



ANNO QUINTO

GEORGI VI REGIS.

A.D. 1941.

No. 47 of 1941.

An Act to amend the South Australian Railways Commissioner's Act, 1936-1938.

[Assented to 27th November, 1941.]

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

Short titles.

1. (1) This Act may be cited as the "South Australian Railways Commissioner's (Appeal Board) Act, 1941".

(2) The South Australian Railways Commissioner's Act, 1936-1938, as amended by this Act, may be cited as the "South Australian Railways Commissioner's Act, 1936-1941".

(3) The South Australian Railways Commissioner's Act, 1936-1938, is hereinafter referred to as "the principal Act".

Commencement of Act.

2. This Act shall come into operation on the first day of February, nineteen hundred and forty-two.

Amendment of s. 38 of principal Act.

3. Section 38 of the principal Act is amended by inserting after the word "may" in the last line thereof the words "subject to section 44a".

Repeal of ss. 42 and 43 and enactment of ss. 42-42f of principal Act—
Constitution of board.

4. Sections 42 and 43 of the principal Act are repealed, and the following sections are enacted in lieu thereof :—

42. For the purposes of this Act a board is hereby constituted to be called "The Railways Service Appeal Board", and in this Part referred to as "the board".

Composition of board.

42a. The board shall consist of the following members :—

- I. A person appointed by the Governor to be the chairman of the board :
- II. A person who is employed in the railway service, appointed by the Commissioner for the purpose :

III. One person from each branch of the railway service, elected in manner prescribed, by the officers and employees of that branch.

The person appointed as chairman shall be a person who has been employed in the railway service, but is no longer so employed, and whose experience and suitability for the appointment are certified to by the Commissioner.

Of the persons elected from the branches of the railway service as mentioned in paragraph III. of this section, only one shall sit on the hearing of any appeal or other matter before the board, and that one shall be the person elected by the branch in which the appellant or person charged is employed.

42b. The members of the board shall be appointed or elected, as the case may be, and hold office for a term of three years, and shall be eligible for re-appointment or re-election, as the case may be.

Term of office.

42c. (1) The person appointed by the Governor to be chairman of the board shall preside at all meetings of the board at which he is present.

Chairman of board.

(2) In the absence of the chairman from any meeting of the board, the deputy chairman may act as chairman, and whilst acting as chairman shall have all the powers, and shall perform all the duties of the chairman.

(3) The Governor may appoint any other person who has been employed in the railway service, but is no longer so employed, and whose experience and suitability for the appointment are certified to by the Commissioner, to be deputy chairman of the board either for a particular appeal or matter, or to act generally in the absence of the chairman.

42d. Any two members, one of whom shall be the chairman or the deputy chairman, present at a meeting of the board shall constitute a quorum for hearing, dealing with, and determining any appeal.

Quorum.

42e. The Governor shall appoint a secretary to the board.

Secretary of board.

42f. (1) Whenever an election is held in any branch of the railway service to elect a member of the board, a deputy for the elected member shall also be elected in that branch in the manner prescribed.

Deputy members.

(2) The Commissioner may appoint a person to be the deputy of the member of the board appointed by him.

(3) If any member of the board is for any reason unable to act in any matter, the deputy of that member may act in his stead.

Amendment of
s. 44 of
principal Act—
Extraordinary
vacancies.

5. Section 44 of the principal Act is amended by inserting after the word " Governor " in the seventh line the words " or Commissioner ".

Enactment of
s. 44a of
principal Act—

6. The following section is enacted and inserted in the principal Act after section 44 thereof :—

Procedure as to
dismissals.

44a. (1) If any officer or employee is charged with misconduct or the breach of any rule, by-law, or regulation of the railway service, and the Commissioner is of opinion that the charge is of such a nature that the appropriate punishment for a person guilty thereof would be dismissal, the Commissioner may, by notice in writing, call upon the officer or employee to show cause before the board why he should not be dismissed on the ground that he is guilty of the matter charged against him.

(2) The officer or employee so called upon may, within fourteen days after receipt of the notice from the Commissioner, give notice to the secretary to the board in writing of his intention to show cause. If no such notice of intention is given within the said fourteen days the Commissioner may deal with the officer or employee in such manner as he deems appropriate.

(3) If a notice of intention to show cause is duly given, the board shall forthwith fix a convenient time and place for inquiring into the charge and shall give notice thereof to the officer or employee and to the Commissioner.

(4) Sections 48 and 49 of this Act shall apply to every such hearing as if it were an appeal and as if the officer or employee were the appellant.

(5) After the hearing of the case has been completed the board shall report to the Commissioner whether in its opinion, the officer or employee is guilty of the matter charged against him; and if the board is of opinion that he is guilty, it shall report to the Commissioner any facts which in its opinion are relevant to the punishment which should be awarded.

(6) The Commissioner shall consider the reports of the board and the evidence which was before it, and may take such action thereon as he deems just.

7. The principal Act is amended by inserting after section 47 thereof the following section :—

Amendment of
principal Act—

47a. On the hearing of every appeal under this Act the appellant shall appear in person and may conduct his case personally or be represented at the hearing by any person. The Commissioner shall have the right to be heard on every appeal, and may conduct his case personally or be represented at the hearing by any person.

Representation
of parties on
appeal.

8. Section 49 of the principal Act is amended by striking out the word " three " in the first line thereof and inserting in lieu thereof the word " two ".

Amendment of
s. 49 of
principal Act—
Majority
decision.

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

G. J. R. MURRAY, Deputy Governor.