

(3) The Controller shall not, as such, be subject to the provisions of the *Public Service Act 1923*, but if any officer of the Public Service is appointed as the Controller he shall retain all his existing and accruing rights as if his service as Controller were service as an officer of the Public Service.

Appointment
of officers.

9—(1) The Governor may appoint such officers, inspectors, and other employees as he considers necessary for the administration of this Act.

(2) No officer, inspector, or employee appointed under the authority of this section shall be subject to the provisions of the *Public Service Act 1923*.

Expenses of
administration.

10 All expenses incurred in the administration of this Act shall be defrayed out of moneys to be provided by Parliament for the purpose.

Regulations.

11 The Governor may, for the purposes of this Act, make regulations—

- (a) for or in respect of any matters or class of matters dealt with in the Commonwealth Regulations; and
- (b) repealing or amending the Commonwealth Regulations, as in operation by virtue of section three of this Act.

Duration
of Act.

12 This Act shall expire on the thirty-first day of December, 1948.

RAILWAY MANAGEMENT.

No. 29 of 1948.

AN ACT to amend the *Railway Management Act 1935*. [23 July, 1948.]

BE it enacted by His Excellency the Governor of Tasmania, by and with the advice and consent of the Legislative Council and House of Assembly, in Parliament assembled, as follows:—

Short title
and citation.

1—(1) This Act may be cited as the *Railway Management Act 1948*.

(2) The *Railway Management Act 1935**, as subsequently amended, is in this Act referred to as the Principal Act.

* 26 Geo. V. No. 70. For this Act, as amended to 1936, see Reprint of Statutes, Vol. VI., p. 344. Subsequently amended by 2 & 3 Geo. VI. No. 70, 8 & 9 Geo. VI. No. 60, and 10 Geo. VI. No. 12.

2 After section sixty of the Principal Act the following Division is inserted:—

“ Division IA.—Provisions relating to appeals in respect of Promotions.

“ 60A.—(1) For the purposes of this Division, there shall be constituted a board, to be called ‘ the Railway Service Promotions Appeal Board ’ (in this Division referred to as ‘ the Board ’). Railway
Service
Promotions
Appeal
Board.

(2) The Board shall consist of a chairman and members appointed and nominated as provided by this section.

(3) The chairman shall be a returned serviceman (not being an officer or employee in the Railway Service) appointed by the Governor.

(4) The Commissioner shall, on the nomination of the General Manager of Railways, appoint two persons (being officers or employees in the Railway Service) as and to be members of the Board (in this section called “ the departmental representatives ”).

(5) Each trades union, association, or other employees’ organisation, any of the members of which is employed in the Railway Service, shall by notice in writing lodged with the Commissioner, nominate one person (being an officer or employee in the Railway Service) as the representative on the Board of such trades union, association, or organisation.

(6) Subject to subsection (7), on the hearing of any appeal under this Division, the Board shall consist of—

- I. The chairman :
- II. One of the departmental representatives: and
- III. One of the persons nominated under subsection (5), being the person nominated by the trades union, association, or organisation to which the appellant belongs.

(7) In any case where there are more appellants than one and such appellants belong to different trade unions, associations, or other employees’ organisations, the Board shall, for the purpose of hearing the appeals, consist of—

- I. the chairman :
- II. the two departmental representatives: and
- III. the persons nominated under subsection (5) by the trades unions, associations, or organisations concerned—

and, for the purposes of this Division, the decision of the majority of the members of the Board on the hearing of any appeal, shall be deemed to be a decision of the Board.

(8) For the purposes of this section, the two departmental representatives shall mutually agree as to which of them shall act as a member of the Board on the hearing of any appeal other than an appeal to which subsection (7) applies.

(9) The chairman of the Board shall be paid such remuneration as the Governor may determine.

“ 60B.—(1) Subject to this section, every promotion of an officer or employee in the Railway Service to a position of a class or grade higher than that of the position held by such officer or employee immediately prior to his promotion shall, notwithstanding any other provision of this Act, be provisional only, pending the confirmation of the promotion, and shall be subject to the right of appeal to the Board, as provided by this section, but pending the hearing and determination of any appeal which may be brought in respect of the provisional promotion of such officer or employee, he shall be entitled to receive payment of salary or wages at the rate applicable to the position to which he is provisionally promoted.

(2) An appeal may be made under this section by any officer or employee in the Railway Service (in this Division referred to as the ‘ appellants ’) who considers that he is more entitled to promotion to the position concerned than the officer or employee provisionally promoted, on the ground that the appellant is—

- I. Of superior efficiency: or
- II. Of equal efficiency, and

(a) Holds a position which is of a class or grade higher than that of the position held by the officer or employee provisionally promoted immediately before his promotion: or

(b) Has had longer service than the officer or employee provisionally promoted in a position which is of the same class or grade as the position held by such officer or employee immediately before his promotion.

(3) Every appeal under this section shall be instituted by written notice of appeal which shall be lodged with the chairman of the Board, or with some officer appointed by the Board for the purpose of receiving notices of appeal, within fifteen days after the date of the provisional promotion in respect of which the appeal is made.

(4) A notice of appeal under this section shall set forth—

- I. The full name and address of the appellant:
- II. The grounds of the appeal: and
- III. A concise statement of the appellant’s case.

(5) The appellant shall give to the Board an undertaking to pay such proportion of the expenses of and incidental to the appeal as may be determined by the Board in the manner provided by the provisions of this Division, and no appeal shall be entertained by the Board in any case unless such undertaking has first been given.

(6) In this section, ‘ efficiency ’ means special qualifications and aptitude for the performance of the duties of the office to be filled, together with merit, diligence, and good conduct.

(7) This section shall not apply to or in respect of the promotion of any officer or employee to any position in which

he will have the charge or control of any branch of the Railway Service, as specified in the list published from time to time in pursuance of subsection (2) of section fifty-nine.

“ 60C.—(1) Immediately upon the receipt of a notice of appeal, the chairman of the Board shall— Procedure on appeals.

- I. Fix a time and place for the hearing of the appeal: and
- II. Cause notice of the time and place of the hearing to be given to the other members of the Board, and to the parties directly interested in the appeal and to the Commissioner.

(2) The Board shall investigate and report upon every appeal under this Division and shall ensure that every appeal is heard and determined within forty-five days after the date of the provisional promotion in respect of which the appeal is brought.

(3) On the hearing of any appeal the Board may take evidence in such manner as it may think proper.

(4) At the hearing of any appeal under this Division—

- I. The appellant and the officer or employee provisionally promoted shall each be entitled to be present and to adduce evidence, and to be represented by the secretary of the trades union, association, or other employees' organisation to which he belongs, or by some officer or employee in the Railway Service: and
- II. The Commissioner shall be entitled to be represented by some officer or employee authorised by him for that purpose.

(5) No agent other than an officer or employee in the Railway Service or the secretary of any trades union, association, or organisation referred to in paragraph I. of subsection (4) shall appear or be heard on the hearing of any appeal under this Division, and, in no case, shall any legal practitioner be permitted to appear or be heard on the hearing of any such appeal.

(6) Subject to this section, the Board may regulate its own procedure, and may, by notice in writing, require any officer or employee in the Railway Service to attend and give evidence on the hearing of any appeal under this Division, and any such officer or employee shall be granted such leave of absence on full pay as may be necessary to enable him to attend and give evidence before the Board in pursuance of any such notice.

(7) On the determination of any appeal under this Division the Board shall notify the appellant of the result of his appeal and shall also notify the Commissioner of its determination.

(8) Where the Board allows any appeal under this Division, the Commissioner shall cancel the provisional promotion, and shall promote the successful appellant to the

vacant position, and no further appeal shall lie or be allowed in favour of any officer or employee in respect of the promotion of the appellant in pursuance of this subsection.

(9) Where the Board disallows any appeal under this Division, or no notice of appeal is lodged within the time prescribed in subsection (3) of section sixty B, the Commissioner shall confirm the provisional promotion.

(10) Every determination of the Board on the hearing of any appeal under this Division shall be final.

Expenses
of appeal.

“60D.—(1) The Board may make any order which it thinks just with respect to the payment of the expenses incurred in or in connection with any appeal under this Division, and may direct by whom and in what proportion such expenses shall be paid, and may, if it considers that the appeal is frivolous or vexatious, order that the appellant shall pay the whole of such expenses or such part thereof as the Board may determine.

(2) Any expenses ordered by the Board in pursuance of this section to be paid by an appellant may be deducted from any salary or wages due or becoming due to the appellant.”

MINERS' PENSIONS.

No. 30 of 1948.

AN ACT to amend the *Miners' Pensions Act 1944*.
[23 July, 1948.]

BE it enacted by His Excellency the Governor of Tasmania, by and with the advice and consent of the Legislative Council and House of Assembly, in Parliament assembled, as follows:—

Short title,
citation, and
commence-
ment.

1—(1) This Act may be cited as the *Miners' Pensions Act 1948*.

(2) The *Miners' Pensions Act 1944**, as subsequently amended, is in this Act referred to as the Principal Act.

(3) This Act shall commence on a date to be fixed by proclamation.

* 7 & 8 Geo. VI. No. 98, as amended by 8 Geo. VI. No. 7, 9 & 10 Geo. VI. No. 55, and 10 Geo. VI. No. 48.