

Government Railways Amendment Act 1936

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An Act to amend the Government Railways Act, 1926.

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.

- (1) This Act may be cited as the Government Railways Amendment Act, 1936, and shall be read together with and deemed part of the Government Railways Act, 1926 (hereinafter referred to as the principal Act).

Commencement.

- (2) This Act shall be deemed to have come into force on the first day of April, nineteen hundred and thirty-six.

Abolition of Government Railways Board, and Consequential Provisions

2 Abolition of the Government Railways Board.

- (1) The Government Railways Board constituted by section two of the Government Railways Amendment Act, 1931, is hereby abolished.
- (2) All references to the said Board in any Act or in any agreement, deed, instrument, application, license, notice, or other document whatsoever shall, unless inconsistent with the context or with the provisions of this Act, be hereafter read as references to the Minister.

3 Provision for appointment of General Manager of Railways.

- (1) There shall from time to time be appointed a General Manager of Railways who, under the control of the Minister, shall be charged with the administration of the principal Act.
- (2) On the occurrence from any cause of a vacancy in the office of General Manager (whether by reason of death or resignation or otherwise), and in case of the absence from duty of the General Manager (from whatever cause arising), the powers, duties, and functions of the General Manager may be exercised and performed by any person authorized in that behalf by the Minister.
- (3) The fact that any person exercises or performs any power, duty, or function of the General Manager with the concurrence of the Minister shall be conclusive evidence of his authority so to do.
- (4) For the purposes of this section the powers, duties, and functions of the General Manager shall be deemed to include such of the powers of the Minister as the General Manager may for the time being be authorized to exercise pursuant to a delegation under the next succeeding section.

- (5) 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.

Compare: 1928, No. 43, s. 2(1)

4 Delegation of Minister's powers.

- (1) The Minister may from time to time, by writing under his hand, delegate to the General Manager such of his statutory powers as he may think fit.
- (2) Every such delegation shall be revocable at will, and no such delegation shall prevent the exercise of any power by the Minister.
- (3) Any such delegation may be made subject to such restrictions and conditions as the Minister thinks fit, and may be made either generally or in relation to any particular case.
- (4) Unless and until any such delegation is revoked, it shall continue in force according to its tenor. In the event of the Minister by whom any such delegation has been made ceasing to hold office, it shall continue to have effect as if made by the person for the time being holding office as Minister and, in the event of the General Manager to whom any such delegation has been made ceasing to hold office, it shall continue to have effect as if made to the person for the time being holding office as General Manager or, if there is no General Manager in office, to the person for the time being authorized under the last preceding section to exercise and perform the powers, duties, and functions of the General Manager.
- (5) The fact that the General Manager or any person acting for the General Manager as aforesaid exercises any power of the Minister shall in the absence of proof to the contrary be sufficient evidence of his authority so to do.

5 Method of appointment to Government Railways Department.

- (1) Every person who may hereafter be appointed to a position in the Department to which is attached an annual salary in excess of seven hundred and sixty-five pounds shall be so appointed by the Governor-General.
- (2) Every other appointment to a position in the Department shall be made by the General Manager.

Compare: 1927, No. 66, s. 2 ; 1928, No. 43, s. 3(1)

6 Certificate by Minister to be evidence of certain facts.

- (1) A certificate under the hand of the Minister that any specified land belonging to His Majesty or forming part of a public reserve, or any specified fixed or movable property belonging to His Majesty, is in fact included as portion of a Government railway or of any service for the carriage of passengers or goods lawfully carried on by the Minister, or that any Government railway is in fact open for traffic, shall for all purposes be sufficient evidence of the fact.

- (2) The land or property to which any such certificate relates may be specified therein by words of general or particular description, as the Minister thinks fit.
- (3) A certificate under the hand of the Minister specifying the distance between any two points on a railway, in accordance with the departmental record, shall be conclusive evidence of the fact.

Consequential repeals.

- (4) This section is in substitution for subsections one and two of section six and subsection three of section thirteen of the principal Act, and those subsections are hereby accordingly repealed.

7 Power to protect railway.

- (1) Without in any way limiting the powers conferred upon the Minister of Public Works by section two hundred and nineteen of the Public Works Act, 1928, it is hereby declared that either the Minister of Railways or the Minister of Public Works, for the purpose of protecting any Government railway, or preventing or lessening any risk of damage thereto, may from time to time construct, maintain, alter, or reconstruct any embankment, groin, or other protective work on any land or on the bank of any river or stream, or divert, impound, or take away any part or the whole of the water of any river or stream, or alter the course of any river or stream; and may also discontinue or abandon any such work as and when he thinks fit.
- (2) Except with the written consent of the Minister of Railways or of the Minister of Public Works, it shall not be lawful for any local authority, or for any person other than either of those Ministers, to exercise upon any railway land any of the powers by this section conferred upon the said Ministers.

Ibid., pp. 645, 666

- (3) All claims for compensation in respect of the exercise of any of the powers conferred by this section shall, unless settled by agreement, be determined in the manner provided by the Public Works Act, 1928, and the provisions of that Act relating to compensation shall, with the necessary modifications, apply accordingly.

Consequential repeal. Ibid., p. 815

- (4) This section is in substitution for section eight of the principal Act, and that section is hereby accordingly repealed.

8 Minister may undertake carriage of passengers and goods otherwise than by railway.

- (1) The Minister may undertake the carriage of passengers and of goods otherwise than by railway, and whether by land, water, or air.
- (2) The power conferred by this section shall include power to enter into agreements with other carriers in relation to the carriage of any passengers or goods.

- (3) With respect to the carriage of passengers or goods pursuant to this section, the Minister shall, save as may be otherwise provided by contract or by notice published in the *Gazette*, have the same powers, liabilities, obligations, rights, and protection as he has in the case of the carriage of passengers and goods by railway.
- (4) The foregoing provisions of this section shall be read subject to the provisions of any Act for the time being in force and binding on the Crown relating to the licensing or control of services for the carriage of passengers or goods. The Minister may, out of moneys appropriated by Parliament for the purpose, pay in respect of any such service carried on by him any license fees or other fees that would if the service were carried on by any person other than the Crown be payable by that person in respect thereof.

Consequential repeals.

- (5) This section is in substitution for section eighteen of the principal Act and section fifteen of the Finance Act, 1930 (No. 2), and those sections are hereby accordingly repealed.

9 Accounts to be prepared in respect of Government railways.

- (1) The Minister 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 of all other services lawfully undertaken by the Minister, and the financial results of the operations of the railways and of such other services for the year.
- (2) The said balance-sheet and accounts, duly audited by the Audit Office, together with such report thereon as the Minister thinks fit to make, shall be laid before Parliament by the Minister as soon as practicable after the close of the financial year to which they relate.

Compare: 1931, No. 4, s. 21;

10 Provision for depreciation, &c.

- (1) In each financial year the Minister 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 of all other services lawfully carried on by the Minister:
 - (b) Losses from fire, slips, floods, and accidents, and any other risks whatsoever.
- (2) The Minister may in any financial year, with the consent of the Minister of Finance, make an appropriation of such amount as that Minister approves from

the revenue of the railways and of such other services, and credit the amount to a general reserve.

Compare: *ibid.*, s. 22 ; p. 894

11 Consequential repeals.

The enactments mentioned in the First Schedule hereto are hereby repealed to the extent indicated in that Schedule.

12 Consequential amendments.

The enactments mentioned in the Second Schedule hereto are hereby amended in the manner indicated in that Schedule.

13 Saving of acts of Government Railways Board.

All acts of authority of any nature done by the Government Railways Board before the commencement of this Act in exercise or performance of any powers, duties, or functions heretofore conferred or imposed on it shall, in so far as they are subsisting at the commencement of this Act, enure for all purposes in all respects as if they had been done by the authority on whom the corresponding powers, duties, or functions are respectively conferred or imposed by this Act, and accordingly shall, where necessary, be deemed to have been so done.

Compare: 1931, No. 4, s. 29 ;

Staff Tribunals

14 Appointment of tribunals to inquire into conditions of employment in Government Railways Department.

Ibid., p. 856.

- (1) The Minister may from time to time, in accordance with this section, appoint such persons as he considers suitable to be a tribunal to inquire into and report to him upon such matters in relation to any regulation made or proposed to be made under section eighty-nine of the principal Act as he may refer to the tribunal.
- (2) Every tribunal appointed under this section shall consist of—
 - (a) Such number of persons (being not less than two) as the Minister may determine, to be appointed upon the recommendation of the organization representing the employees concerned in the subject-matter of the inquiry:

Provided that where two or more organizations are concerned the Minister may appoint one person on the recommendation of each such organization or he may appoint such two or more persons as may be jointly recommended by all the organizations concerned:

- (b) Such number of persons (being not more than the number appointed to represent the employees) as the Minister may determine, to be appointed to represent the Minister:
 - (c) One person, to be the Chairman of the tribunal, who may be a Judge of the Supreme Court or a Stipendiary Magistrate or any other person not interested in the subject-matter of the inquiry, and who shall be agreed upon by the Minister and the organization or organizations concerned as aforesaid, or, in default of agreement, shall be selected by the Minister.
- (3) A tribunal may be appointed under this section either for the purposes of a particular inquiry or to hold office for a period, not exceeding three years, to be specified by the Minister:
- Provided that any member of a tribunal may be at any time removed from office by the Minister.
- (4) Every tribunal appointed under this section shall have all the powers of a Commission appointed under the Commissions of Inquiry Act, 1908.
 - (5) The members of a tribunal appointed under this section, not being persons permanently employed in the service of the Government, shall be paid, out of moneys appropriated by Parliament for the purpose, such travelling-allowances, fees, or other remuneration as may be prescribed by regulations made under this section.
 - (6) The Governor-General may from time to time, by Order in Council, make all such regulations as may in his opinion be necessary or convenient for giving full effect to the provisions of this section. All regulations made under this section shall be published in the *Gazette*.

SCHEDULES**FIRST SCHEDULE****Enactments repealed**

Title of Enactment.	Extent of Repeal.	Reference to Reprint of Statutes.
1928, No. 43.—The Government Railways Amendment Act, 1928	Sections 2 and 3	Vol. VII, p. 883.
1931, No. 4.—The Government Railways Amendment Act, 1931	The whole Act	Vol. VII, p. 887.

SECOND SCHEDULE

Miscellaneous Amendments

Title of Enactment.	Number of Section, &c., affected.	Nature and Extent of Amendment.
1926, No. 17— The Government Railways Act, 1926 (as amended by the Government Railways Amendment Act, 1931) (Reprint of Statutes, Vol. VII, pp. 814, <i>et seq.</i>)	Sections 5, 7, 9, 10, 11, 12, 13(1), 14, 15, 16, 17, 19, 20, 21, 23, 24, 25, 28, 32, 35, 37, 38, 39, 41, and 44	By omitting the references to the Government Railways Board and substituting in each case a reference to the Minister.
(<i>Ibid.</i> , p. 837)	Section 45	By omitting the references to the Board (except in the proviso), and substituting in each case a reference to the Minister. By repealing the proviso, and substituting the following proviso:— “Provided that the rental to be reserved under the new lease shall be fixed by the Minister upon the recommendation of the General Manager, who shall, before making his recommendation, cause a new valuation of the land to be made, and shall, in making his recommendation, take into consideration the value of the land as so determined and the improved terms and conditions of the new lease.”
(<i>Ibid.</i> , pp. 838, <i>et seq.</i>)	Sections 46, 47, 49, 50, 51, 52, 53, 54, 55, 56, 57, 59, 60, 61, and 63(1), (2), and (3)	By omitting the references to the Government Railways Board, and substituting in each case a reference to the Minister.
(<i>Ibid.</i> , p. 846)	Section 63(5)	By omitting the reference to the Government Railways Board, and substituting a reference to the General Manager.
1926, No. 17— The Government Railways Act, 1926 (as amended by the Government Railways Amendment Act, 1931) (Reprint of Statutes, Vol. VII, p. 846)	Section 63(6), (8), (9), and (10)	By omitting the references to the Government Railways Board, and substituting in each case a reference to the Minister.
(<i>Ibid.</i> , pp. 846, 847)	Sections 64 and 65	By omitting the references to the Board, and substituting in each case a reference to the General Manager.

Title of Enactment.	Number of Section, &c., affected.	Nature and Extent of Amendment.
(Ibid., p. 847)	Section 66(1)	By omitting the words “or the Board”.
(Ibid., pp. 851, <i>et seq.</i>)	Sections 75, 77, 80, 83, 84, and 85	By omitting the references to the Government Railways Board, and substituting in each case a reference to the Minister.
(Ibid., p. 854)	Section 87(1)	By omitting the word “Board”, and substituting the words “Governor-General or the General Manager, as the case may be”.
(Ibid., p. 855)	Section 87(2) (b)	By omitting from the proviso the reference to the Board, and substituting a reference to the Minister.
(Ibid., p. 856)	Section 89(1)	By omitting the words “the Board may from time to time by resolution”, and substituting the words “the Governor-General may from time to time by Order in Council”. By omitting from the proviso to paragraph (e) the reference to the Board, and substituting a reference to the Minister.
(Ibid., p. 858)	Section 89(2)	By omitting the words “by the Board”. By omitting the word “resolution”, and substituting the words “Order in Council”. By repealing the proviso.
(Ibid., pp. 861, 862)	Section 99	By omitting from subsection (1) and subsection (3) the references to the Chairman of the Government Railways Board, and substituting in each case a reference to the Minister.
(Ibid., pp. 862, 863, 867, 872)	Sections 100, 102, 111, and 120	By omitting the references to the Government Railways Board, and substituting in each case a reference to the Minister.
1927, No. 66— The Government Railways Amendment Act, 1927 (as amended by the Government Railways Amendment Act, 1931) (Reprint of Statutes, Vol. VII, p. 875) 1927, No. 66—	Section 4	By omitting the reference to the Board, and substituting a reference to the appropriate appointing authority.

Title of Enactment.	Number of Section, &c., affected.	Nature and Extent of Amendment.
The Government Railways Amendment Act, 1927 (as amended by the Government Railways Amendment Act 1931', (Reprint of Statutes, Vol. VII, p. 876)	Section 5(1)	By repealing subsection (1), and substituting the following subsection:— “(1) Whenever a vacancy occurs in any position within the Department or a new position is created therein the Governor-General or the General Manager, as the case may be, may, in accordance with the provisions of this section, transfer a member of the Department to that position from any other position.”
(Ibid., p. 876)	Section 5(2)	By omitting the reference to the Board, and substituting a reference to the General Manager.
(Ibid., p. 876)	Section 5(3), (4), and (5)	By omitting the references to the Board, and substituting in each case a reference to the appropriate appointing authority.
(Ibid., p. 876)	Section 5(7)	By omitting the reference to the Board, and substituting a reference to the General Manager.
(Ibid., p. 877)	Section 6(2)	By omitting the reference to the Board, and substituting a reference to the appropriate appointing authority.
(Ibid., p. 877)	Section 7	By omitting the word “Board”, and substituting the words “appointing authority”; and by omitting the words “its opinion”, and substituting the words “his opinion”.
(Ibid., p. 878)	Section 8(2)	By omitting the reference to the Government Railways Board, and substituting a reference to the General Manager.
(Ibid., pp. 878, 879)	Section 9	By adding the words “No such regrading shall take effect unless and until it has been approved by the Minister”. By omitting the references to the Government Railways Board, and substituting in each case a reference to the Minister.

Title of Enactment.	Number of Section, &c., affected.	Nature and Extent of Amendment.
(Ibid., pp. 880, 881)	Sections 11 and 12	By omitting the references to the Government Railways Board, and substituting in each case a reference to the General Manager.
(Ibid., p. 881)	Section 14	By omitting the reference to the Board, and substituting a reference to the Minister.
1928, No. 21— The Public Works Act, 1928 (as amended by the Government Railways Amendment Act, 1931) (Reprint of Statutes, Vol. VII, pp. 623, 649, 739, 740, 749)	Sections 2, 51(2) (b), 236, 239 (b), and 262(2)	By omitting the references to the Government Railways Board, and substituting in each case a reference to the Minister of Railways.
1928, No. 43— The Government Railways Amendment Act, 1928 (as amended by the Government Railways Amendment Act, 1931) (Reprint of Statutes, Vol. VII, pp. 884, 885)	Section 6	By omitting the references to the Board, and substituting in each case a reference to the Minister.
1930, No. 40— The Finance Act, 1930 (No. 2) (as amended by the Government Railways Amendment Act, 1931) (Reprint of Statutes, Vol. VII, p. 887)	Section 54	By omitting the reference to the Government Railways Board, and substituting a reference to the Minister of Railways.
1931, No. 38— The Transport Licensing Act, 1931 (Reprint of Statutes, Vol. VIII, p. 842)	Section 26(2)(j)	By omitting the words “the Government Railways Board”, and substituting the words “or on behalf of the Minister of Railways, or by”.
(Ibid., pp. 843, 852, 853)	Sections 27, 43(2)(h), and 44	By omitting the references to the Government Railways Board, and substituting in each case a reference to the Minister of Railways.
1932–33, No. 48— The Government Railways Amendment Act, 1932–33	Section 3	By repealing subsection (1). By omitting from subsection (2) the words “On the taking effect of any such Order in Council”, and substituting the words “Where the operation of any railway has ceased”.

Title of Enactment.	Number of Section, &c., affected.	Nature and Extent of Amendment.
1935, No. 31— The Government Railways (Wellington to Johnsonville) Act, 1935	Section 4	By omitting from subsection (1) the words “pursuant to subsection two or subsection three of section eighteen of the Government Railways Amendment Act, 1931”.
	The Title	By omitting the reference to the Government Railways Board, and substituting a reference to the Minister of Railways.
	The Preamble	By repealing the Preamble.
	Section 4(1)	By omitting the word “Board”, and substituting the word “Minister”.
	Section 5(1)	By omitting the words “Board, in addition to its railway service”, and substituting the word “Minister”. By omitting the word “Board” after the words “on application by the”, and substituting the word “Minister”.
Sections 5(2), (3), (5), and (6) and 7	By omitting the references to the Government Railways Board, and substituting in each case a reference to the Minister of Railways.	