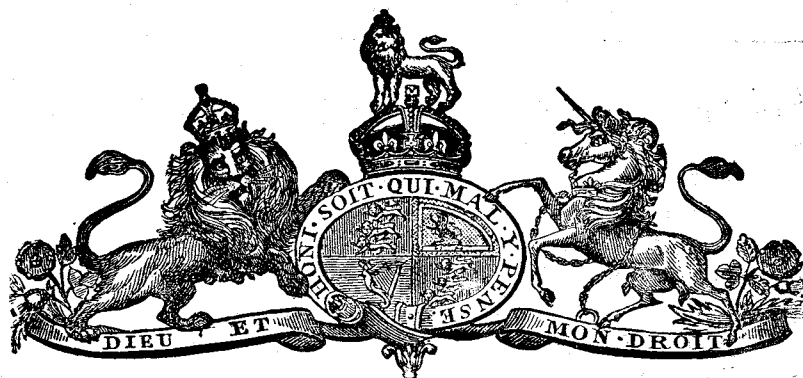


TASMANIA.



1907.

ANNO SEPTIMO

EDWARDI VII. REGIS,

No. 49.



AN ACT to amend the Law relating to Tramways, and to give further powers to Municipal Councils to construct and work Tramways. [5 December, 1907.]

A.D.
1907.

WHEREAS it is desirable to amend the Law relating to Tramways, and to give further powers to Municipal Councils to construct and work Tramways: PREAMBLE.

Be it therefore 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:—

1—(1.) This Act, which may be cited for all purposes as “The Local Government Act (Tramways), 1907,” may be applied, except where the contrary is so stated, in any municipality or united municipality, or in any subdivision of a municipality, or in any locality the boundaries of which can be clearly and conveniently defined, but shall not derogate from any rights conferred by any statute upon any person or company to construct and work any tramway or railway. Short title and application of Act. Saving.

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—
To be read as
part of L.G. Act,
1906.

(2.) This Act is to be read as part of "The Local Government Act, 1906" (in this Act referred to as "the Principal Act"), shall commence and take effect on a day to be appointed by proclamation, and be construed as though it were embodied in the Principal Act; and the terms, words, and phrases interpreted in the Fifth Section of the Principal Act shall have in this Act the respective meanings set against each such term, word, or phrase in such Fifth Section.

(3.) This Act is divided into Parts, as follow:—

- Part I.—Surveys of Tramway Routes. (Sects. 2 to 7.)
- Part II.—Constitution of Tramway Area. (Sects. 8 to 13.)
- Part III.—Control and Construction, &c., of Tramways. (Sects. 14 to 29.)
- Part IV.—Rating, Loans, and Accounts. (Sects. 30 to 40.)
- Part V.—Way-leave for Private Tramways. (Sect. 41.)

PART I.**SURVEYS OF TRAMWAY ROUTES.**

Fifty owners
may by petition
to Council request
that a poll be
taken to decide
the question of
surveying a
Tramway route.

2 Any Fifty or more owners of ratable land in a municipality, or part thereof to which the petition relates, may by petition request the Council of the municipality to take a poll of the owners of ratable land—

- i. Within the whole municipality: or
- ii. Within a part of the municipality to be described and defined in the petition—

to decide the question of surveying a route for a Tramway for the benefit generally—

- (a) Of the whole municipality: or
- (b) Of a part of the municipality.

Powers of
Council as to
petition.

3 The Council may exercise all or any of the following powers as to a petition or amended petition presented to it, namely:—

- i. Accede to the request; in which case a poll shall be held as soon as conveniently may be:
- ii. Refuse the request:
- iii. Refer the petition to the petitioners for amendment:
- iv. At its own instance, or at the request of the petitioners, amend the petition by altering the area it relates to, or otherwise.

"Survey Poll
Area."

4 The area for which a poll for a survey is taken is in this Act referred to as the "Survey Poll Area."

Voting at poll
for survey, and
how poll to be
taken.

5 Whenever a poll is taken to decide the question of any such survey as aforesaid, Two-thirds of the votes of the owners as aforesaid, voting according to the scale set forth in Section Forty-five

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of the Principal Act, shall be necessary to decide such question in the affirmative; but in all other respects the poll shall be taken and the results thereof ascertained in such manner as the Governor may by regulation prescribe, and all expenses in connection with the poll shall be paid out of the municipal fund of the municipality in which the poll is taken.

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6 Where a poll is in favour of a survey the following provisions shall apply:—

Provisions where poll in favour of survey.

i. The Council may request the Governor to cause the survey to be effected, and shall out of the municipal fund forward to the Governor with its application, a sum not less than Five Pounds for every mile of the Tramway route proposed to be surveyed, and such sum shall be paid into a suspense account in the Treasury and shall be refunded:

Council may request Governor to have survey made, and shall deposit Five Pounds per mile of Tramway route.

(a) If the Governor refuses the survey: or

Provides for return of deposit in certain cases.

(b) If a survey is granted in accordance with the request of the Council, and if as a result of the survey a Tramway Area is constituted and a Tramway constructed:

ii. The Council shall furnish to the Governor such information, particulars, and estimates as the Minister for Lands and Works may require:

Council to furnish information required by Minister for Lands.

iii. The Governor may in his discretion direct the Minister for Lands and Works to cause the survey to be effected, and may by warrant under his hand, addressed to the Treasurer, direct him to pay out of any moneys provided by Parliament for the purpose of surveying Tramway routes, such sums as the Governor may think necessary to defray the expenses of or in relation to the survey:

Governor may direct survey to be made, and may authorise payment of expenses of survey.

iv. Any persons authorised by—

Power of entry upon lands for survey purposes.

(a) The Minister for Lands and Works; or

(b) The Secretary for Lands; or

(c) The Council—

may enter and remain upon any land for the purposes of the survey:

v. The Governor may in granting a survey impose any conditions he may think reasonable.

Governor may impose conditions.

7 Where, as the result of a survey granted by the Governor and effected under this Act, a tramway is subsequently constructed out of a loan granted pursuant to this Act, the amount of the cost of the survey shall be added to the amount of such loan, and shall be deemed to have been lent simultaneously with the loan for construction purposes, and shall be repaid with interest as if part of that loan,

Where survey results in a Tramway being constructed, cost of survey to be added to Tramway loan as part thereof.

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PART II.

CONSTITUTION OF TRAMWAY AREA.

Petition for undertaking.
Compare
2 Ed. VII. No. 19, ss. 285-323 (Q.).

When area forms whole or part of more municipalities than one.

Signatures to be verified.

Publication of petition.

Documents to accompany petition.

Council may facilitate preparation of these documents.

Certified copies to be deposited.

Demand of poll.

Poll may be taken.

8—(1.) When a proposed Tramway Area is included wholly within one municipality, the owners of ratable land, having not less than One-third of all the votes of the owners within the Area, may by petition, describing the proposed Area, require the Council of the municipality to apply to the Governor for a loan under this Act.

(2.) When a proposed Tramway Area forms the whole or part of Two or more municipalities the owners of ratable land having not less than One-third of all the votes of the owners within such part of the proposed Tramway Area as forms or is included wholly within One municipality, may petition the Council of that municipality to apply to the Governor for a loan under this Act.

(3.) Every signature to a petition shall be verified by the solemn declaration of some person who signed the petition. No petition unaccompanied by such declaration, shall be received by the Council.

9—(1.) On the presentation of a petition the Council receiving the same shall cause a copy of it to be gazetted Once, and to be advertised Three times at the least, and the last day it is so advertised shall be deemed to be the day of the publication of it.

(2.) Every such petition shall be accompanied by—

- i. A description of the proposed Tramway Area :
- ii. Plans, sections, specifications, and book of reference of the proposed Tramway :
- iii. An estimate of the cost of the proposed Tramway : and
- iv. An estimate of the net revenue that may reasonably be expected to be yielded by the proposed Tramway.

And a Council may exercise such of the powers of this or the Principal Act, or may authorise the exercise by the petitioners of such of those powers, as may be necessary to the preparation of any of the aforesaid requirements.

(3.) A certified copy of such petition, description, plans, sections, specification, book of reference, and estimates shall be deposited in the office of every Council having jurisdiction within the proposed Tramway Area, and shall be at all reasonable times open to the inspection of any elector.

10—(1.) At any time within One month after the publication of the petition any owners of ratable land having in the aggregate Fifty votes in the proposed Tramway Area, or part thereof, as the case may be, may, by application to the Council, require that the question whether the money shall be borrowed shall be submitted to the vote of the owners as aforesaid in the proposed Tramway Area, or such part thereof, as the case may be.

(2.) When such an application is made, the Council shall direct that a poll be taken of the owners as aforesaid in the proposed Tramway Area, or such part thereof, as the case may be, and shall

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prescribe the form of ballot-paper to be used At any such poll A.D. 1907.
 every such owner as aforesaid shall, subject to the provisions
 of the Principal Act, have a number of votes proportioned to the
 annual value as ascertained by the assessment roll of the property
 within the proposed Tramway Area owned by him according to the
 scale set forth at the end of Section Forty-five of that Act; but in all
 other respects the poll shall be taken, and the results thereof ascertained
 in such manner as the Governor may by regulation prescribe.

(3.) Before a poll is taken the same shall be advertised Thrice, and
 the advertisement shall contain the following particulars:—

- i. Time and place of poll :
- ii. A short description of the proposed Tramway Area :
- iii. An estimate of the cost of Tramway :
- iv. The amount proposed to be borrowed.

11 If upon the poll being taken the number of votes given in How question
 favour of the loan is less than Twice the number of votes given against decided.
 the loan, no action shall be taken upon the petition.

12 In the event of no demand being made for a poll within the Minister to
 time herein prescribed, or if, upon a poll being taken, the number of submit petition
 votes given in favour of the loan is not less than Twice the number of to Governor.
 votes given against the loan, then the Council shall transmit the
 petition, and all documents relating to it, to the Governor, together
 with an application for a loan under the provisions of this Act.

The Governor shall consider the application, and may, if he thinks
 fit, direct an inquiry to be held in the proposed Tramway Area, or
 may otherwise inquire as to the propriety of granting the application.

13 The Governor may, by proclamation—

- i. Define the Tramway Area, the boundaries of which may be Powers of the
 the same as the boundaries of the proposed Tramway Governor.
 Area described in the documents accompanying the
 petition, or may include or exclude lands not included or
 excluded in such description, respectively : and
- ii. Approve of the plans, sections, specification, and book of
 reference of the proposed Tramway, with such modifi-
 cations, if any, as appear to be expedient : or
- iii. Reject the prayer of the petition.

PART III.**CONTROL AND CONSTRUCTION, &c., OF TRAMWAYS.**

14—(1.) If the Tramway Area defined by the proclamation is Control of
 included wholly within the area of one municipality or united Tramway.
 municipality, then the Council or Joint Council thereof, as the case
 may be, shall have the sole control with respect to the construction

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and the subsequent maintenance, use, and working of the Tramway, and the regulation of the traffic thereon.

(2.) In any other case the Governor may constitute a united municipality under the provisions of the Principal Act, and may place under the sole control of the Joint Council thereof the construction, maintenance, use, and working of the Tramway, and the regulation of the traffic thereon.

Application and
incorporation of
Railway Clauses
Consolidation
Act.
1 Ed. VII. No. 14.

15 "The Railways Consolidation Act, 1901," hereinafter referred to as "the General Act," shall, with the exception of Section Twenty-three and Subsection (2.) of Section Twenty-eight, and Parts VIII., IX., and XI. thereof, apply to every Tramway for the construction whereof a loan is directed to be advanced pursuant to the provisions of this Act, and shall be incorporated with this Act.

In the construction of this Act, and the General Act, this Act shall be deemed to be "the Special Act;" and the Council or Joint Council to whom the Governor directs a loan to be advanced for the construction of a Tramway shall be deemed to be the "promoters" or "the promoters of the undertaking."

Communication
with railways.

16 In every case where a Government railway passes through or forms One or more of the boundaries of a Tramway Area, the General Manager of the *Tasmanian* Government Railways (in this Act referred to as "the General Manager") shall, upon the application of any Council or Joint Council having control of the Tramway, fix some place upon such railway, within or as near as may be to the limits of the Tramway Area, at which communication may be made between the Tramway and the railway with safety to the public, and without injury to the railway, and without inconvenience to the traffic thereon; and shall, at the expense of the said Council or Joint Council, make the junction, and do all such other acts and things as may be necessary for effecting such communication.

Speed.

17 No engine, carriage, wagon, truck, or vehicle, shall travel on the Tramway at a greater speed than at the rate of speed in each case herein specified:—

- i. While passing along a road (not being in a town), Twelve miles per hour:
- ii. While passing along a road in a town, Nine miles per hour:
- iii. While passing a road-crossing where cattle-guards are used in place of gates, in a town Four miles per hour, outside a town Five miles per hour:
- iv. On any other part of a Tramway, Twenty miles per hour.

Supply of
material, &c., by
General Manager.

18 Upon the application of any Council or Joint Council, the General Manager—

- i. May provide and supply to it all rails and other materials, articles, and things of every description which are requisite and proper for the due construction of the Tramway, and

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at a price agreed upon by and between him and the Council or Joint Council : A.D. 1907.

- ii. Shall convey to a railway-station upon a Government railway which is situated within or is nearest to the Tramway Area, all rails, and all other materials, articles, and things of every description which are requisite and proper for the due construction of the Tramway ; and the amount which the Council or Joint Council shall pay for the conveyance of the same shall not exceed One-half of the ordinary rate payable in respect of the conveyance of goods of similar description for an equal distance upon the Government railway. Conveyance of materials, &c.

19 Every Council and Joint Council constructing a Tramway may exercise for that purpose any powers conferred by the Principal Act upon a Council and Joint Council in respect to any local work. All powers of Act applicable.

20 A Council or Joint Council having control of a Tramway may enter into an agreement with any person for the maintenance, working, and control by such person of such Tramway. Power to enter into agreements for working, &c.

Provided that every such agreement and every variation thereof shall be subject to the approval of the Governor, and to all regulations, conditions, and stipulations which he may think fit to make or impose.

Provided further that no such agreement shall be construed to repeal or otherwise affect any by-laws made under this Act with respect to Tramways.

21 Every Council or Joint Council, or person having control of a Tramway, may use and employ upon the Tramway— Motive power. See Section 62 of General Act.

i. Locomotive engines :

ii. Electric motors : or

iii. Any other motive power that may be approved by the Minister for Lands and Works—

for the traction of carriages, wagons, or vehicles over and upon the Tramway.

Provided that the approval of the Minister for Lands and Works be first obtained and continued to the use of locomotives on the Tramway where it runs along a road.

22 In the event of communication being established between the Tramway and a Government railway, the General Manager may allow any carriages, wagons, trucks, or vehicles used in connection with the Tramway to travel on such railway, but subject always to such terms, regulations, and conditions as he thinks fit to make or impose. Running powers over railways.

23 All land and other property acquired by a Council or Joint Council under or by virtue of this Act, or by virtue of any power conferred by the extension of any part of the aforesaid enactments, shall be held by the Council or Joint Council in fee simple, or Land to vest in Local Authority.

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- A.D. 1907. — according to the nature of the estate acquired, but subject to the provisions of this Act.
- Government not bound to compensate. **24** If at any future time the Government shall construct or erect any line or lines of Tramway or railway, the construction or erection of which may, or may be supposed to, injuriously affect, whether by competition or otherwise, the lines of Tramway authorised under this Act, the Government shall not be liable to pay any compensation by reason of such damage or injury.
- Right of user only. **25** Notwithstanding anything in this Act or the General Act contained, a Council or Joint Council having control of any Tramway shall not, except where otherwise expressly enacted by the General Act, acquire, or be deemed to acquire, any right other than that of user of any road along or across which they construct any Tramway or do any work.
- Reserving power of Local Authorities to widen, &c., roads. **26** Nothing in this Act shall take away or affect any power which any Local Authority or other authority may have by law to widen, alter, divert, or improve any road, railway, or tramway.
- Power for Local Authority or police authorities to regulate traffic on roads. **27** Nothing in this Act shall limit the powers of any Local Authority or police to regulate the passage of any traffic along or across any road; and such authority or police may exercise their powers as well on as off the Tramway, and with respect as well to the traffic of the authority controlling the Tramway as to the traffic of other persons.
- Right of the public to use Tramways. **28** Subject to the provisions of this Act, and the General Act, and of any by-laws made under the General Act, all persons shall have a right to use any Tramway for travelling, and for the carriage of goods thereon.
- Reservation of right of public to use roads. **29** Nothing in this Act or the General Act, or in any by-law made under the General Act, shall take away or abridge the right of the public to pass along or across any road, whether on or off any Tramway, with carriages having wheels not being flange wheels, or not being wheels suitable to run on the rail of the Tramway.

PART IV.**RATING, LOANS, AND ACCOUNTS.***Rate.*

- Tramway Rate. **30** For the purpose of repaying the amount of the loan, and the interest from time to time accruing thereupon, the Council or Joint Council, as the case may be, shall, when and so often as the same is required, make and levy a Tramway Rate upon the capital value as

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shown by the assessment rolls in force of all ratable property within the Tramway Area, and of such an amount as will be sufficient to provide in each year the annual instalment of principal and interest payable in respect of the loan. A.D. 1907.

31 Such Tramway Rate shall be paid and borne by the owners of ratable land within the Tramway Area, and the same proceedings may be taken for the recovery thereof as in the case of other Rates made under the Principal Act. Recovery of Rates.

Loans.

32 Subject to the provisions hereinafter contained, the Governor may, by warrant under his hand addressed to the Treasurer, direct him to advance to a Council or Joint Council by way of loan, out of any moneys provided by Parliament for that purpose, such sums as the Governor may think fit for the construction of a Tramway, and any such loan shall be deemed to be a loan granted by the Governor under and in accordance with the provisions of "The Local Public Works Loans Act, 1890." Loans for Tramways.
54 Vict. No. 30.

33 The total amount advanced by way of loan to a Council or Joint Council for the construction of any one Tramway, and the providing of plant and rolling-stock in connection with the same, shall not exceed a sum equal to Three thousand Pounds for every mile of the length thereof. Amount that may be advanced.

34 The amount of any loan borrowed by a Council under the provisions of this Act shall not be taken into consideration in estimating the amount that may be borrowed by such Council under the provisions of the Principal Act. Amount borrowed not to limit other borrowing powers.

35 For a period of Three years from the date of the authorisation of a loan the Council shall not be required to pay to the Treasurer any moneys by way of interest upon such loan. Interest not to be charged for Three years ;

36—(1.) Subject to the provisions of Subsection (2.) of this section, from and after the expiration of the period of Three years from the date of the authorisation of a loan, the loan shall be liquidated by the payment to the Treasurer by the Council or Joint Council as the case may be, on the First days of *January* and *July* respectively in each year thereafter, of such sum of money as under "The Local Public Works Loans Act, 1890," is required to be paid in respect of the loan, and all such sums shall continue to be payable until the total amount of the loan, together with the interest accruing thereupon, has been so paid. then to be paid half-yearly.

(2.) If in any year during a further period of Seven years, commencing from the expiration of the said period of Three years mentioned in the immediately preceding section, the net revenue for that year derived from the Tramway undertaking, after paying all working

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expenses thereof for that year, is insufficient to pay to the Treasurer the interest moneys payable to him for that year in respect of the loan or in respect of any part thereof the Treasurer may, upon being satisfied that such is the case, remit or refund payment (in respect of the said deficiency) of not more than a sum equal to Two Pounds per centum for One year, calculated upon the amount of the loan upon which the said interest moneys are payable.

Repayment of principal after Three years.

37 The term of a Tramway loan shall be deemed to begin at the end of Three years from the date of its authorisation.

Application of Local Public Works Loans Acts.

38 Save as herein otherwise provided, "The Local Public Works Loans Act, 1890," and any Amendment thereof, and every Act in substitution for those Acts or any of them, shall be applicable to any loan advanced under the provisions of this Act.

Accounts.

Account of Tramways.

39 Every Council having control of a Tramway shall cause to be kept separate and distinct accounts of all moneys raised by Tramway Rates and received from the working of the Tramway, which shall be charged—

- I. With the principal money and interest required to be paid in respect of the loan advanced for the construction of the Tramway: and
- II. With the cost of maintaining the Tramway in good repair, and of providing and maintaining plant and rolling-stock, and of carrying on the traffic thereon.

And such accounts shall, as regards inspection and audit, be subject to the provisions of Part XIII. of the Principal Act.

Surplus, how applied.

40 If at any time the Tramway becomes so profitable that the receipts are more than sufficient to defray all the expenses connected with it, and also the moneys due and payable to the Treasurer and required to be paid in respect of the loan, the surplus so arising—

- I. May, until the total amount of the loan, together with the interest accruing upon it, has been paid by the Council or Joint Council, as the case may be, be paid to the Treasurer, and shall be applied by him in liquidation of the loan:
- II. Shall, after the total amount of the loan, together with the interest accruing upon it, has been paid, be applied by the Council or Joint Council, as the case may be, when Rates have been levied under the powers of Section Thirty hereof, in or towards repayment of all Rates that may have been paid to any Council or Joint Council in respect of ratable property in the Tramway Area upon which the Tramway Rate was levied, in exoneration of the ratepayers who have made such payments, until the amount of the surplus so applied is equal to the

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amounts received on account of the Tramway Rate, with interest at the rate of Four per centum per annum, calculated at simple interest, from the respective dates of payment:

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- iii. Subject to the last preceding paragraph, it shall be paid to the Municipal Fund.

PART V.**WAY-LEAVE FOR PRIVATE TRAMWAYS.**

41 The Council of any municipality may, after passing a special resolution for that purpose, with the consent of the Governor, grant permission for any term not exceeding Fourteen years to any person or company to lay down, construct, and maintain a private Tramway or railway on, along, or across any public road within the Area, subject to such terms and conditions as may be recommended by the Council and approved by the Governor; and such terms and conditions shall, within One month after the same shall have been approved by the Governor, be gazetted and advertised; but no such permission shall confer any right to act as a public carrier, nor be construed as any monopoly of the use of the road for such purpose, unless sanctioned by the votes of the majority of the owners of ratable land within the Area through which the Tramway runs, at a poll conducted in accordance with regulations to be prescribed.

With Governor's consent permission for private Tramway crossing road may be given.

Owners' consent in certain cases necessary.

CHAMBER OF COMMERCE

MEMORANDUM

TO: THE BOARD OF DIRECTORS
FROM: THE MANAGER
SUBJECT: [Illegible]

[Illegible]

[Illegible]