

## TRANSPORT COMMISSION'S LANDS AND RATING.

No. 76 of 1951.

AN ACT to make better Provision with respect to the Lands of the Transport Commission and the Payment of Rates thereon, and for that Purpose to amend the *Transport Act 1938*, the *Railway Management Act 1935*, and the *Local Government Act 1906*.

[18 December, 1951.]

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:—

### PART I.

#### PRELIMINARY.

**1**—(1) This Act may be cited as the *Transport Commission's Lands and Rating Act 1951*. Short title  
and com-  
mencement.

(2) This Act, so far as it relates to liability to pay rates to authorities empowered by law to levy rates, shall be deemed to have commenced on the first day of July, 1951.

### PART II.

#### AMENDMENT OF THE TRANSPORT ACT 1938.

**2** Section thirty-nine of the *Transport Act 1938*\* is repealed and the following section is substituted therefor:—

“39.—(1) The Commission shall, as against all persons whatsoever, have and enjoy, subject to this Act, the rights, privileges, and immunities of the Crown in respect of its ownership and occupation of— Property of  
the Commis-  
sion exempt  
from rates  
and taxes.

(a) land occupied by it for administrative purposes under this Act;

\* 2 & 3 Geo. VI. No. 70. For this Act, as amended to 1949, see Annual Volume for 1949, Appendix D. Subsequently amended by No. 22 of 1951.

- (b) land used for the operation by it of a road transport service under this Act;
- (c) jetties the control and management of which are vested in it under Part V. of the *Roads and Jetties Act 1935\**;
- (d) aerodromes under its control; and
- (e) land acquired by it for—
  - (i) occupation by it for administrative purposes under this Act;
  - (ii) the operation by it of road transport services under this Act; or
  - (iii) an aerodrome—
 and not yet used for the purpose,

but, except as provided in the *Railway Management Act 1935†*, not in respect of any other land.

(2) Nothing contained in subsection (1) of this section shall prejudice or affect any rights, privileges, or immunities conferred, either expressly or by necessary implication, on the Commission by any other provision of this Act, in respect of any matters other than those to which that subsection relates.”

### PART III.

#### AMENDMENTS OF THE RAILWAY MANAGEMENT ACT 1935.

**3** In this Part, the expression “the Principal Act” means the *Railway Management Act 1935†*.

Interpretation.

**4** Section three of the Principal Act is amended—

(a) by omitting from paragraph i. of the definition of “Railway” the words “the Government of this State” and substituting therefor the words “His Majesty or the Transport Commission”; and

(b) by inserting at the end of subsection (1) the following definition:—

“‘The railway lands’ means—

i. Every railway existing at the commencement of the *Transport Act 1938‡* except so much as, on or after the commencement of that Act and

\* 26 Geo. V. No. 82. For this Act, as amended to 1936, see Reprint of Statutes, Vol. VI., p. 463. Subsequently amended by 4 Geo. VI. No. 51, 5 Geo. VI. No. 13, 8 Geo. VI. No. 4, 9 Geo. VI. No. 27, 11 Geo. VI. No. 74, and No. 22 of 1951.

† 26 Geo. V. No. 83. For this Act, as amended to 1936, see Reprint of Statutes, Vol. VI., p. 344. Subsequently amended by 8 & 9 Geo. VI. No. 60, 10 Geo. VI. No. 12, Nos. 29 and 53 of 1948, No. 69 of 1949, and No. 2 of 1951.

‡ 2 & 3 Geo. VI. No. 70. For this Act, as amended to 1949, see Annual Volume for 1949, Appendix D. Subsequently amended by No. 22 of 1951.

before the commencement of the *Transport Commission's Lands and Rating Act 1951*, has been duly disposed of:

- II. All land which, on or after the commencement of the *Transport Act 1938\** and before the commencement of the *Transport Commission's Lands and Rating Act 1951*, was acquired or reserved by His Majesty or acquired by the Transport Commission for railway purposes: and
- III. All land which, on or after the commencement of the *Transport Commission's Lands and Rating Act 1951*, is acquired by the Transport Commission for railway purposes.”

**5**—(1) Section eight of the Principal Act is repealed and the following sections are substituted therefor:—

“ 8. Subject to section eight A, the railway lands are hereby vested in the Minister and his successors to the use of His Majesty, subject to the provisions of this Act. Railway lands vested in the Minister.

“ 8A.—(1) Where any land which would otherwise be vested in the Minister and his successors under section eight belonged, immediately before the commencement of this section, to the Crown, it shall continue in the Crown and shall be deemed to have been demised to the Minister and his successors for the term of nine hundred and ninety-nine years commencing on the first day of January, 1951, at a rent of one shilling a year, if demanded, to be held to the use of His Majesty, subject to the provisions of this Act. Vesting in fee postponed where no previous grant.

(2) The Minister shall be entitled, on demand, to a release of any land which is subject to this section vesting that land in him in accordance with section eight, and any such land, upon being released, shall be brought under the *Real Property Act 1862*†.

(3) Where the Governor considers that any land which is subject to this section is part of the railway lands only by virtue of paragraph IV. of the definition of “Railway”, contained in subsection (1) of section three, and is used in part for purposes other than those of a railway, he may, notwithstanding that the Minister has demanded the release of that land, by proclamation, revoke the demise thereof, whereupon the land shall cease to be subject to this section and shall become subject to the *Crown Lands Act 1935*‡.

\* 2 & 3 Geo. VI. No. 70. For this Act, as amended to 1949, see Annual Volume for 1949, Appendix D. Subsequently amended by No. 22 of 1951.

† 25 Vict. No. 16. For this Act, as amended to 1936, see Reprint of Statutes, Vol. V., p. 1002. Subsequently amended by 11 & 12 Geo. VI. No. 83.

‡ 26 Geo. V. No. 35. For this Act, as amended to 1936, see Reprint of Statutes, Vol. IV., p. 1000. Subsequently amended by 3 Geo. VI. No. 8, 4 Geo. VI. No. 47, 7 Geo. VI. No. 57, 9 Geo. VI. No. 22, and 10 Geo. VI. No. 52.

Railway  
chattels  
vested in the  
Commissioner.

“8B. The engines, rolling stock, machinery, and appurtenances of every railway operated by the Commissioner (not being part of the railway lands) are hereby vested in the Commissioner for the purposes of this Act.”.

(2) The section of the Principal Act repealed by this section, or any other repealed enactment to the like effect, shall not be construed as passing or having passed any estate at law from His Majesty to the Minister.

**6** Section ten of the Principal Act is repealed and the following section is substituted therefor:—

Railway  
lands not to  
be subject to  
rates unless  
expressly  
provided.

“10.—(1) The Minister and his successors shall, against all other persons, have and enjoy, subject to this Act, all the rights, privileges, and immunities of the Crown in respect of his or their ownership and occupation of the railway lands.

(2) Where any of the railway lands separated from a line of railway by land which is not part of the railway lands—

- I. Are not in the vicinity of a line of railway: or
- II. Being in the vicinity of a line of railway, are not occupied by the Minister or his successors, or by his or their tenants, in connection with—
  - (a) The running of trains, including locomotive running and running-shed maintenance:
  - (b) Station, signalling, goodshed, and shunting staff: or
  - (c) The repair of tracks—

the Governor may, by proclamation made on the recommendation of the Minister, declare them to be ratable lands.

(3) Upon the gazettal of any such proclamation the lands to which the proclamation relates shall, notwithstanding anything contained in subsection (1) of this section, be ratable by authorities empowered by law to levy rates as from any date, not earlier than the first day of July, 1951, fixed for the purpose in the proclamation.

(4) Any such proclamation shall be revoked in respect of any lands which the Minister certifies, or, as the case may be, his successors certify, to the Governor to have ceased to be the proper subject of such a proclamation.”.

**7** After section thirty-five of the Principal Act the following section is inserted in Division IV. of Part IV.:—

Acquisition of  
Crown land.

“35A.—(1) The Governor may, at the request of the Minister, in the name and on behalf of His Majesty, grant lands of the Crown (being lands which are not exclusively appropriated by or under any Act to any public or other

purpose) to the Minister and his successors to be held by him and them in fee or for years to the use of His Majesty, subject to the provisions of this Act.

(2) The consideration for any such grant shall be as the Governor thinks fit but shall be not less than—

- I. In the case of land purchased or taken by the Crown, the amount paid therefor together with the value of any subsequent improvements: or
- II. In the case of other land, the value of the improvements (if any) thereon.”.

**8**—(1) Section forty of the Principal Act is repealed.

Consequential  
amendments.

(2) The Principal Act is further amended as set out in the schedule to this Act.

#### PART IV.

##### AMENDMENT OF THE LOCAL GOVERNMENT ACT 1906.

**9** Section one hundred and seventy-three of the *Local Government Act 1906*\* is amended—

Rates, &c.,  
upon Crown  
property, &c.

(a) by inserting after paragraph VII. the following paragraph:—

“VIII. The railway lands, within the meaning of the *Railway Management Act 1935*†, not declared, by proclamation under that Act, to be ratable lands—”;

(b) by omitting the words “an employee in the Railway Branch of the Transport Department residing on a railway, or ”; and

\* 6 Edw. VII. No. 31. For this Act, as amended to 1936, see Reprint of Statutes Vol. V., p. 15. Subsequently amended by 2 Geo. VI. Nos. 8 and 33, 4 Geo. VI No. 46, 5 Geo. VI. Nos. 20 and 42, 6 Geo. VI. Nos. 26 and 62, 7 & 8 Geo. VI No. 88, 8 Geo. VI. No. 17, 9 Geo. VI. No. 12, 11 Geo. VI. Nos. 5 and 61, No. 2 of 1949, and Nos. 68 and 70 of 1950.

† 26 Geo. V. No. 33. For this Act, as amended to 1936, see Reprint of Statutes Vol. VI., p. 344. Subsequently amended by 8 & 9 Geo. VI. No. 60, 10 Geo. VI. No. 12, Nos. 29 and 53 of 1948, No. 69 of 1949, and No. 2 of 1951.

- (c) by inserting after the words "His Majesty" (second occurring) the words "(other than railway lands, within the meaning of the *Railway Management Act 1935\**, not declared, by proclamation under that Act, to be ratable lands)".

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## PART V.

### MISCELLANEOUS.

Validation of  
resumptions.

**10** No acquisition of land by His Majesty on or after the commencement of the *Transport Act 1938*† and before the commencement of this Act shall be deemed to be unlawful or ineffective on the ground—

- (a) that it was done by the Minister instead of by the Transport Commission or by the Transport Commission instead of by the Minister; or
- (b) that the Minister or the Transport Commission, as the case may be, could not use the powers and procedure under the *Lands Resumption Act 1910*‡.

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\* 26 Geo. V. No. 33. For this Act, as amended to 1936, see Reprint of Statutes, Vol. VI., p. 344. Subsequently amended by 8 & 9 Geo. VI. No. 60, 10 Geo. VI. No. 12, Nos. 29 and 53 of 1948, No. 69 of 1949, and No. 2 of 1951.

† 2 & 3 Geo. VI. No. 70. For this Act, as amended to 1949, see Appendix D to the Annual Volume of the Statutes for 1949. Subsequently amended by No. 22 of 1951.

‡ 1 Geo. V. No. 11. For this Act, as amended to 1936, see Reprint of Statutes, Vol. VI., p. 5. Subsequently amended by 4 Geo. VI. No. 11, 8 Geo. VI. No. 12, and 9 & 10 Geo. VI. No. 59.

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## THE SCHEDULE.

(Section 8.)

Section amended.	How amended.
31	<p>(a) by omitting from subsection (1) the words "His Majesty" and substituting therefor the words "the Minister"; and</p> <p>(b) by omitting from that subsection the words "land acquired or occupied in connection with any railway" and substituting therefor the words "any part of the railway lands".</p>
32	<p>(a) by omitting from subsection (1) the words "His Majesty" and substituting therefor the words "the Minister"; and</p> <p>(b) by omitting from that subsection the words "used in connection with any railway" and substituting therefor the words "on the railway lands".</p>
35	<p>(a) by omitting from paragraph 1. of subsection (1) the word "land" and substituting therefor the words "part of the railway lands";</p> <p>(b) by omitting from that paragraph the words "or His Majesty";</p> <p>(c) by omitting from subsection (3) the words "any land used or acquired for railway purposes" and substituting therefor the words "the railway lands"; and</p> <p>(d) by omitting subsection (4).</p>
37	<p>By omitting from subsection (2) all the words after the words "by the" (first occurring) to the end of that subsection and substituting therefor the words "<i>Public Authorities' Land Acquisition Act 1949.</i>".</p>
42	<p>By omitting from subsection (5) the words "<i>Lands Resumption Act 1910</i>" and substituting therefor the words "<i>Public Authorities' Land Acquisition Act 1949</i>".</p>
49	<p>(a) By omitting from subsection (1) the words "acquire and" and substituting therefor the word "or"; and by omitting from that subsection the words "and may take leases of any land required for the purposes of this Act"; and</p> <p>(b) by adding at the end thereof the following subsection:—  " (3) Land which may be purchased or taken for the purposes of this Act may be purchased or taken under the provisions of the <i>Public Authorities' Land Acquisition Act 1949</i>, which is hereby incorporated with this Act."</p>
49A	<p>(a) By omitting the word "it" and substituting therefor the word "he"; and</p> <p>(b) By omitting the words "Transport Commission" and substituting therefor the word "Commissioner".</p>