

New Zealand.



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1910, No. 74.

Title.

AN ACT to amend the Tramways Act, 1908.

[3rd December, 1910.]

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

Short Title and commencement.

1. (1.) This Act may be cited as the Tramways Amendment Act, 1910, and shall form part of and be read together with the Tramways Act, 1908 (hereinafter referred to as the principal Act).

(2.) This Act shall come into operation on the first day of January, nineteen hundred and eleven.

Electric-tram drivers' certificates.

2. (1.) On and after the first day of January, nineteen hundred and twelve, every person employed as the driver on any tramway of any carriage or other rolling-stock of which electricity is the motive power shall be the holder of an electric-tram driver's certificate issued by the Board of Examiners appointed under the Inspection of Machinery Act, 1908.

(2.) For the purposes of this section the Minister may from time to time appoint one or more fit persons to be members of the said Board in addition to the persons already constituting the same, one of whom shall be an electrical engineer.

(3.) The said Board may grant certificates of service to any person of good repute who not later than the twenty-fourth day of December, nineteen hundred and eleven, applies for the same and produces evidence to the satisfaction of the Board that he was for a period of not less than one year at any time before the passing

of this Act employed as a motorman or was the holder of a motorman's license granted under any by-law made by a local authority and has not subsequently been dismissed for misconduct.

(4.) Except as provided by the last preceding subsection, all certificates shall be granted after examination by the Board.

(5.) Every application for examination as a motorman shall be accompanied by a certificate signed by the manager of some electric tramway that the applicant has served as a conductor on an electric tramway in New Zealand for a period of not less than one year, and has undergone a course of training for a period of not less than twenty-one days for the position of motorman upon or in connection with such electric tramway, and that in the opinion of the said manager he is capable of performing the duties of and suitable for appointment as a motorman; and also by a certificate from a medical practitioner approved by the Board that the applicant is physically fit for the position of an electric-motor man.

(6.) The manager of every electric tramway shall give such reasonable facilities and opportunities to the conductors employed thereon to be trained as motormen as will enable in each year at least twenty per centum of such of them as have not previously undergone such training to qualify for examination as motormen:

Provided that if in the opinion of the said manager any conductor is not suitable as a candidate for the position of motorman he may decline to allow him to be so trained; but any conductor shall have a right of appeal to the Appeal Board provided for in this Act.

(7.) Every valid and subsisting certificate of service granted under this section shall for all purposes rank equally with a certificate by examination, and the holder thereof shall be entitled to the same rate of wages as the holder of a certificate by examination.

(8.) On and after the first day of January, nineteen hundred and twelve, every person who acts as a driver of any such carriage or other rolling-stock without being the holder of a certificate under this section, and the promoters of any tramway on which any such uncertificated driver is employed, shall be severally liable to a fine not exceeding five pounds for every day or part of a day during which such uncertificated driver so acts.

(9.) The Governor may from time to time, by Order in Council gazetted, make regulations prescribing the mode of conducting examinations for certificates, the subjects for examination, the fees to be paid on application for examination, and the forms of certificate to be issued.

(10.) The promoters of any tramway, on receiving seven days' notice in writing from the Minister, shall from time to time place one of their carriages at the disposal of the Minister for the purpose of testing the qualifications of drivers or of candidates for an electric-tram driver's certificate under this section, and shall allow that carriage to travel over such portions of the tramway as the Minister may require, subject to the ordinary time-table not being interfered with.

(11.) In this section the word "Minister" has the same meaning as in the Inspection of Machinery Act, 1908, but elsewhere throughout this Act means the Minister of Public Works.

Inspection of tramways.

3. (1.) The Minister may from time to time authorize any qualified person to inspect any tramway, whether in course of construction or open for traffic, and the rolling-stock used or to be used thereon, and the plant, appliances, and machinery used or to be used in connection therewith.

(2.) If such person reports that any alterations or repairs to the said tramway, rolling-stock, plant, appliances, or machinery respectively are necessary in order to insure the safety of the public or employees, the Minister may order those alterations or repairs to be made accordingly.

(3.) If the order of the Minister is not complied with within a reasonable time, the promoters shall be liable to a fine not exceeding twenty pounds for every day during which such non-compliance continues.

Certificate to be given before tramway opened.

4. (1.) No tramway or portion thereof shall be opened for public conveyance of passengers until the Minister has intimated in writing to the promoters that he has received from an engineer appointed by the Minister under section two hundred and thirteen of the Public Works Act, 1908, a certificate that the undertaking or the portion thereof so to be opened is safe and fit for traffic, and that it has been constructed in conformity with the provisions of the principal Act and of the Order in Council authorizing the construction of the same.

Penalty for non-compliance.

(2.) If any tramway or portion thereof is opened in breach of this section the promoters shall be liable to a fine not exceeding twenty pounds for every day during which the breach continues.

Regulations.

5. (1.) The Governor may from time to time, by Order in Council gazetted, make regulations—

(a.) Providing for the periodical and other inspection of carriages used on tramways :

(b.) Providing for the licensing of such carriages :

(c.) Prescribing the maximum number of passengers that may be carried on any carriage on any particular route or grade :

Provided that in any regulation made under this paragraph the maximum number of passengers that may be carried on any car shall not exceed seventy-five per centum in excess of its seating-capacity :

(d.) Prescribing the limit of speed at which any carriage may travel on any particular route or grade :

(e.) Providing for the use of proper appliances and furnishings on carriages to insure the safety of passengers, of the tramway employees, and of the general public :

(f.) Providing for a fine not exceeding twenty pounds for the breach of any regulation made under the authority of this section :

(g.) Defining tramway districts and the boundaries thereof, and providing for the setting-up of an Appeal Board in each such district, the appointment from time to time of members of such Boards, and the procedure relating to appeals to the Board :

(h.) For the keeping in connection with each electric-tramway car of a car report-book, and for the entry therein by the motorman from time to time employed on such car of a

report as to any defect in the mechanism or equipment of the car, together with such other particulars of his day's work as may be prescribed.

(2.) If any such regulation is inconsistent with the provisions of any Order in Council authorizing the construction and working of any tramway, then the regulation shall prevail and the inconsistent provision in the authorizing Order shall be deemed to be revoked.

(3.) Paragraphs (a) and (b) of clause thirty-two of the Second Schedule to the principal Act are hereby repealed; but any by-law lawfully made thereunder shall continue in force until regulations relating to the matters mentioned in paragraphs (c) and (d) of this section are made by the Governor. Repeal.

6. (1.) An Appeal Board consisting of three persons shall be set up in each tramway district, and shall consist of one representative to be appointed by the employers and one representative to be appointed by the employees of the tramways within the tramway district, and the senior Magistrate exercising jurisdiction in the district, who shall be Chairman of the Board. Appeal Board to be set up.

(2.) The Board shall hear and determine all appeals by tramway employees against dismissals, disratings, fines, or other punishments, or reductions in pay or other emoluments, inflicted by their employers, and also appeals on the ground of promotion being unreasonably withheld. In any determination of the Board on any appeal relating to rates of pay regard shall be had to any award or industrial agreement in force under the Industrial Conciliation and Arbitration Act, 1908, relating to tramway employees within the district. Functions of Appeal Board.

(3.) The determination of the Board shall in the case of every appeal be reported to the Minister, and shall be binding on all parties and enforceable in any Court of competent jurisdiction.

7. Every application for an order under the principal Act for the construction of any tramway shall be accompanied by full detailed plans and specifications, together with the plans, sections, and other documents deposited for inspection as required by clause twelve of the Second Schedule to the principal Act. Plans, &c., to accompany application for order.

8. Where by the terms of any Order in Council heretofore issued authorizing the construction of any tramway the Engineer-in-Chief is intrusted with any power, function, or duty, or some matter is required to be submitted for his approval, such power, function, duty, or approval shall be exercised or given by the Governor: Certain powers, &c., of Engineer-in-Chief conferred upon the Governor.

Provided that before exercising such power, function, or duty, or giving such approval, the Governor may, if he thinks fit, require the matter to be first investigated and reported on by any engineer or other person whom he may appoint for that purpose; but it shall not be obligatory upon the Governor to act in accordance with any opinion that may be expressed by such engineer or other person, nor to give effect to any recommendation that may be contained in his report.

9. (1.) The Minister may direct an inquiry to be held, in such manner as he thinks fit, in all cases of accident arising out of the working of a tramway; and where he is satisfied that any such accident is attributable, wholly or in part, to the misconduct, negligence, or incapacity of any certificated electric-tram driver, he Inquiries as to accidents.

may suspend for such time as he thinks fit, or may cancel, that driver's certificate.

(2.) The person appointed to hold any such inquiry shall have and may exercise all the powers of a Commission under the Commissions of Inquiry Act, 1908.

(3.) On any such inquiry, the person holding the same may require the production of the certificate of the driver with respect to whom the inquiry is held, and shall forward the certificate, with his report, to the Minister.

(4.) If any such driver fails without good and sufficient reason to produce his certificate when required so to do as aforesaid he shall be liable to a fine not exceeding five pounds.

Section 16 of principal Act amended.

10. Subsection two of section sixteen of the principal Act is hereby repealed, and the following substituted therefor:—

“(2.) The license may be for such term, not exceeding twenty-one years, as the Governor in Council approves:

“Provided that this approval shall not be necessary for any term not exceeding five years.”

Cars may be licensed.

11. (1.) The power of licensing carriages used on tramways conferred by clause thirty-six of the Second Schedule to the principal Act on local authorities shall hereafter not be exercised by them, but shall be exercised by the Minister in accordance with regulations made under the authority of this Act.

(2.) Every license granted by any local authority and in force at the commencement of this Act with respect to any carriage to be used on a tramway shall be deemed to have been granted by the Minister in accordance with this section, and every such license shall continue in force until, but not after, the thirty-first day of December, nineteen hundred and eleven, unless it expires before that date in accordance with the tenor thereof.

Certain powers relating to electric power extended.

12. The powers conferred on the promoters of a tramway by clause eighteen of the Second Schedule to the principal Act may be exercised for the purposes of the convenient working of any tramway, whether heretofore constructed or hereafter to be constructed, in, over, along, or across any road upon the route of the tramway specified in the authorizing Order, and also, with the consent of the Governor, and upon such terms and conditions as the Governor prescribes, in, over, along, or across any road not upon the route of the tramway, or any road in the district of any adjacent local authority:

Provided that where the consent of the Governor is required notice shall first be given to the local authority in which any such road is vested, in order that any objections of such local authority may be considered.

Minimum-fare cars.

13. (1.) It shall be lawful for the promoters of a tramway to run minimum-fare cars—that is to say, special cars carrying exclusively passengers over two or more sections at one fare for the whole journey.

(2.) Where the authority conferred by an authorizing Order has been delegated, the power conferred by the last preceding subsection shall only be exercised with the consent of the delegating local authority, or, if there are several delegating local authorities, with the consent of the majority of them:

Provided that such fare shall not exceed the aggregate of the fares chargeable under the authorizing Order for the sections comprised in such journey, except where a higher fare for special cars is authorized by such Order, and that the minimum-fare cars are plainly distinguishable from the ordinary cars; and provided also that such minimum-fare cars shall not be included for the purpose of computing the minimum service of cars prescribed by the authorizing Order.

14. The Second Schedule to the principal Act is hereby amended as follows:—

Amendments of
Second Schedule to
principal Act.

(a.) As to clause eight thereof, by adding thereto the words
“and shall on payment of a sum not exceeding one shilling supply a copy thereof to any person demanding the same.”

(b.) By inserting after clause eleven thereof the following clause:—

“11A. During the month of April in each year the local authority shall forward to the Minister an abstract of the said separate account made up to the preceding thirty-first day of March, together with such other information concerning the working of the tramway as the Minister from time to time requires.”

(c.) By repealing subclause three of clause twelve thereof, and substituting therefor the following:—

“(3.) In the case of intention to apply for such order or to delegate such authority as aforesaid, the local authority shall cause plans, longitudinal sections, and cross-sections to be prepared showing the nature of the works proposed to be undertaken, together with a description thereof.

“(3A.) Such plans shall be made on a scale not less than one inch to three chains, such longitudinal sections on a scale not less than one inch to three chains horizontal and one inch to thirty feet vertical, and such cross-sections on a scale not less than one inch to four feet.

“(3B.) All such plans and sections, together with a draft of the Order in Council proposed to be submitted to the Governor for approval, shall be deposited and remain open for public inspection at the office of the local authority during office hours during the four weeks mentioned in subclause one of clause thirteen of these regulations.

“(3c.) The aforesaid notice shall contain a description of the proposed works, the place where the plans, sections, and other documents are deposited for public inspection, and, in the case of an intended delegation of authority, the name of the person to whom the authority is to be delegated, and a general description of the terms and conditions subject to which the delegation is to be made.”