the Governor may restore the possession of the railway to the Board, or waive any breach in any contract as aforesaid, on such terms and conditions as he thinks fit.

91 Board may appeal to Supreme Court.

- (1.) If the Governor exercises the powers vested in him by the last preceding section, the Board may apply to the Supreme Court as hereinafter provided.
- (2.) Every such application shall be heard and determined by a Judge of the Supreme Court in a summary way; and such application shall be limited to the question whether there has been such unreasonable or inexcusable delay, or such failure to run trains as aforesaid, as to justify the exercise of such powers by the Governor or any of them.
- (3.) The Judge shall, in such manner as he thinks fit, hear and receive evidence, either oral or by affidavit, as to the matters upon which his decision is sought; and any order made by the Judge shall set forth whether in his opinion the power conferred by the last preceding section was rightly exercised; and every such order shall be final and conclusive on the Governor and the Board.
- (4.) In all other respects the procedure and practice in force for the time in the Supreme Court shall apply to all proceedings authorized by this provision.

92 If Board fails to refund expenses incurred by Crown, property may be permanently retained.

If the Board for the space of one year after the Governor has taken possession as aforesaid fails to repay all sums of public money which have been expended in or towards completing the railway and the equipment thereof, and all sums of public money which have been expended on the repair or management of the railway or in connection therewith in excess of the receipts therefrom, it shall be lawful for the Governor, at any time after the expiration of the one year, to give three months' notice to the Board that he intends to permanently retain the railway as Government property.

93 Property to vest in His Majesty without conveyance.

On the publication of an Order in Council, at any time after the expiration of the said three months, to the effect that possession has been taken as aforesaid and will be permanently retained by the Government the said railway and stations, and all plant, equipments, and appurtenances belonging thereto, shall, unless a satisfactory arrangement is in the meantime made between the Government and the Board, become and be absolutely vested in His Majesty without any conveyance or transfer whatsoever.

94 Exemptions from stamp duty.

No stamp duty shall be chargeable upon or in respect of any contract entered into between the Governor in Council and any Board, nor upon any debenture or coupon issued by a Board under this Act.

95 Board may remove trees, &c., obstructing traffic on railway.

If the Board is of the opinion that any tree on land adjacent to its railway is likely by falling or otherwise to obstruct the traffic or endanger the travellers thereon, the Board may cause notice to be given to the owner or occupier of such land to remove such tree; and in default of such removal the Board may cause the tree to be removed; but such owner or occupier may recover the amount of any cost or damage incurred or suffered by such removal.

96 Penalty for trespassing on railway.

- (1.) Every person who trespasses upon any railway after the same has been constructed, or while it is in the course of construction, or on any land occupied or temporarily occupied for the purpose of such construction under the powers hereby given, is liable to a fine not exceeding two pounds.
- (2.) Every person who rides or drives any animal or vehicle upon any such railway or land without lawful authority is liable to a fine not exceeding five pounds.
- (3.) Every such person who refuses to leave such railway or land, or to remove such animal or vehicle therefrom, when warned so to do by the overseer, contractor, or any other person in charge of or employed upon the railway may be seized and detained by such overseer or other person until he can be conveniently taken before some Justice to be dealt with according to law.

97 Obstruction of engineers, &c.

Every person who wilfully obstructs any engineer, surveyor, overseer, workman, or other person in the performance of any duty, or in doing any work which he has lawful authority to do under or by virtue of the provisions of this Act, is liable to a fine not exceeding fifty pounds.

98 Recovery of fines.

All fines recoverable under the provisions of this Act or any by-laws or regulations made thereunder may be recovered before any two Justices in a summary way, and when recovered shall be the property of the Board.

99 Limitation of actions.

- (1.) No action shall be commenced against the Board or any member thereof, or other person acting under the authority, or in the execution or intended execution, or in pursuance of this Act, for any alleged irregularity or trespass, or nuisance, or negligence, or for any act or omission whatever, until the expiry of one month after notice in writing specifying the cause of action, the Court in which the action is intended to be commenced, and the name and residence of the plaintiff and of his solicitor or agent in the matter has been given by the plaintiff to the defendant.
- (2.) Every such action shall be commenced within six months next after the cause of action first arose, whether the cause of action is continuing or not.

100 Regulations.

The Governor may from time to time, by Order in Council, make regulations for effectually carrying out any of the provisions of this Act in respect whereof the Board is not by this Act empowered to make by-laws or regulations, and also providing for and regulating any matter in respect whereof any power, authority, or discretion is by this Act conferred on the Governor.

*Repeal***101 Repeal.**

The Railways Construction and Land Act, 1908, and the Railways Construction and Land Amendment Act, 1913, are hereby repealed.