



ANNO SECUNDO

GEORGII VI REGIS.

A.D. 1938.

No. 2400.

An Act to amend the South Australian Railways Commissioner's Act, 1936, so as to provide for the establishment of a Railway Officers Classification Board.

[Assented to 27th October, 1938.]

BE IT ENACTED by the Governor of the State of South Australia, with the advice and consent of the Parliament thereof, as follows:

1. (1) This Act may be cited as the "South Australian Railways Commissioner's Act Amendment Act, 1938". Short title.

(2) The South Australian Railways Commissioner's Act, 1936, as amended by this Act may be cited as the "South Australian Railways Commissioner's Act, 1936-1938".

(3) The South Australian Railways Commissioner's Act, 1936, is in this Act called "the principal Act".

2. This Act is incorporated with the principal Act and that Act and this Act shall be read as one Act. Incorporation.

3. The following headings and sections are enacted and inserted in the principal Act after section 53 thereof:— Enactment of Part IIIA. of principal Act—

PART IIIA.

THE RAILWAY OFFICERS CLASSIFICATION BOARD.

Constitution and General Powers of Board.

53a. In this Part, unless the context otherwise requires or some other meaning is clearly intended— Interpretation.

"board" means the Railway Officers Classification Board constituted under this Part:

**South Australian Railways Commissioner's Act
Amendment Act, 1938.**

“office” means an office held by an officer :

“officer” means salaried officer in the Railway Service.

Constitution
of board.
Cf. W.A. 38,
1920, s. 3.

53b. (1) For the purposes of this Part there shall be a board to be called the Railway Officers Classification Board.

(2) The board shall consist of a chairman and two representative members.

(3) The chairman of the board shall be the Public Service Commissioner for the time being in office under the Public Service Act, 1936-1937. If the Public Service Commissioner is at any time by reason of illness or absence from the State or any other cause unable to act as chairman, the person acting as the deputy of the Public Service Commissioner shall also be the deputy chairman of the board.

(4) One of the representative members shall be appointed by the Commissioner, and the other representative member shall be an officer elected (in manner prescribed by regulations to be made by the Governor) by the officers. At the election every officer (not being an officer whose salary at the time of the election exceeds five hundred pounds or the sum substituted therefor under section 53n), shall be entitled to vote.

(5) No person who has been dismissed from the Railway Service on the ground of misconduct shall be appointed to the board or capable of holding office on the board.

Remuneration
of board.

53c. The chairman and members of the board shall be paid such remuneration (if any) as the Governor determines.

Tenure of
office.
Cf. W.A. 38,
1920, s. 4.

53d. (1) Subject to this Part, each representative member of the board shall hold office for three years from the time when his appointment takes effect and thereafter until the appointment of his successor takes effect.

(2) Subject to this Part, a representative member of the board shall on the expiration of his term of office be eligible for re-appointment.

(3) A person appointed to a casual vacancy on the board shall, subject to this Part, hold office for the balance of the term of the person in whose place he was appointed, but shall be eligible for re-election.

Casual
vacancies.

53e. (1) The seat of a representative member shall become vacant—

(a) if he resigns :

(b) if he dies :

(c) if he is dismissed from his seat on the board by the Governor :

(d) if he absents himself from more than five consecutive meetings of the board without leave in writing granted by the Minister :

(e) if he ceases to hold any qualification prescribed by this Part for membership of the board.

(2) When a casual vacancy occurs in the office of a representative member, that vacancy shall be filled by the deputy of that member ; and when a casual vacancy occurs in the office of chairman it shall be filled temporarily by the deputy chairman until a permanent appointment is made.

53f. The Governor may dismiss a representative member of the board from his office— Dismissal of member.

(a) if in the Governor's opinion he is owing to mental or physical infirmity incapable of discharging the duties of his office ; or

(b) if he has been guilty of any crime or other serious misconduct which in the Governor's opinion makes it undesirable that he should remain a member of the board.

53g. If an elective member of the board is not elected within the time prescribed in that behalf, the Governor may appoint an officer as a member of the board, instead of the member who should have been elected, and the officer so appointed shall be deemed to have been duly elected as a member of the board. Failure to elect.

53h. (1) The Commissioner shall at the time of appointing a member of the board appoint a person to be the deputy of that member. Deputy members.

(2) At the time of the election of the elective member of the board an election shall also be held in manner prescribed by regulations to elect an officer as the deputy of the elective member.

(3) If for any reason any member of the board is unable to act as such, the deputy of the member may act in his place and shall whilst so acting have all the authorities, powers, and duties of the member for whom he is acting.

(4) The provisions of this Part relating to tenure and vacation of office, retirement, and eligibility for re-appointment shall apply to the deputy members in the same way as they apply to the chairman and representative members respectively.

**South Australian Railways Commissioner's Act
Amendment Act, 1938.**

Elections.

53i. (1) Every election of a member or deputy member of the board—

- (a) shall be conducted in accordance with regulations to be made by the Governor :
- (b) shall be held at such times as are prescribed by the regulations, and under the direction of a returning officer to be appointed by the Governor.

(2) Every candidate shall be entitled to appoint a scrutineer who shall have the right to be present at and inspect the scrutiny and count of votes.

Notification of appointment.

53j. Every appointment and election of the chairman or a member or deputy member of the board shall be notified in the *Gazette* and shall take effect as from the date specified in such notification.

Majority decision.

53k. At any meeting of the Board the decision of two members or of the chairman and one member shall be the decision of the board.

Officers.

53l. The Governor shall appoint a secretary and such other officers as are necessary to assist the board and the persons so appointed shall be subject to the directions and control of the board and shall discharge such duties and functions as are imposed or conferred upon them by the board.

Expenditure of board.

53m. The expenditure of the board shall be defrayed out of moneys to be provided by Parliament for the purpose.

Classification of Officers.

Jurisdiction of board.

53n. (1) The board shall have jurisdiction from time to time to make awards—

- (a) creating sections, subsections, classes and divisions for the purpose of classifying offices in the Railway Service :
- (b) classifying each office in the Railway Service by reference to its appropriate section, class and divisions :
- (c) fixing the minimum and maximum salary payable to the holder of each office and the annual or other periodical increments of each salary :
- (d) fixing any special payment or allowance for any special circumstances connected with the work of any office :
- (e) prescribing the conditions upon which officers shall be entitled to increments of salary :

(f) determining any other matter connected with the employment of officers, if such matter is referred to the board by the Commissioner and all the officers concerned :

(g) varying or adding to any award previously made by the board, or rescinding any such award and making a new award in lieu thereof.

(2) The board shall not have power to fix any salary exceeding five hundred pounds per annum or such other sum as the Governor may by proclamation made under subsection (3) of this section substitute for the said sum of five hundred pounds.

(3) The Governor may from time to time, having regard to any increase or decrease in the cost of living, by proclamation substitute any other sum for the sum of five hundred pounds mentioned in subsection (2) of this section.

(4) If the board is of opinion that any officer should be paid a salary in excess of the maximum amount which the board has power to fix, the board shall so advise the Commissioner and at the same time submit to him a recommendation as to the salary which in the board's opinion should be paid and the reasons for that recommendation. The Commissioner shall thereupon determine the salary to be paid to the officer.

(5) The board shall not have power to award—

(a) for any office filled by an adult male officer a salary less than three hundred and three times the daily living wage for adult male employees in the metropolitan area :

(b) for any office held by an adult female officer a salary less than three hundred and three times the daily living wage for adult female employees in the metropolitan area.

The expression "daily living wage" means the daily living wage as declared by the Board of Industry under the Industrial Code, 1920-1936, and in force at the time when the award comes into force.

530. (1) The board may by summons under the hand of the chairman or of the secretary require any person named in the summons to appear before the board and to produce any books, papers or documents mentioned in the summons.

Power of the
board as to
witnesses.

**South Australian Railways Commissioner's Act
Amendment Act, 1938.**

(2) The board may require any person appearing before it to give evidence on oath or affirmation and the chairman or any member of the board may administer any such oath or affirmation.

(3) If any person who has been personally served with a summons to appear before the board—

- (a) does not attend in obedience to such summons ; or
- (b) refuses to be sworn or to affirm ; or
- (c) without lawful excuse fails to produce any books, papers or documents mentioned in the summons ; or
- (d) prevaricates in his evidence or refuses to answer any lawful question,

he shall be guilty of an offence and liable on summary conviction to a fine not exceeding one hundred pounds.

(4) If any person—

- (a) wilfully insults the board or the chairman or any member thereof ; or
- (b) misbehaves himself before the board or interrupts its proceedings,

he shall be guilty of an offence and liable on summary conviction to a fine not exceeding one hundred pounds.

(5) Every person (not being a person in the Railway Service) required by the board to attend before it shall be entitled to such fees and expenses as would be allowed to a witness in a civil action in the Supreme Court.

Commence-
ment of
proceedings.

53p. (1) The board may make any award of its own motion or on application made in accordance with the regulations, by the Commissioner, or an officer, or any association of officers.

(2) The board shall not make any award without first sitting to hear the Commissioner and the officers affected thereby, and giving reasonable notice of the time and place of such sitting to the parties interested : Provided that a notice in the *Gazette* published at least fourteen days before the board sits as aforesaid and giving notice of the time and place of an intended sitting shall be deemed to be reasonable notice to all parties.

Representa-
tives before
board.

53q. Any person entitled to be heard by the board may appear before the board either personally or by any other person, and may either personally or by such other person call, examine and cross-examine witnesses, and address the board.

53r. When any award is made by the board the chairman shall sign it and send a certified copy to the Minister and to the Commissioner and shall publish it in the *Gazette*.

Authorisation
and publica-
tion of award.

53s. Every award shall come into force upon the expiration of fourteen days after it has been published in the *Gazette*, and shall remain in force, subject to any variations thereof, until the date specified therein, or if no date is so specified, until rescinded by the board.

Duration of
award.

53t. An award duly made under this Part shall be binding on the Commissioner and all other persons to whom it applies: Provided that the Commissioner shall only be liable to pay any salaries or other sums fixed by an award to the extent to which money voted by Parliament is available for the purpose.

Effect of
award.

53u. If the board is of opinion that any application made to it is frivolous or unreasonable it may order the applicant to pay to the Treasurer in aid of the General Revenue of the State such sum as the board thinks proper, not exceeding five pounds.

Frivolous
applications.

53v. In the exercise of its jurisdiction under this Part the board shall not be bound by the rules of evidence.

Evidence.

53w. Nothing in this Part shall prevent the Commissioner from appointing or transferring any person to any office at such salary, within the limits fixed by any award of the board, as the Commissioner thinks proper.

Saving of
certain powers.

53x. The Governor may make regulations prescribing all matters required or permitted to be prescribed by the other provisions of this Part and in particular regulations prescribing the practice and procedure in relation to the matters dealt with by the board and any other regulations necessary or convenient for carrying this Part into effect and may by any regulation impose penalties recoverable summarily and not exceeding ten pounds for breach of any regulation.

Regulations.

In the name and on behalf of His Majesty, I hereby assent to this Bill.

W. DUGAN, Governor.