



RAILWAY MANAGEMENT.

No. 74 of 1973.

ANALYSIS.

1. Short title and citation.
2. By-laws.
3. Conveyance otherwise than by railway.
4. Closure of highways at level crossings.

AN ACT to amend the *Railway Management Act 1935*.
 [19 December 1973.]

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* Short title and citation.
 1973.

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

By-laws.

2 Section twenty-two of the Principal Act is amended by adding at the end thereof the following subsection:—

“(4) This section applies in respect of any vehicle or other conveyance used by the Commission as it applies in respect of railways open to traffic.”.

3 Sections twenty-nine and thirty of the Principal Act are repealed and the following section is substituted therefor:—

Conveyance
otherwise than
by railway.

“29—(1) Subject to this section, the Commission may convey any person otherwise than by railway, or arrange for the conveyance of any person otherwise than by railway, for the purpose—

- (a) of enabling that person to undertake, continue, or complete a journey part of which is by railway; or
- (b) of enabling that person to undertake, continue, or complete a journey the whole or any part of which would have been by railway but for some emergency or unforeseen circumstance that prevents that person from being conveyed by that railway.

“(2) The powers conferred by paragraph (a) of subsection (1) of this section shall be exercised only for the purpose of conveying persons, in either direction—

- (a) between Devonport railway station and the point of arrival or departure of ships at Devonport from or to places outside the State; and
- (b) between Western Junction railway station and places within the City of Launceston.

“(3) The powers that may be exercised under this section in respect of a person may also be exercised in respect of his luggage.

“(4) Without prejudice to the generality of the foregoing provisions of this section the Commission may, for the purpose of the exercise of its powers thereunder, construct, hire, purchase, maintain, or use any vehicles or other conveyances.

“(5) The Commission may fix such fares, rates, or other charges as it thinks fit for the conveyance of persons or luggage by it in the exercise of the powers conferred by this section, and any arrangement entered into with any other person under this section for the conveyance of persons or luggage may make provision with respect to the fares, rates, or other charges to be paid and the services to be performed in connection therewith.”.

4 After section forty-three of the Principal Act the following section is inserted in Division V of Part IV:—

Closure of
highways at
level crossings.

“ 43A—(1) Where the Governor is satisfied as respects a level crossing that—

- (a) the crossing is no longer required for the use of the public;
- (b) satisfactory alternative means of crossing the railway line are available to, or can be provided for, the public;
- (c) satisfactory provision for the diversion of the public highway that crosses the railway line at the crossing can be made;
- or
- (d) such a hazard exists at the crossing as justifies its being closed,

he may, by an order made in accordance with this section (in this section referred to as a ‘ crossing closure order ’), declare that the level crossing be closed on and after such date as may be specified in that behalf in the order or upon the fulfilment of such conditions as may be so specified.

“(2) A crossing closure order may define, by reference to a plan or otherwise, that part of the road or street that is to be treated for the purposes of this section as being within the limits of the level crossing to which the order relates.

“(3) A crossing closure order shall be made only on a recommendation made by the Commission to the Minister specifying the grounds on which the Commission considers that the level crossing to which it relates should be closed and after consideration by the Minister of any representations made to him with respect to that recommendation before the date referred to in subsection (5) of this section.

“(4) Where the Commission has made a recommendation to the Minister for the purposes of subsection (3) of this section in respect of a level crossing it shall give notice of that recommendation in writing to the Minister for Lands and Works and to the council of the municipality in which the level crossing is situated and shall cause notice of the recommendation to be published in a newspaper circulating in the locality in which the level crossing is situated.

“(5) A notice of a recommendation published in a newspaper pursuant to subsection (4) of this section shall state that representations may be made to the Minister in writing with respect to the

recommendation before such date (being a date not earlier than two months after the publication of the notice) as may be specified in the notice.

“(6) On the date specified in a crossing closure order as the day on which a level crossing is to be closed, or upon the fulfilment of the conditions so specified as the conditions upon the fulfilment of which a level crossing is to be closed—

- (a) all public rights of passage over the land within the limits of the level crossing are extinguished; and
- (b) so much of that land as is not railway land becomes railway land and vests in the Minister and his successors accordingly.

“(7) The owner of an estate or interest in any land that is injuriously affected by the operation of a crossing closure order is entitled to be paid compensation by the Commission; and any such compensation shall be claimed, determined, and paid in like manner as if it were compensation for the injurious affection of land arising under the *Public Authorities' Land Acquisition Act 1949*.

“(8) Where as the result of the operation of a crossing closure order traffic is increased over any road or street to such an extent as to require works of improvement to be carried out by a municipality to that road or street the Commission shall pay to the municipality the expenses reasonably incurred by it in carrying out those works.

“(9) Any dispute arising between the Commission and a municipality under subsection (8) of this section shall, on the application of either of them, be determined by the Director of Public Works whose decision shall be final.

“(10) The Commission may carry out such works as it considers necessary or desirable to fulfil any conditions required to be fulfilled for the closure of a level crossing under this section or to prevent access to any land over which the public rights of passage are extinguished under this section; and subject to this section this Act applies in relation to any such works as if they formed part of the construction of a railway.

“(11) Subsection (2) of section thirty-nine applies in relation to a bridge constructed under or over a railway under subsection (10) of this section as if—

- (a) the road or street going over or under that bridge were part of the road or street going over the level crossing; and

(b) the construction of the bridge was rendered necessary by the construction of that road or street.

“(12) For the purposes of this section, a level crossing means a road or street crossing a railway line on the level and, subject to subsection (2) of this section, the limits of that level crossing shall, for the purposes of this section, be deemed to be the continuation in a straight line across that road or street of the boundaries on either side thereof of that railway line.”.