

Amended by 1928 No. 43

New Zealand.

## ANALYSIS.

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1927, No. 66.

Title.

AN ACT to amend the Government Railways Act, 1926.

[5th December, 1927.]

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

Short Title.

1. This Act may be cited as the Government Railways Amendment Act, 1927, and shall be read together with and deemed part of the Government Railways Act, 1926 (hereinafter referred to as the principal Act).

*Appointments to the Department.*

Method of appointment to Government Railways Department.

2. (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 the Department shall be made by the Permanent Head.  
the Minister.

3. Section eighty-seven of the principal Act is hereby amended as follows:—

- (a) By inserting, after the words "The Governor-General" in subsection one, the words "or other proper authority":
- (b) By omitting from subsection one the words "the Public Service," and substituting the words "any branch of the Government service or the Education service":
- (c) By omitting from subsections two and three the words "Public Service" wherever they occur, and in each case substituting the words "Government service or Education service, as the case may be":
- (d) By omitting from paragraph (a) of subsection two the words "public servant," and substituting the words "such person."

Officers of other Departments may be transferred to Government Railways Department.

Refer 1931 Lase

4. No person other than a member of the Department shall be appointed to any position or office therein unless in the opinion of the ~~appointing authority~~ no member then in the service of the Department and available for appointment to that position or office is fully qualified for appointment to that position or office and capable of efficiently carrying out the duties thereof.

Limiting the power of making new appointments to Department.

*As to Promotions and Transfers within the Department.*

5. (1) Whenever a vacancy occurs in any position within the Department, or if a new position is created therein, the ~~Governor-General or the Minister~~ <sup>Permanent Head</sup>, 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.

Positions may be filled by transfer of persons already in Department.

Refer: 1928 Inset.

(2) The ~~permanent head~~ shall whenever practicable notify by official circular all vacancies in the First Division of the Department arising in respect of any position to which is attached an annual salary not exceeding seven hundred and sixty-five pounds if the filling of that position by the transfer of any qualified member then in the Department would result in his promotion. Any notification given under this section in respect of a vacancy in any position may invite applications to be made in respect of any consequential vacancy that may be created by the filling of the first-mentioned vacancy, and in any such case it shall not be necessary to give further notification of any such vacancy as it arises.

Refer 1931 Lase

(3) Notwithstanding anything in the last preceding subsection, any vacancy in the First Division may be filled without such vacancy having been notified as aforesaid if the ~~appointing authority~~ is of opinion that an appointment should be forthwith made.

(4) In the event of two or more members being applicants for the same position in the First Division, or in the event of two or more members being eligible for appointment to the same position in the Second Division, preference shall be given to that member who, in the opinion of the ~~appointing authority~~, is the most efficient and suitable for appointment to the position.

(5) In the event of two or more members being equally efficient and suitable the decision of the ~~appointing authority~~ shall be determined by reference to the seniority of the members concerned in respect of their classification.

(6) For the purposes of this section the relative efficiency of two or more members shall be determined by reference to their special qualifications and aptitude for the discharge of the duties of the office to be filled, together with merit, diligence, and good conduct.

(7) Every appointment made under this section shall be duly notified by the ~~permanent head~~ by official circular, and subject to the provisions of section eleven hereof any member for whom such appointment would have involved promotion may appeal therefrom.

Appointment by transfer to be provisional.

6. (1) Every appointment made by way of transfer under the last preceding section and involving the promotion of the member transferred shall be provisional, and shall not be confirmed unless and until all appeals therefrom have been duly determined and have been disallowed, or, if no appeals are made, until the time allowed for the making of such appeals has expired.

(2) If any appeal against any such appointment is allowed, the ~~appointing authority~~ shall forthwith appoint the successful appellant to the position, and shall cancel the provisional appointment.

Provisional appointment may be at any time cancelled by appointing authority.

7. Notwithstanding anything in the foregoing provisions, the ~~appointing authority~~ may at any time cancel a provisional appointment, whether or not an appeal against such appointment has been made, if in his opinion the office is not required, or can be suitably filled by the transfer without promotion of any other member, or that further notification of the position is desirable, or for other sufficient reason.

#### *Grading of First Division.*

Periodical regrading of positions and offices of First Division.

8. Whereas by paragraph (f) of section eighty-nine of the principal Act the Governor-General is empowered to make regulations for the classification of members, probationers, and apprentices in the service of the Department, and prescribing their scales of salaries and wages and the increments thereto: And whereas such regulations have been duly made, and scales of salaries, wages, and increments have been duly prescribed: And whereas for the purposes of the scheme of classification thereby provided the positions and offices held by members of the First Division have been graded as at the first day of April, nineteen hundred and twenty-seven: And whereas it is desirable that such positions and offices should be regraded as at the first day of April, nineteen hundred and twenty-nine, and at intervals of not more than five years thereafter: And whereas it is desirable that the rights of appeal in respect of such grading or regrading should be defined and other provisions made in respect of the classification of the members of the First Division of the Department: Be it therefore enacted as follows:—

(1) The grading of positions and offices made as at the first day of April, nineteen hundred and twenty-seven, as hereinbefore recited shall be deemed to be a grading made for the purposes of this section.

(2) The permanent head shall on or before the first day of April, nineteen hundred and twenty-nine, and at intervals of not more than five years thereafter, cause a regrading to be made of all positions and offices in the First Division. No such regrading shall take effect unless and until it has been approved by the Minister.

(3) From any grading or regrading of positions and offices made for the purposes of this section there shall be such rights of appeal, if any, as are defined by section eleven hereof.

*Constitution of Appeal Board, and Rights of Appeal.*

9. (1) For the purposes of this Act there is hereby established a Board, to be called the Government Railways Appeal Board (hereinafter referred to as the Appeal Board).

Government  
Railways Appeal  
Board established.

(2) The Appeal Board shall consist of—

(a) One person to be appointed by the Governor-General, to hold office for a term not exceeding three years, and to be the Chairman of the Board :

(b) One person, to be a member of the Department, to be appointed by the Minister, to hold office for a term not exceeding three years :

(c) One person, being a member of the First Division, to be elected in the prescribed manner by the officers of that Division :

(d) Four persons, being members of the Second Division, to be elected in the prescribed manner as follows :—

(i) A member of the Workshops Branch to be elected by the members of that branch :

(ii) A member of the Locomotive Running Branch to be elected by the members of that branch :

(iii) A member of the Traffic Branch to be elected by the members of that branch :

(iv) A member of the Maintenance Branch to be elected by the members of that branch.

(3) The elected member of the First Division shall act as a member of the Appeal Board only in respect of appeals by members of that division, and the elected member of any branch of the Second Division shall act as a member of the Appeal Board only in respect of appeals by members of that branch :

Provided that where an appeal against any appointment or promotion is made by one or more members of the First Division and also by one or more members of the Second Division, the Chairman shall determine which of the elected members shall act as a member of the Appeal Board in respect of that appeal :

Provided also that no elected member shall act as a member of the Appeal Board in any appeal affecting himself, and in any such case the Chairman shall appoint a qualified person to act as a member of the Appeal Board for the purposes of such appeal.

(4) In the event of the incapacity of any member of the Board by reason of illness, absence, or other cause the Governor-General may appoint any other fit person to act in the place of that member.

(5) The appointed members of the Appeal Board may receive, out of moneys appropriated by Parliament, such fees or allowances as the Minister thinks fit.

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

Repeal.

10. Section eighty of the principal Act is hereby amended as follows :—

Consequential  
amendments of  
section 80 of  
principal Act.

(a) By omitting the word “each” before the words “Appeal Board,” and substituting the word “the” :

(b) By omitting from paragraph (a) the words “the first Monday in March, nineteen hundred and twenty-nine, and on the same

Monday in every third year thereafter," and substituting the words "a day to be fixed by regulations, and on the corresponding day in every third year thereafter."

Rights of appeal.

11. (1) Every member shall have a right of appeal in accordance with this section against—

- (a) Any determination relating to the grading of such member pursuant to section eight hereof, in so far as such grading fixes the maximum rate of salary or wages payable in respect of any position; or
- (b) Any determination in respect of an application made by such member for promotion by means of appointment to any office or position for which applications have been called; or
- (c) Any appointment made by the <sup>Permanent Head</sup> Minister either to the First Division or to the Second Division without the vacancy having been notified or applications to fill the same having been called, if his appointment to fill such vacancy would have involved the promotion of the appellant; or
- (d) Any determination in respect of a charge made against such member in relation to any matter referred to in section seventy-six of the principal Act; or
- (e) Any penalty imposed on such member pursuant to the said section seventy-six, except in cases to which subsection one of section eighty-three of the principal Act is applicable; or
- (f) Any other determination in respect of which a right of appeal is expressly conferred by the principal Act or any other Act.

<sup>Take in addition 1928 Inset</sup> (2) Notice of appeal against any determination shall be forwarded to the Government Railways Board in writing within fourteen days after such determination has been notified to the member concerned, or within such extended time as <sup>Take in addition 1928 Inset</sup> the Government Railways Board may in any case allow.

(3) The Appeal Board shall have jurisdiction to hear and determine such appeal, and for this purpose to summon and examine witnesses on oath or otherwise. On any such appeal the Board may receive such evidence as it thinks fit, whether such evidence would be legally admissible in other proceedings or not.

(4) In any proceedings under this section the decision of the Appeal Board shall be final, and no writ of mandamus, prohibition, or certiorari shall lie in respect thereof to any Court.

(5) In the event of the Appeal Board allowing an appeal with respect to the grading of a position the appointing authority shall declare that position to be vacant, and shall fill such vacant position as hereinbefore in this Act provided.

Offence to attempt to influence Appeal Board or any member thereof.

12. (1) No person shall in any way attempt to influence the Appeal Board or any member of such Board in respect of the appeal of any member.

(2) Any person who commits a breach of the provisions of this section shall be guilty of an offence punishable on summary conviction by a fine not exceeding fifty pounds.

(3) Any member on conviction of such an offence shall, in addition to any other penalty, be liable to immediate dismissal.

(4) Nothing in this section shall be so construed as to prohibit any person from giving information or making representations in respect of

any appeal at the request or invitation of the Government Railways Board or the Appeal Board, or as a witness or the representative of an appellant before the Appeal Board.

*Consequential Amendments of Principal Act.*

13. The principal Act is hereby consequentially amended as follows:—

Consequential amendments of principal Act.

(a) By repealing sections seventy-nine, eighty-one, and eighty-two thereof:

(b) By repealing subsection two of section eighty-three thereof:

(c) By omitting paragraph (a) of section eighty-four, and substituting the following paragraph,—

“(a) The Appeal Board shall hold its sittings at such times and places as the Chairman may from time to time determine”:

(d) By repealing paragraph (a) of section eighty-five thereof.

*General.*

14. (1) Subject to the approval of the Minister, any person in respect of whom an Order in Council is issued under section one hundred and eighteen of the principal Act may, upon the termination of the period of his engagement as general secretary of the Amalgamated Society of Railway Servants, or of the Engine-drivers, Firemen, and Cleaners' Association, or of the New Zealand Railway Officers' Institute, or of the New Zealand Railway Tradesmen's Association, as the case may be, be permanently reappointed to the Department at the rate of pay then appropriate to the position or office held by him immediately prior to the commencement of the aforesaid period of engagement.

Power to reappoint certain persons.

(2) On the reappointment of any person under this section the period of his continuous service for superannuation purposes shall be deemed to include the period of his engagement as aforesaid. If such person's rate of pay during the period of his engagement as aforesaid was in excess of the rate of pay to which he is entitled on his reappointment to the Department, the amount of contributions paid by him to the Fund in respect of the difference between the said rates of pay shall be refunded to him.

15. (1) The Minister may, in accordance with arrangements made with the State Advances Superintendent for advances in respect of the price, erect dwellinghouses on any land held by the Crown for railway purposes and not required otherwise than for disposal in manner provided in this section.

Minister may erect dwellinghouses on land held for railway purposes, and may sell same to members of the Department.

(2) Pending the payment by the Superintendent of an advance in respect of any such dwellinghouse the cost of erection may be charged to and paid out of the Working Railways Account.

(3) Any allotment of land on which a dwellinghouse has been erected as aforesaid may be sold by the Minister by private contract to any member of the Department for occupation by him.

(4) The purchase price of any such land with the dwellinghouse thereon shall be as fixed by the Minister.

(5) The foregoing provisions of this section shall apply, with the necessary modifications, to authorize the erection by the Minister, on account of any member of the Department, of a dwellinghouse on

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any land the property of that member, and pending the payment by the Superintendent of an advance in respect of such dwellinghouse to charge the cost of such erection to the Working Railways Account.

(6) All moneys received by the Minister under this section, whether by way of advance from the State Advances Superintendent or by way of payment of the price or of interest or otherwise from the member, shall be paid into the Working Railways Account.

(7) Any Crown land or settlement land available for disposal under the Land Act, 1924, or the Land for Settlements Act, 1925, may be declared by the Governor-General by Proclamation to be available for disposal under this section, and in any such case there shall, without further authority than this section, be paid out of the Working Railways Account into the Land for Settlements Account or other appropriate account such amount as may be agreed upon between the Minister of Lands and the Minister of Railways in respect of the value of such land.

Certain payments made a charge on Working Railways Account instead of on Consolidated Fund.

16. (1) Section one hundred and fourteen of the principal Act is hereby amended by omitting from subsection two the words "Consolidated Fund," and substituting the words "Working Railways Account."

(2) Section one hundred and nineteen of the principal Act is hereby amended by repealing paragraph (b), and substituting the following paragraph:—

"(b) If the Minister of Finance is satisfied that the deficiency exists and that provision should be made therefor there shall, without further appropriation than this section, be paid into the Fund out of the Working Railways Account a sum sufficient to meet the deficiency."