

6 Section fifty-three of the Principal Act is amended by adding at the end thereof the following subsection:— Offences in relation to sheep.

“(2) In proceedings in respect of a contravention of paragraph v. of subsection (1) of this section, an averment in a complaint that a return of sheep dipped has not been made as required by this Act shall be deemed to be proved in the absence of proof to the contrary.”.

7 Section fifty-four of the Principal Act is amended— Offences relating to brands and branding.

(a) by omitting from paragraph IV. of subsection (1) the words “ or head ”; and

(b) by inserting after paragraph v. of that subsection the following paragraphs:—

“ VA. In removing the skin from any stock, fail to leave the ears attached to the skin:

“ VB. Be in possession of the skin of any stock from which the ears have been removed: or ”.

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

“ 60A. Any notice, order, or direction that is required or permitted by or under this Act to be served on or given to a person may be served on or given to that person in writing delivered to him by hand or be sent to him by post.”. Service of notices, &c.

RAILWAY MANAGEMENT.

No. 70 of 1953.

AN ACT to amend the *Railway Management Act* 1935. [9 December, 1953.]

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:—

1—(1) This Act may be cited as the *Railway Management Act* 1953. Short title and citation.

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

Powers,
duties, and
functions of
the General
Manager.

2 Section five of the Principal Act is amended by inserting after paragraph VII. of subsection (2) the following paragraph:—

“VIA. Exercise such powers and functions, in relation to the administration, regulation, and control of the Railway Service, as are conferred on him by or under this Act:”.

3 After section ten of the Principal Act the following Division is inserted in Part III:—

“*Division II—Inquiries.*”

Inquiries into
administra-
tion, &c.
Cf. 1949, No.
40 (N.Z.) ss.
68, 69.

“11.—(1) The Commissioner may, at any time, appoint any person or persons to be a board of inquiry to inquire into and report upon—

- I. Any allegation that an employee in the Railway Service has been guilty of misconduct or of breaking any rule, by-law, or regulation of the Railway Service, or any charge that is laid, pursuant to Division II. of Part VI., that an employee has been guilty of misconduct or has broken any rule, by-law, or regulation of the Railway Service:
- II. The control, maintenance, and working of a railway or of any part thereof (including any accident, derailment, or other mishap occurring in connection with the working of a railway): or
- III. Any other matters relating to the administration of this Act.

(2) Where more persons than one are appointed as a board of inquiry under this section the Commissioner may appoint one of those persons to be the chairman of the board.

(3) A police magistrate may, with the approval of the Governor but not otherwise, be appointed as a board of inquiry, or as a member or the chairman of a board of inquiry, under this section.

(4) The Commissioner may be represented before a board of inquiry on the holding of an inquiry under this section by an employee in the Railway Service, or by an officer appointed under the *Transport Act 1938*, or by a legal practitioner.

(5) A person who is concerned in the subject of an inquiry under this section or who desires to tender evidence before a board of inquiry under this section may appear before the board either personally or by an agent or, if the Commissioner so approves, by a legal practitioner.

(6) A board of inquiry under this section may fix the costs of an inquiry held by it and may direct by whom and in what proportion those costs shall be paid, but the Governor may direct that the whole of the costs of an inquiry shall be borne by the Commissioner.

(7) Where the Governor gives a direction under subsection (6) of this section, the costs of the inquiry to which the direction relates may, without further appropriation than this subsection, be paid out of any moneys that may be available for the purpose.

(8) Where a board of inquiry under this section orders the payment of costs by a person other than the Crown or the Commissioner, those costs may be recovered from that person as a debt due to the Crown.

(9) The person or persons appointed as a board of inquiry under this section may be paid such remuneration and travelling and other expenses as the Governor may determine.

(10) The proceedings on an inquiry under this section shall be as prescribed.

(11) A board of inquiry under this section shall have, and may exercise, for the purposes of an inquiry held by it under this section, all the powers and authority conferred upon persons holding inquiries on commission under Division II. of Part II. of the *Evidence Act 1910*."

4 Section sixty A of the Principal Act is amended—

- (a) by omitting from subsection (4) the word "two" and substituting therefor the word "three";
- (b) by omitting from paragraph II. of subsection (7) the word "two" and substituting therefor the word "three"; and
- (c) by omitting from subsection (8) the word "two" and substituting therefor the word "three".

Railway Service Promotions Appeal Board.

5 After section sixty-one of the Principal Act the following sections are inserted:—

"61A.—(1) Where an employee has been charged with misconduct or with breaking any rule, by-law, or regulation of the Railway Service or an inquiry has been instituted into any alleged misconduct or breaking by an employee of a rule, by-law, or regulation of the Railway Service, the General Manager or the officer at the head of the branch of the Railway Service in which that employee is employed, if the General Manager or officer considers that the allegation is of such a serious nature that the employee should not continue in the performance of his duties, may suspend the employee pending the determination of the charge or the completion of the inquiry, as the case may be.

Suspension of employees pending inquiry, &c. Cf. 13 Geo. V. No. 25, s. 38.

(2) Where a suspension is imposed under this section by the General Manager or by an officer at the head of a branch of the Railway Service, the Commissioner may confirm or annul the suspension, and where a suspension under this section is imposed by the Commissioner he may at any time remove the suspension.

(3) An employee shall not be paid any salary, wages, or allowances during the period of his suspension pursuant to this section.

(4) Upon the determination of a charge against an employee, the employee, if acquitted of the charge, shall be paid his full salary, wages, and allowances in respect of the period during which he was suspended pursuant to this section.

Incapacity of
employee.
Ibid., s. 51.

“61B.—(1) If, upon a report from the officer at the head of a branch of the Railway Service or otherwise and after making such inquiry as he considers necessary in the circumstances, the General Manager is satisfied that an employee—

- I. Is unfit to discharge, or incapable of discharging, the duties of his position efficiently:
- II. Is not discharging his duties efficiently or in the best interests of the Railway Service:
- III. Is not qualified, either temperamentally or otherwise, for the efficient and satisfactory performance of his duties: or
- IV. Is not conducting the duties of his position in a manner that is efficient and satisfactory,

the General Manager may transfer the employee to some other position in the Railway Service, whether of an equal or of a lower class or grade than the position held by that employee at the time of the transfer, or may reduce the employee in rank, position, grade, or pay, or may dismiss the employee.

(2) An employee who is transferred or dismissed pursuant to this section may appeal to the Commissioner, as prescribed, against his transfer or dismissal.

(3) An appeal under subsection (2) of this section shall be made within the prescribed period and shall be heard and determined as prescribed.

(4) On the hearing of an appeal under subsection (2) of this section the Commissioner may—

- I. Allow the appeal and direct the General Manager to transfer the employee to, or, as the case may be, to reinstate the employee, in the position held by him immediately before his transfer therefrom or dismissal pursuant to subsection (1) of this section: or
 - II. Disallow the appeal,
- and the General Manager shall comply in all respects with the direction of the Commissioner.

(5) There is no right of appeal to the Board in respect of a decision of the Commissioner on the hearing of an appeal under subsection (2) of this section.”
