

Government Railways Amendment Act 1971

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An Act to amend the Government Railways Act 1949

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

1 Short Title

This Act may be cited as the Government Railways Amendment Act 1971, and shall be read together with and deemed part of the Government Railways Act 1949 (hereinafter referred to as the principal Act).

2 Railways Welfare Society

- (1) The principal Act is hereby amended by inserting, after Part IV, the following Part:

Part IVa “Government Railways Welfare Society

“120a Interpretation

- (1) In this Part of this Act, unless the context otherwise requires,—
- “‘Board’ means the Government Railways Welfare Board:
- “‘Child’, in relation to a member of the society, means any person under 18 years of age who is considered by the board to be dependent on that member; and includes any adopted child or stepchild or any other child who is accepted by the member as a member of his family:
- “‘Dependant’, in relation to a member or a former member includes—
- “(a) The spouse of the member or former member:
- “(b) Any child of the member or former member:
- “(c) Any other relative of the member or former member whom the board considers was dependent on that member or former member:
- “‘Member’ means any employee who is admitted as a member of the society:
- “‘Sickness’, in relation to a member, includes any absence of the member from duty which has resulted from an injury other than an injury in respect of which compensation is payable under the Workers’ Compensation Act 1956:
- “‘Society’ means the Government Railways Welfare Society constituted under this Part of this Act:
- “‘Spouse’, in relation to a member or a former member, includes any person of the opposite sex who, though not married to that member or former member, was living together with him at the time of his death on a domestic basis as his spouse:
- “‘Welfare fund’ means the welfare fund of the society maintained under paragraph (b) of subsection (3) of section 120d of this Act.
- “(2) For the purposes of this Part of this Act, full-time employees of service organisations shall be deemed to be employees of the Department.

“120b Constitution and membership of society

- “(1) There shall continue to be a society to be known as the Government Railways Welfare Society.
- “(2) The society shall consist of those employees of the Department who are for the time being members of the society in accordance with its rules.

- “(3) Notwithstanding anything in this Part of this Act or in any rules made by the board, a person may be permanently appointed to a position in the Department or indentured as an apprentice only on the condition that he becomes a contributor to and be entitled to the benefits of the welfare fund in accordance with the society’s rules.
- “(4) The society shall be a body corporate with perpetual succession and a common seal, and, subject to the provisions of this Act, shall be capable of—
- “(a) Acquiring, holding, and disposing of real and personal property; and
 - “(b) Bringing and defending actions in any court; and
 - “(c) Doing and suffering all such acts and things as bodies corporate may do or suffer.
- “(5) The Society is hereby declared to be the same body corporate as the body corporate of the same name existing immediately before the commencement of this Part of this Act and constituted by the Government Railways Welfare Society Regulations 1958.

“120c Functions of society

- “(1) It shall be the function of the society to provide welfare relief, assistance, and benefits for its members and their dependants.
- “(2) Without limiting the generality of the provisions of subsection (1) of this section, the society may from time to time—
- “(a) Grant to any of its members, who by reason of sickness are absent from duty without pay or on reduced pay, such financial assistance as it thinks fit:
 - “(b) Assist any member or former member of the society in financial difficulties which it considers to have been brought about by misfortune:
 - “(c) Assist financially the dependants of a deceased member or deceased former member of the society:
 - “(d) Assist financially any member of the society on the death of his spouse or any child of his family:
 - “(e) Provide comforts (either financial or otherwise) to any member or former member of the society during any sickness suffered by him:
 - “(f) Assist financially any member or former member of the society who may be required to obtain special medical or surgical treatment for himself or his spouse or any child of his family, either in New Zealand or elsewhere:
 - “(g) Assist financially a member who, as a result of illness or injury to his spouse, is required to employ domestic or nursing help in his or her home:

“(h) Establish, maintain, and manage accommodation suitable for holiday or convalescent purposes of its members and their dependants:

“Provided that, except where the society considers that there are special circumstances, no member or former member suffering from any sickness shall be entitled to any assistance or comforts if the sickness was sustained as a result of his competing in any game, race, or sport for a money prize.

“120d Government Railways Welfare Board

“(1) The control and administration of the society shall be vested in a board to be known as the Government Railways Welfare Board.

“(2) The board shall consist of:

“(a) The General Manager:

“(b) The Chief Civil Engineer of Railways:

“(c) The Chief Accountant of Railways:

“(d) The Comptroller of Stores of Railways:

“(e) The general secretary of the Enginedrivers, Firemen, and Cleaners’ Association:

“(f) The general secretary of the Amalgamated Society of Railway Servants:

“(g) The general secretary of the New Zealand Railway Officers’ Institute (Incorporated):

“(h) The general secretary of the New Zealand Railway Tradesmen’s Association.

“(3) The board shall from time to time, in the name and on behalf of the society,—

“(a) Exercise the functions of the society:

“(b) Maintain a welfare fund out of which the society shall pay benefits to its members in accordance with its functions, and determine the amounts of contributions to be paid by the society’s members into the fund:

“(c) Impose levies on the members of the society if at any time the money held in the welfare fund is, in the opinion of the board, insufficient to meet payments due from the society in accordance with this Part of this Act and in accordance with its rules.

“(4) In carrying out any function of the society under this section, the board, and any council or committee appointed under subsection (7) of this section, may also exercise any discretion or power exercisable by the society that is necessary or incidental to the carrying out of that function.

“(5) The board may from time to time, in the name and on behalf of the society, make such rules, not inconsistent with this Part of this Act, as may be necessary to enable the society to carry out its functions, and, in particular, may make rules for all or any of the following purposes:

- “(a) Prescribing the procedure for admission to membership of the society and the terms and conditions subject to which employees shall become members of the society:
 - “(b) Providing for the collection of contributions to the welfare fund and for the collection of levies imposed under paragraph (c) of subsection (3) of this section:
 - “(c) Providing for the constitution and procedure of a management council and district committees appointed by the board to advise and assist it in carrying out its duties:
 - “(d) Providing for the keeping of proper accounts of money paid to and by the society:
 - “(e) In the case of any member found by the board to be guilty of misconduct in relation to the affairs of the society, providing for his expulsion or empowering the board to recover any benefit paid to him out of the welfare fund, or providing for his suspension from receipt of benefits, or providing for the imposition on him of a fine not exceeding \$10:
 - “(f) Providing for the termination or suspension of rights of membership of the society:
 - “(g) Providing for the payment of benefits and other financial assistance to members and their dependants and to former members and their dependants, and prescribing the conditions under which benefits and assistance are to be payable or given:
 - “(h) Authorising the board to commence or carry on litigation in the name of any member or former member to whom or in respect of whom a benefit has been paid out of the welfare fund in respect of absence from duty in any case where the member or former member appears to the board to have a claim for damages or compensation in respect of any disease or which resulted from his absence from duty as aforesaid.
- “(6) The General Manager may from time to time appoint any employee to be secretary to the Board. The secretary shall have such duties and powers as may from time to time be determined by the board.
- “(7) Without limiting the provisions of paragraph (a) of subsection (3) of this section the board may from time to time appoint a management council and district committees to assist it in its duties and may delegate any of the functions of the society to any such management council or district committee.
- “(8) Any management council or district committee appointed by the board under subsection (7) of this section shall in all matters be subject to the control of the board, and shall carry out all lawful directions (whether general or special) of the board in relation to the society and its affairs.
- “(9) Subject to the provisions of this section, any such management council or district committee may exercise or perform any function delegated to it in the

same manner and with the same effect as if it had been conferred on the council or committee directly by this Act and not by delegation.

- “(10) Any delegation under subsection (7) of this section may at any time be revoked by the board.
- “(11) Any management council or district committee appointed by the board shall, in the absence of proof to the contrary, be presumed to be acting in accordance with the terms of the delegation.
- “(12) No delegation under this section shall prevent the board from exercising any of its functions, powers, or duties.
- “(13) Subject to the provisions of any rules made under subsection (5) of this section, any management council or district committee appointed by the board may regulate its procedure in such manner as it thinks fit.
- “(14) No rules, or amendments to any such rules, made under subsection (5) of this section shall have any effect until approved in writing by the Minister.
- “(15) No member of the board shall be personally liable for any act done or omitted by the board or by any of its members in good faith in the exercise or the purported exercise of any of the powers conferred on the board or its members by or pursuant to this Act.

“120e Meetings of the board

- “(1) The chairman of the board shall be the General Manager. In the absence of the chairman from any meeting of the board, the members present (whether in person or by deputy) shall elect one of their number to be chairman of the meeting.
- “(2) Meetings of the board shall be held at such times and places as the board or its chairman may from time to time decide.
- “(3) The chairman or any three or more members of the board may at any time call a special meeting of the board.
- “(4) At any meeting of the board five members, whether present in person or by deputy, shall form a quorum.
- “(5) At any meeting of the board, the chairman or person acting as chairman shall have a deliberative vote as well as a casting vote.
- “(6) If any member of the board is unable to attend any meeting of the board, he may, by writing under his hand or by telegram or by verbal notification to the secretary, appoint any person to act as a deputy in his place at that meeting, and that person shall, for the purposes of that meeting, have the same rights and privileges as the person who appointed him would have been capable of exercising and enjoying had he been personally present at the meeting.
- “(7) Subject to the provisions of this Part of this Act, the board may regulate its procedure for the conduct of its business and for the exercise of its powers in such manner as it thinks fit.

“120f Miscellaneous financial provisions

- “(1) The Minister may, at the request of the board, make arrangements for the collection of contributions and levies due from members to the welfare fund. The contributions, and any levies collected under section 120d of this Act, shall be paid into the Works and Trading Account and shall be held in that account by the Minister as agent for the society.
- “(2) Subject to the prior approval of the Minister and to such conditions as he thinks fit to impose, being conditions that are approved by the Minister of Finance, there may from time to time be advanced out of the Works and Trading Account on loan to the society such amounts as do not exceed in the aggregate one half of the income of the society as estimated by the General Manager for the year in which the amounts are advanced.
- “(3) Any payments due from the society under its rules may be paid out of money in the Works and Trading Account without further appropriation than this section, being money (including advances) that is held in that account for the society.
- “(4) Any money held in the Works and Trading Account may, at the request of the board, be invested by the Minister in the Common Fund of the Public Trust Office or in any investment authorised by the Trustee Act 1956 or any other Act.

“120g Contracts of board

The board is hereby declared to be a public body for the purposes of the Public Bodies Contracts Act 1959.”

- (2) The Public Bodies Contracts Act 1959 is hereby amended by inserting in Part II of the First Schedule, in its appropriate alphabetical order, the following item:

“The Government Railways Welfare Board

1971, No. 13—The Government Railways Amendment Act 1971.”

- (3) Section 90 of the principal Act (as amended by section 3 of the Government Railways Amendment Act 1957) is hereby further amended by repealing subsection (4), and substituting the following subsection:
- “(4) Any fine imposed under this section shall be paid into the welfare fund maintained by the Government Railways Welfare Board under Part IVa of this Act.”
- (4) Section 44b of the principal Act and section 3 of the Government Railways Amendment Act 1957 are hereby repealed.
- (5) The Government Railways Welfare Society Regulations 1958 are hereby revoked.
- (6) This section shall come into force on a date to be appointed for the commencement thereof by the Governor-General by Order in Council.

3 Validation of Government Railways Welfare Society Regulations and of rules made by society

- (1) The Government Railways Welfare Society Regulations 1958 are hereby confirmed and validated, and notwithstanding anything to the contrary in any rule of law, the Governor-General shall be deemed to have at all times since the date of the enactment of section 3 of the Government Railways Amendment Act 1957 been authorised to make the said regulations, and they shall be deemed to have been in full force and effect according to their tenor.
- (2) All rules purporting to have been made by the Government Railways Welfare Society pursuant to the said regulations are hereby confirmed and validated, and all rules (including amendments) made by the society since the date of its constitution shall, notwithstanding anything to the contrary in any enactment or any rule of law, be deemed to have been in full force and effect according to their tenor.
- (3) All actions of the said Government Railways Welfare Society (including the payment of benefits to and the levying of contributions from members) done or purporting to have been done pursuant to the aforesaid regulations or rules are hereby validated and declared to have been lawful.

This Act is administered in the New Zealand Government Railways Department.