

Government Railways Amendment Act 1931

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An Act to amend the Government Railways Act, 1926, to make Better Provision for the Control and Management of the Government Railways, and for the Carrying-on of the Business thereof.

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 and commencement.

- (1) This Act may be cited as the Government Railways Amendment Act, 1931, and shall be read together with and deemed part of the Government Railways Act, 1926 (hereinafter referred to as the principal Act).
- (2) Except as provided in section twenty-three hereof this Act shall come into force on the first day of June, nineteen hundred and thirty-one.

Government Railways Board

2 Government Railways Board constituted.

- (1) There is hereby constituted a Board which shall be known as the Government Railways Board (hereinafter in this Act called the Board).
- (2) The Board shall consist of five persons to be from time to time appointed by the Governor-General in Council. One such member shall be so appointed as Chairman of the Board.
- (3) The first person appointed as Chairman of the Board shall hold office as a member of the Board and as Chairman thereof for a period of four years from

the date of his appointment. Every subsequent such appointment shall be for a period of three years.

- (4) Of the first members of the Board other than the Chairman, two shall be appointed for a period of two years and two shall be appointed for a period of three years from the date of their respective appointments, and thereafter every such member of the Board shall be appointed for a period of two years from the date of his appointment.
- (5) On the termination of the period for which he was appointed every person appointed as aforesaid shall cease to be a member of the Board, but shall, unless otherwise disqualified, be eligible for reappointment.

3 Disqualifications from appointment as member of the Board.

No person shall be capable of being appointed to be or of being a member of the Board who—

- (a) Is a member of the General Assembly; or
- (b) Is a Government servant or the holder of any other office of profit under the Crown; or
- (c) Otherwise than as a member of an incorporated company in which there are more than twenty members and of which he is not a director, officer, or servant, or otherwise than as a creditor, is financially interested directly or indirectly in any transport undertaking in competition with the Government railways in connection with the carriage of either passengers or goods.

4 Vacation of office.

A member of the Board shall be deemed to have vacated his office—

- (a) On becoming disqualified pursuant to the last preceding section; or
- (b) If he becomes bankrupt or makes a composition with his creditors or is convicted of an indictable offence; or
- (c) If, without leave of the Board, he is absent from three consecutive meetings of the Board; or
- (d) If he becomes in any way concerned or interested (otherwise than as a member of an incorporated company in which there are more than twenty members) in any contract or agreement made by or on behalf of the Board whereby any money or other valuable consideration becomes payable to him; or
- (e) If he dies or if by writing under his hand addressed to the Governor-General he resigns his office; or

(f) If he is removed from office under the next succeeding section,—
and in any such case the Governor-General in Council may appoint some qualified person to be a member of the Board to hold office for the remainder of the period for which the person so vacating office was appointed.

5 Removal of member from office.

- (1) The Governor-General in Council may remove from office any member of the Board who in the opinion of the Governor-General is for any reason no longer capable of carrying out his duties, or who has been guilty of any misconduct rendering it unfitting in the public interest that he should continue to be a member of the Board.
- (2) In every such case a statement of the grounds on which such member has been removed from office shall within fourteen days there-after be laid before Parliament if then sitting, or if not sitting, then within fourteen days after the commencement of the next ensuing session.

6 Acting when disqualified.

If any person does any act as a member of the Board being incapacitated as aforesaid or after his having done any act whereby he is deemed to have vacated his office, he shall be liable to a fine of fifty pounds to be recovered with costs of suit by any person in any Court of competent jurisdiction.

7 Deputies.

- (1) In case of any illness or absence of the Chairman or any other member of the Board the Governor-General in Council may appoint such person as he thinks fit (not being a person disqualified for appointment) as Acting-Chairman or as the deputy of such other member.
- (2) Every person so appointed shall while such illness or absence continues be deemed for all purposes to be the Chairman or other member of the Board, as the case may be, and the provisions of the three last preceding sections shall apply to him.

8 Evidence of appointment or vacation of or removal from office.

The publication in the *Gazette* of a notice signed by or by direction of the Governor-General shall be conclusive evidence of the appointment of the Chairman or any other member of the Board, or of the appointment of an Acting-Chairman or of the deputy of any other member, and the like publication of a notice of vacation of or removal from office shall be conclusive evidence that any person named therein has duly vacated or has been removed from office.

9 Member of Board not personally liable.

Save as otherwise expressly provided in this Act, the members of the Board shall not be personally liable in respect of anything done or omitted to be done in good faith by the Board.

10 Remuneration of members.

- (1) Payments at the rate of one thousand pounds per annum in the case of the Chairman and at the rate of five hundred pounds per annum in the case of each other member shall be made in each year to members of the Board as remuneration for their services.
- (2) Every person appointed as Acting-Chairman and every person appointed as the deputy of any member shall be paid such remuneration for his services while so acting as may be lawfully appointed in that behalf.
- (3) Every member of the Board shall be paid such travelling allowances and expenses as may be lawfully appointed in that behalf.
- (4) All payments made pursuant to this section shall be paid out of the Working Railways Account.

11 Meetings of Board.

- (1) The Board shall hold meetings for the transaction of its business at such times and places as the Board itself by resolution or the Chairman from time to time determines, and, save as hereinafter provided, no power conferred on the Board by this Act shall be exercised otherwise than pursuant to a resolution passed at such a meeting by a majority of the votes recorded in respect of such resolution.
- (2) At all meetings of the Board three members (of whom one shall be the Chairman or the Acting-Chairman) shall constitute a quorum.
- (3) At any meeting of the Board the Chairman shall have a deliberative vote, and in the case of an equality of votes shall also have a casting-vote.
- (4) No act or proceeding of the Board shall be invalidated in consequence of there being a vacancy in the membership of the Board at the time of such act or proceeding or the subsequent discovery that any member of the Board was incapable of being such member.
- (5) Where for any reason it is not practicable to hold a meeting of the Board for the transaction of any business, the assent of all the members signified in writing or by telegram to the doing of any act or thing or to the giving of any order, direction, instruction, consent, or approval, or the exercise of any act of authority, shall be as effective as and be deemed to be a resolution of the Board duly passed at a meeting thereof:

Provided that a record of such action as aforesaid as of the date on which the last such assent was signified shall be entered in the minutes of the next meeting of the Board.

12 Delegation of powers.

- (1) The Board may, by resolution passed at a meeting thereof at which not fewer than four members are present, delegate to the Chairman all or any of the powers, duties, or functions of the Board other than such of its powers, duties, or functions as the Governor-General from time to time by Order in Council directs shall not be so delegated.
- (2) All things duly done by the Chairman pursuant to any such delegation shall for all purposes be deemed to have been done by the Board, and shall have force and effect accordingly. The fact that the Chairman does any such thing shall be sufficient evidence of his authority so to do, and no person shall be concerned to inquire whether he has been duly authorized in that behalf.
- (3) The Chairman shall, at the next meeting of the Board held after the exercise or performance by him of any power, duty, or function of the Board, furnish a report of the things so done by him, and such report shall be recorded in the minutes of the Board.

13 Seal of Board.

- (1) The Board shall have an official seal for the authentication of instruments or documents executed or issued by the Board, and all Courts shall take judicial notice of such seal.
- (2) Any instrument or document requiring to be executed or issued by the Board shall for all purposes be deemed to be duly executed or issued if the seal of the Board, attested by the signature of the Chairman or any two members of the Board, is duly affixed thereto.

*Functions and Powers of the Board***14 Functions of the Board.**

- (1) It is hereby expressly declared that the general functions of the Board shall be to carry on, control, manage, and maintain the Government railways to the end that the railways, while being maintained as a public service in the interests of the people of New Zealand and as an essential factor in the development of trade and industry, shall be so carried on, controlled, managed, and maintained on the most economical basis, having regard to the economic and financial conditions from time to time affecting the public revenues and trade and industry in New Zealand, with a view to obtaining a maximum of efficiency and maintaining a proper standard of safety and a reasonable standard of comfort and convenience for persons using the railways and any other services carried on in connection therewith.
- (2) The Board shall, having regard to all such matters as aforesaid, provide reasonable remuneration and grant reasonable conditions of employment to all persons permanently or temporarily employed in the service of the Department.

- (3) It shall be the duty of the Board from time to time to consult with and obtain from the Minister of Finance all such information respecting the state of the public revenues as will enable it to carry out its functions as aforesaid in the best interests of New Zealand, and the Board shall have due regard to any such information as aforesaid that may from time to time be furnished to it by the Minister of Finance.

15 General powers of the Board.

- (1) Save as provided in the next succeeding subsection, all the powers, duties, and functions of the Minister, the General Manager, and the Permanent Head of the Department under the principal Act or any other Act are hereby transferred to and shall be exercised and performed by the Board, and all references to the Minister, the General Manager, and the Permanent Head in the principal Act or any other Act shall hereafter be read as references to the Board.
- (2) Nothing in the last preceding subsection shall—
- (a) Be deemed to transfer to the Board the powers conferred on the Minister by, or be deemed to require to be read as a reference to the Board any reference to the Minister in, subsection two of section forty, section sixty-six, section sixty-seven, or section one hundred and twenty-four of the principal Act, or section fifteen of the Government Railways Amendment Act, 1927 (as amended by section eight of the Government Railways Amendment Act, 1928); or
 - (b) Be deemed to require to be read as a reference to the Board the reference to the General Manager in subsection one of section ninety-nine of the principal Act; or
 - (c) In any way affect the operation of any provision of this Act conferring or imposing any power, duty, or function on the Minister, or transferring any power, duty, or function of the Minister to the Minister of Finance, or making provision with respect to the General Manager.

16 Property.

- (1) The Board shall have the management and control of all property of any description whatever now or hereafter vested in the Crown for the purposes of the Government railways.
- (2) The Board may, in the name and on behalf of His Majesty, take or purchase or otherwise acquire any land or other property that may be needed for any purpose of the Government railways, and may in like manner sell or otherwise dispose of any property of the Crown in respect of the railways no longer required for the purposes of the railways:

Provided that the Board shall not, without the precedent approval of the Governor-General in Council,—

- (a) Take, purchase, or acquire by way of exchange any land in any case where the value of the consideration to be given therefor by the Board exceeds one thousand pounds:
 - (b) Acquire or let by way of lease any land or building where the rent reserved under the lease exceeds one hundred and four pounds per annum in the case of any building or fifty pounds per annum in the case of any land.
- (3) The powers conferred on the Governor-General by section forty-nine of the principal Act shall hereafter be exercised by the Board, and the powers conferred on the Governor-General by section forty- three and by subsection two of section forty-seven of that Act shall hereafter be exercised by the Board with the approval of the Governor- General in Council.

17 Purchase of stores.

- (1) Save as the Minister of Finance from time to time other-wise directs, the New Zealand Government Stores Control Board Regulations, 1925 (hereinafter referred to as the said regulations), and any regulations that may from time to time be made under section three of the Public Revenues Act, 1926, in amendment of or in substitution for the said regulations shall apply with respect to the purchase of stores by the Board.
- (2) In giving any such direction as aforesaid the Minister of Finance may require that any contract for the purchase of stores by the Board shall not be made without his approval, where the total amount to be paid by the Board under such contract exceeds the sum of ten thousand pounds.

18 New lines not to be constructed until report by Board laid before Parliament.

- (1) Where after the commencement of this Act any special Act authorizing the construction of any Government railway is passed without a report by the Board on the proposed railway being first laid before Parliament no work in connection with such construction shall, save as such special Act expressly otherwise directs, be undertaken until a report by the Board respecting the railway so authorized is laid before both Houses of Parliament and a resolution approving such work is passed by both such Houses.
- (2) Where before the commencement of this Act work in connection with the construction of any Government railway or part thereof has been suspended and has not been resumed at the commencement of this Act, such work shall not thereafter be resumed until a report respecting such railway or part of a railway has been laid before both Houses of Parliament and a resolution authorizing the completion of such work has been passed by both such Houses.
- (3) At any time within one year after the commencement of this Act the Board may submit to the Minister a report on any railway or part of a railway then under construction (being a railway or part of a railway the construction of

which was begun before the commencement of this Act) recommending that the work of construction be not further proceeded with or that it be carried out to such extent only as is recommended by the Board. The Minister shall as soon as practicable after receiving such report cause the same to be laid before both Houses of Parliament, and if both such Houses pass a resolution approving the recommendation of the Board no further work in connection with the construction of such railway or part of a railway shall thereafter be carried out save in accordance with the recommendation of the Board.

- (4) Subject to the foregoing provisions of this section, the Board, on the issue of a Proclamation declaring any railway or part of a railway hereafter constructed or completed to be a Government railway, shall administer the same under the principal Act, and, subject to section five of that Act, shall open the same for traffic.

19 Railway improvements to be carried out only on recommendation of Board.

No addition to or alteration, deviation, or improvement of any railway existing at the commencement of this Act or thereafter constructed shall be made, nor shall any work be done in connection therewith, except upon the recommendation of the Board.

20 Closing of unprofitable lines.

The Board on being satisfied that any railway or part of a railway can continue to be operated only under conditions that will result in the net revenue therefrom being insufficient to cover the working-expenses thereof, or on being satisfied that the continued operation of any railway or part of a railway is otherwise not in the public interest, may cease to operate the same, and with the approval of the Governor-General in Council dispose of the land and all other property of the Crown in respect of such railway or part of a railway.

21 Accounts and statements to be prepared in respect of Government railways.

- (1) The Board shall forthwith, after the close of each financial year, cause to be prepared in such form as the Minister of Finance from time to time approves or directs, a balance-sheet and a profit and loss account, together with such other statements of accounts as may be necessary, to show fully the financial position of the Government railways and other services lawfully undertaken in connection therewith, and the financial results of the operations of the railways and such other services for the year.
- (2) The aforesaid balance-sheet and accounts duly audited by the Audit Office, together with such report thereon as the Board thinks fit to make, shall forthwith be transmitted to the Minister and shall by him be laid before Parliament as soon as practicable after the close of the financial year to which they relate.

Repeal.

- (3) Section forty-two of the principal Act is hereby repealed.

22 Provision for depreciation and other matters.

In each financial year the Board may charge to the profit and loss account aforesaid such amounts as may from time to time be approved by the Minister of Finance to provide for—

- (a) Depreciation and renewal of the depreciable assets of the Government railways and other services carried on in connection therewith:
- (b) Losses from fire, slips, floods, and accidents, and any other risks whatever,—

and the Board may in any financial year, if so authorized by the Minister of Finance, make an appropriation of such amount as that Minister approves from the revenue of the railways and credit the same to a general reserve.

23 Section 38 of principal Act amended.

- (1) Subsection one of section thirty-eight of the principal Act is hereby amended as follows:—

- (a) By omitting from paragraph (a) (as set out in section twenty of the Finance Act, 1929), as from the first day of April, nineteen hundred and thirty-one, the words “reduced by the sum of eight million one hundred thousand pounds”:
- (b) By adding the following new paragraph:—

“(d) The net profits as shown in the profit and loss account for any year.”

- (2) The total amount of capital moneys expended in respect of the railways as at the first day of April, nineteen hundred and thirty-one, shall be deemed to be the amount of such capital moneys certified by the Controller and Auditor-General to have been expended up to the thirty-first day of March, nineteen hundred and thirty-one, reduced by the sum of ten million four hundred thousand pounds, on account of accrued depreciation and losses of assets not otherwise provided for up to the said thirty-first day of March, nineteen hundred and thirty-one.

*Staff***24 Board to appoint staff of Department and temporary employees.**

- (1) After the commencement of this Act all appointments to the Department, other than the appointment of a General Manager of Railways, shall be made by the Board, and all the powers and functions of the Governor-General, the Minister, the General Manager, and the Permanent Head respectively under the principal Act or any other Act with respect to the employment of persons in the Department, and to the classification of the First and Second Divisions of the

Department, and the prescribing of scales of salaries, wages, and increments, and the grading and regrading of positions and offices, are hereby transferred to and shall hereafter be exercisable only by the Board:

Provided that no scheme of classification and no scales of salaries, wages, or increments, and no alteration of any such scheme or scale, shall have force or effect unless approved by the Governor-General in Council:

Provided further that the payment of any salary at a rate exceeding seven hundred pounds per annum shall be subject to appropriation thereof by Parliament.

- (2) Subsection one of section eighty-nine of the principal Act is hereby consequentially amended by omitting the words “the Governor- General may from time to time, by Order in Council gazetted,” and substituting the words “the Board may from time to time by resolution”.
- (3) Subsection two of the said section eighty-nine is hereby repealed and the following substituted therefor:—
 - “(2) Regulations made by the Board under this section shall be gazetted and shall come into force on a date to be specified therein in that behalf (whether before or after the date of the resolution making such regulations), and if no such date is specified shall come into force on the date of the publication of the regulations in the *Gazette*:
“Provided that no regulations under paragraph (f) of the last preceding subsection shall have force or effect unless approved by the Governor-General in Council.”
- (4) The Board may from time to time engage such temporary employees as it deems necessary at such rates of remuneration and subject to such conditions of employment as it from time to time determines, and may at any time dispense with the services of any person so employed.

25 General Manager.

- (1) The Governor-General in Council may from time to time on the recommendation of the Board appoint a fit person to be the General Manager of Railways, who shall exercise and perform such powers and duties in relation to the administration of the Department and the Government Railways as the Board from time to time determines.
- (2) The person holding office as General Manager of Railways at the commencement of this Act shall be deemed to have been appointed pursuant to this section.
- (3) The foregoing provisions of this section are in substitution for subsection one of section two of the Government Railways Amendment Act, 1928, and that subsection is hereby accordingly repealed.
- (4) Subsections two and three of the said section two are hereby consequentially amended by omitting therefrom the references to the Minister, and in each case substituting a reference to the Board.

*General***26 Special powers of Minister.**

- (1) In the interests of proper maintenance and public safety and the safety of all persons employed in connection with the working of the railways, the Minister may from time to time cause inspections to be made by such persons as he appoints in that behalf of any railway or part thereof and of any locomotives and other rolling-stock used thereon, and of any appliances and plant used in connection therewith, and of all workshops or other places where machinery of any kind is installed.
- (2) In connection with any such inspection the Board shall furnish or cause to be furnished to every person so appointed such information and produce or cause to be produced all such books, papers, and documents as he may require, and afford him access to all such locomotives, rolling-stock, appliances, and plant, and workshops, places, and machinery, and furnish all such assistance as may be necessary to enable him to make such running or working tests as he deems necessary.
- (3) Every person who obstructs or hinders any person appointed as aforesaid in the performance of his duties under this section, or refuses or fails to furnish any such assistance as aforesaid, or who, having the custody of any books, papers, or documents, refuses or fails to produce the same for the purposes of such inspection, commits an offence and is liable for each such offence to a fine of ten pounds.

27 Minister may direct inquiries into accidents.

- (1) The Board shall, within forty-eight hours after the occurrence in connection with the railways of any accident attended by serious personal injury to any person, or by serious damage to the property of any person, give notice thereof to the Minister.
- (2) The Minister may, if he thinks fit, direct an inquiry to be made into the cause of any accident notified to him pursuant to the last preceding subsection.
- (3) Such inquiry shall be made by a person or persons appointed in that behalf by the Minister, who may in his discretion direct the inquiry to be a public inquiry, in which case the person or persons holding the inquiry shall, for the purposes thereof, have all the powers of a Coroner under the Coroners Act, 1908.
- (4) For the purpose of enabling the person or persons making any such inquiry as aforesaid to ascertain the cause of the accident, such person or persons, or any other person appointed by him or them or by the Minister, may inspect and make running or working tests of any locomotive or other rolling-stock, or any other vehicle or any machinery, in connection with which the accident arose, and for the purpose of such inspection the person so appointed, with such assistants as he deems necessary, may enter at any reasonable time any premises where such locomotive, rolling-stock, vehicle, or machinery is, and if

any person obstructs him or any of his assistants in the performance of his duty under this section such person shall be liable to a fine of twenty pounds.

- (5) Any report made to the Minister as a result of any inquiry under this section shall not be used in evidence in any legal proceedings instituted in consequence of the accident.
- (6) The Governor-General, on the recommendation of the Minister, may for the purpose of preventing the recurrence of any such accident direct the Board to make such alterations as he thinks fit in the construction or equipment of the railways, or of the rolling-stock, plant, or machinery employed thereon or in connection therewith, or in the method of working the same, and to discontinue the working of any part of the railways, or the use of such rolling-stock, plant, or machinery or the method of working the same, as the case may require, until such alteration is made.
- (7) If any such direction is not complied with the members of the Board shall be severally personally liable to a fine not exceeding two hundred pounds for every day during which such non-compliance continues, and every such fine may be recovered in any Court of competent jurisdiction as a debt due to the Crown.

28 Regulations.

- (1) The Governor-General may from time to time, by Order in Council, make such regulations as he deems necessary for the further or more effectually or more particularly carrying out of the object and purpose of transferring to the Government Railways Board the control and management of the Government railways and other services connected therewith and of the Department, and for facilitating the exercise and performance by the Board of its powers, duties, and functions.
- (2) All such regulations shall be gazetted, and shall have the same force and effect as if contained in this Act.

29 Saving of acts of authority by Governor-General, Minister, and General Manager.

All acts of authority of any nature by the Governor-General, the Minister, or the General Manager before the commencement of this Act in exercise or performance of powers, duties, or functions by this Act conferred or imposed on the Board shall, in so far as the same are subsisting at the commencement of this Act, enure for all the purposes of the principal Act as amended by this Act, in all respects as if they were, and where necessary the same shall be deemed to be, acts of authority by the Board.

30 Consequential amendments of principal Act, &c.

The principal Act and the other enactments mentioned in the Schedule hereto are hereby consequentially amended in the manner and to the extent set out in that Schedule.

Schedule

Name of Enactment.	Extent of Amendment.	
1926, No. 17.—The Government Railways Act, 1926	Section 2	By repealing the definition of the term “Permanent head.”
	Section 3	By omitting the words “who shall have the general administration of this Act”.
	Section 45	By omitting from the proviso the words “upon the recommendation of the permanent head of the Department”, the words “before making such recommendation”, and the words “in making such recommendation”.
	Section 66	By inserting in subsection (1), after the word “Minister”, the words “or the Board”.
	Section 72	By omitting the words “permanent head of the Department”, and substituting the words “General Manager.”
	Section 77	By omitting the words “permanent head of the Department”, and substituting the words “General Manager”; and by omitting the words “warrant of the Minister”, and substituting the words “direction of the Board”.
	Section 87	By omitting from subsection (1) (as amended by section 3 of the Government Railways Amendment Act, 1927) the words “The Governor-General or other proper authority”, and substituting the words “The Board”.
	Section 99	By omitting from subsections (1) and (2) the reference to the Minister and in each case substituting a reference to the Chairman of the Government Railways Board.
	1927, No. 66.—The Government Railways Amendment Act, 1927	Section 2
Section 3		By repealing paragraph (a).
Section 4		By omitting the words “appointing authority”, and substituting the word “Board”.

Name of Enactment.	Extent of Amendment.	
	Section 5	By omitting from subsection (1) (as amended by subsection (2) of section 3 of the Government Railways Amendment Act, 1928) the words “the Governor-General or the permanent head”, and substituting the words “the Board”: By omitting from subsections (2) to (7) the references to the permanent head and the appointing authority wherever they occur, and in each case substituting a reference to the Board.
	Section 6	By omitting from subsection (2) the words “appointing authority”, and substituting the word “Board”.
	Section 7	By omitting the words “appointing authority”, and substituting the word “Board”; and by omitting the words “his opinion”, and substituting the words “its opinion”.
	Section 8	By omitting from subsection (2) the words “No such regrading shall take effect unless and until it has been approved by the Minister”.
1928, No. 43.—The Government Railways Amendment Act, 1928	Section 5	By omitting the word “Minister” wherever it occurs in that section and in each case substituting the words “Minister of Finance”.