

New Zealand.

ANALYSIS.

- | | |
|---|--|
| <p>Title.
Preamble.
1. Short Title.
2. Definition of prescribed area.
3. Minister to fix a date on which the restrictions imposed by this Act will commence to operate.
4. Restriction upon the carrying-on of passenger-services after appointed date.</p> | <p>5. Board to carry on passenger-services within the prescribed area.
6. Information for offences.
7. Government Railways Board may be required by licensee of existing service to acquire motor-omnibuses and other property at a price to be fixed by agreement or by a Compensation Court.
Schedule.</p> |
|---|--|

1935, No. 31.

- Title.** AN ACT to safeguard the Interests of the Crown by conferring on the Government Railways Board certain Special Rights with respect to the carriage of Passengers, by Rail or Otherwise, in the event of the Electrification of the Railway between Wellington and Johnsonville. [26th October, 1935.]
- Preamble.** WHEREAS it is the intention of the Government Railways Board, on the completion of the Wellington-Tawa Flat deviation of the Wellington-New Plymouth railway (as authorized by the Railways Authorization Act, 1924), to operate the existing railway-line between Wellington and Johnsonville by electric traction: And whereas it is estimated that the capital expenditure involved in the electrification of the said line and in the

provision of essential facilities and equipment will be not less than ninety thousand pounds: And whereas, having regard to the amount of the capital expenditure involved and to the further expenditure that will be incurred in maintaining an adequate service on the said line, it is considered expedient in the public interest that the carriage of passengers in competition with the railway services upon the said railway-line should be restricted in the manner and to the extent hereinafter provided in this Act:

BE IT THEREFORE ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:—

1. This Act may be cited as the Government Railways (Wellington to Johnsonville) Act, 1935, and shall be read together with and deemed part of the Government Railways Act, 1926.

Short Title.

2. For the purposes of this Act the expression “ the prescribed area ” means the area described in the Schedule hereto.

See Reprint of Statutes, Vol. VII, p. 812

Definition of prescribed area.

3. (1) For the purposes of this Act the Minister shall, by notice in the *Gazette*, fix a date (hereinafter in this Act referred to as the appointed date) on which the provisions of this Act in relation to the carriage of passengers within the prescribed area or between that area and any part of the City of Wellington outside that area will commence to operate.

Minister to fix a date on which the restrictions imposed by this Act will commence to operate.

(2) Any notice under this section may be at any time revoked and a notice fixing a later date as the appointed date may be issued in lieu thereof.

(3) Except as provided in the next succeeding subsection, the appointed date shall be not later than the first day of April, nineteen hundred and thirty-seven.

(4) If the electrification of the line and the provision of essential facilities and equipment have not been completed before the first day of April, nineteen hundred and thirty-seven, the appointed date shall be such later date as the Minister may fix in that behalf.

4. (1) Save as provided in the next succeeding section, it shall not be lawful on or after the appointed date for any person other than the Board to carry on, within the prescribed area or between the prescribed area and any part of the City of Wellington outside

Restriction upon the carrying-on of passenger-services after appointed date.

See Reprint
of Statutes,
Vol. VIII,
p. 332

that area, any passenger-service within the meaning of the Transport Licensing Act, 1931, notwithstanding that a license to carry on such service may have been issued under the said Act, and any such license in force immediately prior to the appointed date shall be deemed to be revoked on that date.

(2) Every person who carries on a passenger-service in contravention of this section shall be liable to the penalties prescribed by the Transport Licensing Act, 1931, for carrying-on a passenger-service in contravention of that Act.

(3) If any company carries on a passenger-service in contravention of this section, every director or other person acting in the management of its business shall, in addition to any penalty to which the company is liable, be liable to a fine of ten pounds for every day on which such service is so carried on.

Board to
carry on
passenger-
services within
the prescribed
area.

5. (1) On and after the appointed date it shall be the duty of the Board, in addition to its railway service, to carry on, within the prescribed area or between the prescribed area and any part of the City of Wellington outside that area, such passenger-services under the Transport Licensing Act, 1931, as may be necessary to meet the reasonable requirements of those residents within the prescribed area who are not served with reasonable convenience by the railway, and a license or licenses under that Act shall, on application by the Board, be granted accordingly by the proper licensing authority:

Provided that sections twenty-five, twenty-six, thirty-six, and forty-three, and subsections three and four of section thirty-five of the said Act shall not apply with respect to any passenger-service license applied for or granted under the authority of this subsection, or to the renewal of any such license, and all the provisions of the said Act shall be read subject to the provisions of this section.

(2) If and so long as the Board complies with the obligation imposed by the last preceding subsection, a license to carry on a passenger-service within the prescribed area or between the prescribed area and any part of the City of Wellington outside that area shall not, except with the consent of the Board and subject

to conditions prescribed by the Board, be granted under the Transport Licensing Act, 1931, to any person other than the Board.

(3) If any question arises as to whether or not the Board is at any time complying with the obligation imposed on it by subsection one of this section it may, in accordance with the provisions of the next succeeding subsection, be referred to the Transport Co-ordination Board established under Part I of the Transport Law Amendment Act, 1933, and the decision of that Board shall be final.

(4) Any such question may be brought before the Transport Co-ordination Board only by petition signed by not fewer than fifty adult residents of the locality in respect of which the question arises. The grounds of complaint and the relief sought shall be clearly stated in the petition, and the Transport Co-ordination Board shall not be bound to consider any petition until the provisions of this subsection have been complied with. In considering any such petition it shall be the duty of the Transport Co-ordination Board to have regard to the facts of the case, and also to any economic or other general considerations affecting the public interest that may be relevant to the subject-matter.

(5) If after considering the matters referred to in the last preceding subsection the Transport Co-ordination Board determines that the Government Railways Board has failed to comply with the obligations imposed on it by this section, it shall serve on that Board a notice specifying the matters in which the Board has failed to carry out its obligations, and requiring the Board to remedy those matters within a time to be specified in that behalf:

Provided that the terms of any such notice may from time to time be varied by the Transport Co-ordination Board either on the application of the Government Railways Board or on petition under subsection four hereof.

(6) If within the time so specified the Board has not complied with the terms of any such notice to the satisfaction of the Transport Co-ordination Board, it shall be lawful for the appropriate licensing authority under the Transport Licensing Act, 1931, to grant to any person

who applies for the same a license under that Act to carry on a passenger-service within the prescribed area or between the prescribed area and any part of the City of Wellington outside that area.

(7) For the purposes of any petition or application coming before it pursuant to this Act, the Transport Co-ordination Board shall have all the powers and protection of a Commission under the Commissions of Inquiry Act, 1908.

Information for offences.

6. Notwithstanding anything to the contrary in section fifty-four of the Transport Licensing Act, 1931, information for an offence under that Act in respect of any passenger-service carried on within the prescribed area or between the prescribed area and any part of the City of Wellington outside that area may at any time after the appointed date be laid by any officer of the Government Railways Department.

Government Railways Board may be required by licensee of existing service to acquire motor-omnibuses and other property at a price to be fixed by agreement or by a Compensation Court.

7. (1) Any person who on the first day of October, nineteen hundred and thirty-five, was carrying on a continuous passenger-service under the Transport Licensing Act, 1931, within the prescribed area, or between that area and any part of the City of Wellington, and continues to carry on the same until the day prior to the appointed date, shall have the right at any time within three months after the appointed date to require the Government Railways Board to purchase all motor-omnibuses and other property used by him exclusively for the purposes of the service at a price to be agreed on between the parties, or, in the event of their being unable to agree, at a price to be fixed by a Compensation Court under the Public Works Act, 1928, in accordance with the provisions of this section.

(2) In any proceedings before a Compensation Court under this section the person engaged in carrying on the passenger-service shall be the claimant and the Board shall be the respondent; provided that any person other than the claimant as aforesaid who has any interest in any motor-omnibus or other property the subject-matter of the claim may be joined as a claimant, and in giving notice of requirement to purchase under subsection one of this section it shall be the duty of the claimant to disclose every such interest and the names of the persons entitled thereto.

(3) In computing the price to be paid under this section in respect of any continuous passenger-service undertaking, whether such price is arrived at by agreement between the parties or is fixed by a Compensation Court, no sum shall be allowed in respect of goodwill or of any passenger-service license or of any motor-omnibuses or other property purchased or acquired by the claimant after the first day of October, nineteen hundred and thirty-five, without the consent of the Government Railways Board first had and obtained, but the price of the motor-omnibuses and other property of the claimant shall be assessed on the basis of there being an available market and a willing purchaser who is offered the same on such reasonable terms and conditions as a *bona fide* seller might be expected to impose.

(4) The Board, if required to purchase any undertaking under this section, may pay for the same out of the Working Railways Account without further appropriation than this section.

SCHEDULE.

Schedule.

ALL that area in the Wellington Land District: Bounded by lines commencing at the intersection of the Kaiwarra Stream with the western boundary of the Hutt Road; thence by the western boundary of the Hutt Road to the intersection of the north-eastern boundary of Section 7, Harbour Registration District, with the Hutt Road; thence following the north-eastern and north-western boundaries of the said Section 7, and the north-eastern boundary of Section 4, Porirua Registration District, to the boundary of the Wellington-New Plymouth Railway; thence by a right line to Mitchel's Trig. (Johnsonville No. 1); thence by a right line to a point on Aurora Road, being the south-eastern corner of Section 3A, Paparangi Settlement; thence by a right line to a point on Porirua Road, being the north-eastern corner of Section 3, Block III, Hawtrey Settlement; thence by the northern and western boundaries of Hawtrey Settlement to the south-western corner of Section 4, Block I, Hawtrey Settlement; thence along the eastern boundary of Section 105, Ohariu Registration District, to the southernmost corner of said Section 105; thence along the south-western boundary of said Section 105 to the north-western corner of Section 96, Ohariu Registration District; thence along the north-western boundary of the said Section 96 to the northern side of the old

Ohariu Road; thence along the northern boundary of the old Ohariu Road to the southernmost corner of Section 91, Ohariu Registration District; thence by a right line to the northernmost corner of Section 93, Ohariu Registration District; thence along the north-western boundary to the westernmost corner of the said Section 93, Ohariu Registration District; thence by a right line to the northernmost corner of Section 9, Kaiwarra Registration District; thence along the north-western and south-western boundaries of said Section 9, Kaiwarra Registration District, to the northernmost corner of Section 7, Kaiwarra Registration District; thence along the north-western and south-western boundaries of the said Section 7, Kaiwarra Registration District, to the northernmost corner of Subdivision I of the Otari Native Reserve; thence along the north-western boundaries of Subdivisions Nos. I, II, and III, Otari Native Reserve, to the westernmost corner of Subdivision III; thence along the south-western boundary of the said Subdivision III to the Kaiwarra Stream; thence by the Kaiwarra Stream to the point of commencement. As the same is delineated on a plan marked L.O. 3697, deposited in the office of the Government Railways Board, Wellington, and thereon bordered red.
