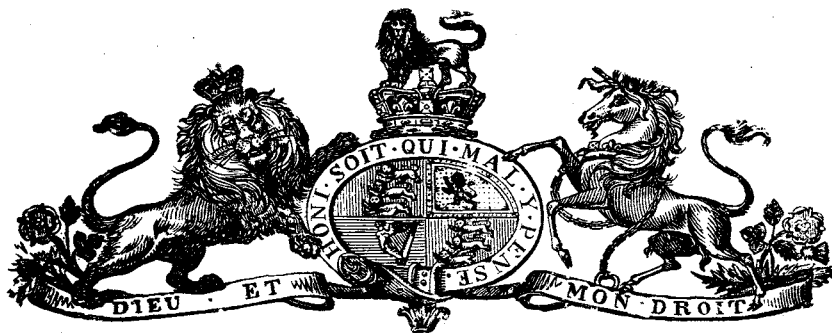


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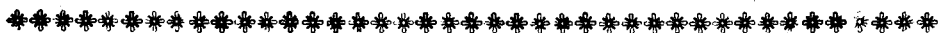


1901.

ANNO PRIMO

EDWARDI VII. REGIS,

No. 14.



AN ACT for consolidating in One Act certain A.D. 1901.  
Provisions usually inserted in Acts author-  
ising the making of Railways and Tramways.  
[7 November, 1901.]

**W**HEREAS it is expedient to comprise in One general Act PREAMBLE.  
sundry provisions usually introduced into Acts of Parliament,  
authorising the construction of Railways or Tramways, and that  
as well for the purpose of avoiding the necessity of repeating such  
provisions in each of the several Acts relating to such under-  
takings as for ensuring greater uniformity in the provisions them-  
selves :

Be it therefore enacted by His Excellency the Governor of *Tas-*  
*mania*, by and with the advice and consent of the Legislative  
Council and House of Assembly, in Parliament assembled, as fol-  
lows :—

**1** This Act may be cited for all purposes as “The Railways Short title.  
Clauses Consolidation Act, 1901.”

**2** This Act may be applied to every Railway or Tramway which Operation of  
this Act may be  
applied to future  
Railways.  
may be authorised to be constructed by any Act to be hereafter  
passed, and this Act, or any part thereof, or any of the clauses or  
3s.]

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provisions hereof, may be incorporated with such Act, and all or any of the Clauses and provisions of this Act, save so far as they shall be expressly varied or excepted by any such Act, may be applied to the undertaking authorised thereby, so far as the same shall be applicable to such undertaking, and shall thereupon, as well as the Clauses and provisions of every other Act which shall be incorporated with such Act, form part of such Act, and be construed together therewith as forming one Act.

Interpretations  
in this Act :

**3** In the construction and for the purposes of this Act and of other Acts to be incorporated herewith, the following words and expressions shall, if not inconsistent with the context or subject matter, have the respective meanings hereby assigned to them ; that is to say—

“ Crown Land.”

“ Crown Land ” shall mean any land in the State which is or may become vested in the Crown, and has not been or is not dedicated to some public use, and is not the subject of a subsisting contract with the Crown for the alienation thereof, and includes all lands of the Crown which are or may be occupied for pastoral or mining or other purposes under any lease or licence issued or applied for in pursuance of any Act of Parliament of this State :

“ The *Gazette*.”

“ The *Gazette* ” shall mean the *Hobart Gazette* :

“ The Lands.”

“ The Lands ” shall mean the lands which shall by the special Act be authorised to be taken or used for the purposes thereof :

“ Leased land.”

“ Leased land ” or “ Land previously leased ” shall mean land comprised in any lease or licence issued in pursuance of any Act of Parliament of this State :

“ The Minister.”

“ The Minister ” shall mean the Minister for Railways for the time being :

Person.”

“ Person ” or “ Persons ” shall include “ Corporation ” and “ Company ” and “ Road Authority :”

“ Prescribed.”

“ Prescribed,” used in this Act in reference to any matter herein stated, shall be construed to refer to such matter as the same shall be prescribed or provided for in the special Act, and the sentence in which such word shall occur shall be construed as if, instead of the word “ prescribed,” the expression “ prescribed for that purpose in the special Act,” had been used :

“ The Promoters.”

“ The Promoters ” or “ The Promoters of the undertaking ” shall mean the parties whether Company, Commissioners, Trustees, Corporations, or private persons by the special Act empowered to execute such undertaking :

“ The Railway.”

“ The Railway ” shall mean and include the Railway or Tramway authorised to be constructed by the special Act, or any extension or branch line or additional lines

*Railways Clauses Consolidation.*

of Railway or Tramway which may at any time be constructed under the authority of the special Act, and the permanent way thereof, with all works, buildings, and stations erected or built on or connected with the Railway or Tramway, and all rolling-stock, and all land upon which the same are respectively constructed, erected, or built, and all lands, rights and privileges used in connection therewith or vested in the promoters of the undertaking for the purposes of the special Act and this Act :

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“ Road ” shall mean any public or private road, highway, street, footpath, bridge, or place along or across which the Railway is authorised to be constructed :

“ Road.”

“ Road Authority ” shall mean the Minister, Municipal Authority, Road Trust, or persons having the control or management of the road in respect of which such expression shall be used if the same shall be used in respect of any particular road, but if such expression shall not be used in respect of any particular road it shall mean any persons or person having the control or management of any road :

“ Road Authority.”

“ The special Act,” shall mean any Act which shall be hereafter passed authorising the construction of a Railway or Tramway, and with which this Act shall be so incorporated as aforesaid :

“ Special Act.”

“ The Undertaking ” shall mean the Railway or Tramway, and works of whatever description, by the special Act authorised to be executed.

“ The Undertaking.”

4 This Act is divided into Twelve parts, as follows :—

Division of Act.

Part I.—Construction of Railway.

Part II.—Accommodation Works.

Part III.—Maintenance and Working of Railway.

Part IV.—Acquisition of Land and Material.

Part V.—Prior Leases.

Part VI.—Compensation.

Part VII.—Levy and recovery of Tolls and Fares, &c.

Part VIII.—Purchase of Railway.

Part IX.—Power to assign on mortgage.

Part X.—By-laws.

Part XI.—Forfeiture of Railway.

Part XII.—Miscellaneous.

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**PART I.****CONSTRUCTION OF RAILWAY.**

Before commencing to construct Railway, promoters to deposit plans with the Minister.

**5** Before the promoters shall commence to construct the Railway, they shall deposit with the Minister a copy of the working plans and sections of such Railway, and showing on such plans the private or Crown lands affected, and the proposed method of dealing with any roads affected; such plans, in so far as they affect Crown lands, shall be certified by an authorised surveyor of the State; and the Minister may require such alterations as he thinks necessary to be made in such plans and sections so deposited with him as aforesaid in order to bring the same into accordance with the provisions of this and the special Act:

Provided always that the promoters may submit the plans and sections above referred to from time to time for portions of the line not less than Two miles instead of for the whole line, and may commence the construction of any portion in respect of which such plans and sections have been deposited with the Minister and approved by him.

Provided further that all detailed plans of any of the works, together with specifications under which the same are to be executed, shall also be lodged with the Minister as the construction of the Railway proceeds.

The promoters shall construct the Railway in accordance with the plans, sections, and specifications so deposited with the Minister and thereafter approved of by him, with such alterations therein as he may have approved or required to be made.

Promoters may make alterations in plans.

**6** The promoters may from time to time during the construction of the Railway make such alterations in the plans, sections, and specifications thereof deposited with the Minister as aforesaid as the Minister may from time to time approve.

Railway may be inspected during construction.

**7** The Minister shall, at the cost of the promoters, from time to time, appoint one or more officers to inspect the Railway during the construction thereof, and it shall be lawful for every officer so appointed for the purpose aforesaid from time to time to enter upon the Railway during the construction thereof and to inspect the manner in which the same is being constructed, and the condition and state of repair thereof; and the Minister, upon the report of any such officer as aforesaid, may require the promoters to make such additions or repairs to the Railway as may be necessary to make the Railway comply with the plans, sections, and specifications thereof approved of by the Minister or to ensure the safety of the Railway; and the promoters shall, within such time as the Minister shall require, make all such additions or repairs to the Railway as the Minister shall so require as aforesaid.

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**8** No part of the Railway shall be opened for passenger traffic until such officer as the Minister may appoint has certified that such part of the Railway has been efficiently constructed, and all rolling-stock to be used thereon for such traffic is in good and efficient repair and condition, and may be safely used for passenger traffic thereon : The cost of such inspection shall be paid for by the promoters.

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Railway not to be opened for traffic until inspected.

**9** Subject to the provisions of this Act, and of the special Act, the Promoters may from time to time open and break up any road for the purpose of making, forming, laying down, constructing, maintaining, or renewing the Railway, and shall make and maintain proper crossings, gates, and cattle-guards.

Power to break up roads.

**10** The Railway shall, whenever its course is across or along any road, be laid at or about the general level of such road ; and the Promoters may, with the consent of the Road Authority having control of such road, alter the levels of such road : Provided that all expenses incurred in the re-formation of such road so altered shall be borne by the promoters unless otherwise agreed upon.

Roads to be crossed on a level.

**11** If in the exercise of the powers hereby granted it be found necessary to crosscut through, raise, sink, or use any part of any road so as to render it impassable for or dangerous or inconvenient to passengers or carriages, or to the persons entitled to the use thereof, the promoters shall, before operations are commenced, cause a sufficient road, and to the satisfaction of the Road Authority, to be made instead of the road to be interfered with, and shall at their own expense, and to the satisfaction of such Authority, maintain such substituted road for a period of Six months in a state as convenient for passengers and carriages as the road so interfered with, or as nearly so as may be.

Before roads interfered with others to be substituted.

**12** The Railway shall be constructed and maintained in such a manner as not to unreasonably or unnecessarily cause any impediment or injury to the use by the public for the purpose of any ordinary or proper traffic upon any road whereon the same shall be laid ; and the public shall at all times be entitled to the free and uninterrupted use of every part of such road, save when any conveyance of the promoters shall be passing over, or be about to pass over, any part thereof, or be standing thereon, and then the public shall not be entitled to the use of the part of such road over which such conveyance shall be passing, or about to pass, or upon which such conveyance shall be standing : .

Railway not to impede traffic.

**13** Nothing in this Act contained shall be construed to give the promoters any right to the soil of any road over which they shall construct the Railway, other than a right of user thereof for the purposes of this Act and of the special Act.

Promoters to have no right to soil of road.

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Regulations to be observed on breaking up road.

**14** Whenever the promoters proceed to open or break up any road—

- I. They shall give to the Road Authority thereof notice of their intention, specifying the time at which they will commence operations, and the portion of the road proposed to be opened or broken up, such notice to be given Three days at least before the commencement of operations :
- II. They shall not open or break up any road except under the superintendence and to the reasonable satisfaction of the Road Authority thereof, unless such Authority refuses or neglects to give such superintendence at the time specified in the promoters' notice, or discontinues the same during the work :
- III. They shall pay to the Road Authority all reasonable costs incurred on account of such superintendence.

Restriction on length of road to be broken at same time.

**15** The promoters shall not, without the consent of the Road Authority thereof, open or break up at any one time and place a greater length than Five hundred yards of any road ; and they shall leave an interval of at least Three hundred yards between any two places at which they shall open or break up any road at the same time.

Promoters to restore roads broken up.

**16** As soon as the promoters shall have opened or broken up any portion of any road—

- I. They shall, with all convenient speed, and in all cases within Six weeks at the most from the time of opening or breaking up the same (unless the Road Authority thereof shall enlarge such time), complete the work on account of which they opened or broke up the same, and (subject to the formation, maintenance, and renewals of the Railway) fill in the ground and make good the surface, and generally restore the portion of the road so opened or broken up, to the reasonable satisfaction of the Road Authority thereof, to as good condition as it was in before it was opened or broken up, and clear away all surplus metal, material, or rubbish occasioned thereby :
- II. They shall, in the meantime, cause the place where the road is broken up to be fenced, and to be properly lighted at night, for the protection of man and beast :
- III. They shall bear or pay all reasonable expenses of the repair of the road for Six months after the same is restored, so far as those expenses are increased by the opening or breaking up :

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- iv. They shall in no case, unless the Road Authority or some duly authorised officer thereof otherwise consent in writing, keep any road wholly closed and unavailable for traffic. A.D. 1901.

**17** If the promoters shall in any respect fail to comply with the provisions of the last preceding Section, they shall for every such offence (without prejudice to any other remedy against them) be liable to a penalty not exceeding Five Pounds, and to a further penalty, not exceeding One Pound for each day during which any such failure shall continue after the First day on which such penalty is incurred ; and all such penalties shall go and belong to the Road Authority of the road in question. Penalty on breach of last Section.

**18** Nothing in this Act contained shall take away any power for the time being vested in any persons to open or break up any road upon which any Railway shall be laid, for the necessary purpose of laying down, repairing, altering, removing, examining, or inspecting any sewer, gutter, drain, watercourse, or work, or for the necessary purpose of laying down, repairing, altering, removing, examining, or inspecting any pipes for the supply of gas or water, or any tubes, wires, or apparatus for telegraphic, electrical, or other purposes : Provided that, in the exercise of such power, such persons and the promoters shall be subject to the following provisions :— Preservation of powers in relation to roads.

- i. Such persons shall cause as little detriment or inconvenience to the promoters as circumstances will admit.
- ii. Before commencing any work whereby the traffic on the Railway may be interrupted, or whereby the safety of any persons using the Railway may be endangered, such persons shall (except in cases of urgency, in which cases no notice shall be necessary) give to the promoters notice of their intention to commence such work, specifying the time at which they will commence, and which shall not be earlier than Three days after the time of giving such notice.
- iii. If such persons, for the purpose of enabling them to execute the work, shall so require by any notice given as aforesaid, the promoters shall either stop their traffic on that portion of the Railway where it would otherwise interfere with such work, or shore up and secure the same at their own risk and cost during the execution of the work ; and such persons shall thereupon complete the work with all reasonable expedition.
- iv. Such persons shall not execute such work so far as it immediately affects the Railway, except under the superintendence and to the reasonable satisfaction of the

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promoters, unless the promoters refuse or neglect to give such superintendence at the times specified in the notice for the commencement of the work, or discontinue the same during the work.

- v. If it shall become necessary to remove the Railway from any part of any road to enable any such work to be effected, it shall be lawful for the promoters to lay down the Railway so removed in some adjacent and convenient position, and, after such work shall have been effected, to replace the Railway in its original position ; and the cost of such laying down and replacing shall be borne by such persons.
- vi. Such persons shall not be liable to pay to the promoters any compensation for injury done to the Railway by the execution of such work, or for loss of traffic occasioned thereby, or for the reasonable exercise of the powers vested in them as aforesaid.

Provisions as to  
gas and water.

**19** For the purpose of making, forming, laying down, maintaining, repairing, or renewing any part of the Railway, the promoters may from time to time, when and as far as it is necessary, alter the position of any mains or pipes for the supply of gas or water, or any tubes, wires, or apparatus for telegraphic, electrical, or other purposes, subject to the following restrictions, that is to say—

- i. Before laying down or altering the Railway in a road in which any mains or pipes, tubes, wires, or apparatus may be laid (other than private service pipes), the promoters shall, whether they contemplate altering the position of any such mains or pipes, tubes, wires, or apparatus or not, give Three days' notice to the person to whom such mains or pipes, tubes, wires, or apparatus may belong, or by whom they are controlled, of their intention to lay down or alter the Railway, and shall at the same time deliver a plan and section of the proposed work. If it should appear to any such person that the construction of the Railway as proposed would endanger the same or interfere with or impede the supply of water or gas or the telegraphic, electrical, or other communication, such person may give notice to the promoters to lower or otherwise alter the position of the said mains or pipes, tubes, wires, or apparatus in such manner as may be considered necessary. And all alterations to be made under this Section shall be made with as little detriment and inconvenience to the person to whom such mains, pipes, tubes, wires, or apparatus may belong, or by whom they are controlled, or to the inhabitants of the district, as the circumstances will admit, and under the superintendence of such person or



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their or his surveyor or engineer, if they or he think fit to attend after receiving not less than Three days' notice for that purpose, which notice the promoters are hereby required to give : A.D. 1901.

- ii. The promoters shall not remove or displace any of the mains or pipes, valves, syphons, plugs, tubes, wires, or apparatus, or other works belonging to or controlled by any such person, or do anything to impede the passage of water or gas, or the telegraphic, electrical, or other communication into or through such mains or pipes without the consent of such person, or in any other manner than such person shall approve, until good and sufficient mains, pipes, valves, syphons, plugs, and other works necessary or proper for continuing the supply of water or gas, or telegraphic, electrical, or other communication, as sufficiently as the same was supplied by the mains or pipes, tubes, wires, or apparatus proposed to be removed or displaced, shall, at the expense of the promoters, have been first made and laid down in lieu thereof and ready for use and to the satisfaction of the surveyor or engineer of such person, or, in case of disagreement between such persons or their surveyor or engineer and the promoters, as an engineer appointed by the Minister shall direct :
- iii. The promoters shall not lay down any such pipes contrary to the provisions of any Act of Parliament :
- iv. The promoters shall make good all damage done by them to the property belonging to or controlled by such persons, and shall make full compensation to all parties for any actual loss or damage which they may sustain by reason of any interference with such property or with the private service pipes of any person supplied by such person with water or gas.

**20** Where the Railway or any other work connected therewith interferes with any sewer, drain, watercourse or work under the jurisdiction or control of any person, or with any sewers or works to be made or executed by any such person, or in any way affects the sewerage or drainage of the district under his control, the promoters shall not commence the Railway or work until they shall have given to such person Seven days' previous notice in writing of their intention to commence the same by leaving such notice at the principal office of such person for the time being, with all necessary particulars, nor until such person shall have signified his approval of the same, unless he does not signify approval, disapproval, or other directions, within Fourteen days after service of the said notice and particulars as aforesaid.

For protection  
of sewers.

The promoters shall comply with and conform to all reasonable directions and regulations of such person in the execution of the

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said works, and shall provide new, altered, or substituted works in such manner as the said person shall reasonably require for the proper protection of and for preventing injury or impediment to the sewers and works hereinbefore referred to, or by reason of the Railways, and shall save harmless the said person against all and every expense to be occasioned thereby.

All such works shall be done under the direction, superintendence, and control of the engineer or other officer or officers of the said person at the reasonable cost, charges, and expenses in all respects of the promoters.

When any new, altered, or substituted work as aforesaid, or any work connected therewith, shall be completed by or at the costs, charges, or expenses of the promoters under the provisions of this Act, the same shall thereafter be as fully and completely under the direction, jurisdiction, and control of the said person, and be maintained by him, as the case may be, as any sewers or works now or hereafter may be.

Promoters to be liable for accidents.

**21** The promoters shall be answerable for all accidents, damages, and injuries happening through the act or default of the promoters, or of any person in their employment, by reason or in consequence of any of the works of the promoters, and shall indemnify all persons from all damages and costs in respect of such accident, damages, and injuries.

Difference between promoters and any person as to works, &c.

**22** If any difference or dispute arise between the promoters on the one hand and any persons to whom any road, sewer, gutter, drain, water-course, or work, or any pipes for the supply of gas or water, or any tube, wires, or apparatus for telegraphic, electrical, or other purposes may belong or any other persons, on the other hand, with respect to any interference or control exercised or claimed to be exercised by such persons, or on their behalf, or by the promoters by virtue of this Act, in relation to any Railway or work, or in relation to any work or proceeding of such persons, or with respect to the propriety of, or the mode of execution of any work relating to any Railway, or with respect to the amount of any compensation to be made by or to the Promoters, or on the question whether any work is such as ought reasonably to satisfy the persons concerned, or with respect to any other subject or thing regulated by or comprised in this Act, the matter in difference shall be settled by an engineer or other fit person nominated as referee by the Minister, on the application of either party; and the expenses of the reference shall be borne and paid as the referee directs.

Gates to be erected where roads are crossed on a level.

**23** Where the Railway crosses any road on a level, the promoters shall erect, and at all times maintain, good and sufficient gates across such road on each side of the Railway where the same shall communicate therewith, and shall employ proper persons to open and shut such gates; and such gates shall be kept con-

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stantly closed across such road on each side of the said Railway where the same shall communicate therewith, and the promoters shall employ proper persons to open and shut such gates, and such gates shall be kept constantly closed across such road on both sides of the said Railway, except during the time when horses, cattle, carts, or carriages passing along the same shall have to cross the Railway; and such gates shall be of such dimensions and so constructed as when closed to fence in the said Railway and prevent cattle or horses passing along the road from entering upon the railway; and the persons entrusted with the care of such gates shall cause the same to be closed as soon as such horses, cattle, carts, or carriages shall have passed through the same, under a penalty not exceeding Forty Shillings for every default therein: A.D. 1901.

Provided always that it shall be lawful for the Minister, in any case in which he may be satisfied that it will be more conducive to the public safety that the gates on any level crossing over any such road should be kept closed across the said Railway, to order that such gates shall be kept so closed instead of across the road, and in such case such gates shall be kept constantly closed across the Railway, except when engines or carriages passing along the said Railway shall have occasion to cross such road, in the same manner and under the like penalty as above directed with respect to the gates being kept closed across the roads.

**24**—(1.) Notwithstanding anything hereinbefore contained, it shall be lawful for the promoters, with the consent of the Minister, to make and use cattle-guards instead of gates in any place where the Railway crosses any road; and such cattle-guards shall be so made and maintained as to effectually prevent the straying of horses, cattle, sheep, or other animals from such road to the Railway. Cattle-guards may be used in place of gates.

Provided that any such road be not thereby decreased in width at the crossing, and that the Railway be securely fenced at such points.

(2.) In every case in which the promoters shall make and use cattle-guards instead of gates in any place where the Railway crosses any road, they shall erect a notice-board on each side of the said Railway at every such crossing, warning travellers as to passing trains, and whenever any train is approaching such crossing the engine-whistle shall be sounded: Measure of precaution to be adopted.

Provided that the rate of speed of a train while passing any such crossing on any street in a Town shall in no case exceed Five miles per hour.

**25** Subject to the provisions of this Act and of the special Act it shall be lawful for the promoters, for the purpose of constructing, maintaining, and working the Railway, to execute any of the following works; that is to say— Construction of works.

To enter upon any lands to survey and take the levels of the same:

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To make or construct upon, across, under, or over any lands, roads, rivers, creeks, or other waters any temporary or permanent inclined planes, tunnels, embankments, aqueducts, bridges, roads, ways, culverts, drains, arches, cuttings, fences, and other works :

To divert or alter, as well temporarily as permanently, the course of any streams of water in order the more conveniently to carry the same over or under or by the side of the Railway :

To make drains or conduits into, through, or under any lands adjoining the Railway, for the purpose of conveying water from or to the Railway :

To draw water from any stream or river in the vicinity of the Railway for the supply of locomotives and other Railway purposes :

To erect and construct any houses, warehouses, goods-sheds, offices, and other buildings, yards, stations, wharves, engines, machinery, and apparatus, and other works and conveniences :

To from time to time alter, repair, or discontinue the before-mentioned works, or any of them, and substitute others in their stead :

To do all other acts necessary for making, maintaining, altering, or repairing and working the Railway.

Provided that in the exercise of the above named powers, the promoters shall do as little damage as can be, and shall make full compensation, in manner herein and in any Act incorporated herewith provided, to all parties interested for all damage by them sustained by reason of the exercise of such powers.

Promoters to separate the lands before using them.

**26** Before the promoters use lands for any of the purposes aforesaid, they shall, if required so to do by the owner or occupier thereof, separate the same by a sufficient fence from the lands adjoining thereto with such gates or cattle-guards as may be required by the said owner or occupier for the convenient occupation of such lands, and shall also to all private roads used as aforesaid put up fences and gates or cattle-guards in like manner in all cases where the same may be necessary to prevent the straying of cattle or other animals from or upon the lands traversed by such roads ; and in case of any difference between the owners or occupiers of such lands and the promoters as to the proper kinds of fences and gates or cattle-guards to be erected, the promoters shall erect such fences and gates or cattle-guards as any two Justices shall deem necessary for the purposes aforesaid, on application being made to them by either party : Provided that due notice of any such application shall be given to the other party, who shall have an opportunity of being present at the hearing thereof.

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**27** Every bridge to be erected for the purpose of carrying the Railway over any road shall be built in conformity with the following regulations ; namely :—

The width of the arch shall be such as to have thereunder a clear space of not less than Thirty feet if the arch be over a main road, and of Twenty feet if over a cross or by road, and of Twelve feet if over a private road :

The clear height of the arch from the surface of the road shall be not less than Sixteen feet for a space of Twelve feet if the arch be over a main road, and Fifteen feet for a space of Ten feet if over a cross or by road, and in each of such cases the clear height of the spring of the arch shall not be less than Twelve feet ; the clear height of the arch for a space of Nine feet shall not be less than Fourteen feet over a private road :

The descent to be made in the road in order to carry the same under the bridge shall not be more than One foot in Thirty feet if the bridge be over a main road, One foot in Twenty feet if over a cross or by road, and One foot in Sixteen feet if over a private road not being a tramroad, or if the same be a tramroad or railroad the descent shall not be greater than the ruling gradient of such tramroad or railroad :

And every bridge erected for carrying any road over the railroad shall be built in conformity with the following regulations ; that is to say :—

There shall be a good and sufficient fence on each side of the bridge of not less height than Four feet, and on each side of the immediate approaches of such bridge, of not less than Three feet. The road over the bridge shall have a clear space between the fences thereof of Thirty-five feet if the road be a main road and Twenty-five feet if it be a cross or by-road, and Twelve feet if a private road, the ascent shall not be more than One foot in Thirty feet if the road be a main road, and One foot in Twenty feet if a cross or by road, and One foot in Sixteen feet if a private road not being a tramroad or railroad, or if the same be a tramroad or railroad, the ascent shall not be greater than the ruling gradient of such tramroad or railroad :

Provided always that in all cases where the average available width for the passing of carriages of any existing road within Fifty yards of the point of crossing the same is less than the width hereinbefore prescribed for bridges over or under the Railway, the width of the bridges need not be greater than such average available width of such roads, but so nevertheless that such bridges be not of less width in case of a main road or cross or by road than Twenty feet.

Provided also that if at any time after the construction of the Railway the average available width of any such land shall be increased beyond the width of such bridge, or on either side thereof, the promoter shall be bound at his own expense to increase the

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Bridges, how to be constructed over any road.

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width of the said bridge to such extent as he may be reasonably required by the Road Authority, not exceeding the width of such road as so widened or the maximum width herein prescribed for a bridge in the like case over or under the Railway: Provided also that if the mean inclination of any road within Two hundred and fifty yards of the point of crossing the same, or the inclination of such portion of any road as may require to be altered, or for which another road shall be substituted, shall be steeper than the inclination hereinbefore required to be preserved by the promoters, then he may carry any such road over or under the Railway, or may construct or alter any such substituted road at an inclination not steeper than the said mean inclination of the road so to be crossed, or of the road so requiring to be altered, or for which another road shall be substituted.

**PART II.****ACCOMMODATION WORKS.**Accommodation  
works.

**28** The promoters shall make, and at all times thereafter maintain, the following works for the accommodation of the owners and occupiers of lands adjoining the Railway and other works authorised by this Act or the special Act; that is to say—

Gates, bridges,  
&c.

Such and so many convenient gates, cattle-guards, bridges, arches, culverts, and passages over, under, or by the sides of or leading to or from the Railway, as shall be necessary for the purpose of making good any interruption caused by the Railway to the use of the lands through which the Railway shall be made; and such works shall be made forthwith after the part of the Railway passing over such lands shall have been laid out or formed, or during the formation thereof:

Fences.

Also sufficient posts, rails, hedges, ditches, mounds or other fences for separating the land taken for the use of the Railway from the adjoining lands not taken, and protecting such lands from trespass, or the cattle of the owners or occupiers thereof from straying thereout by reason of the Railway, together with all necessary gates made to open towards such adjoining lands and not towards the Railway, and all necessary stiles; and in the case of any fenced or otherwise enclosed land, such posts, rails, and other fences shall be made forthwith after the taking of any such lands, if the owners thereof shall so require, and the said other works as soon as conveniently may be:

Drains.

Also all necessary arches, tunnels, culverts, drains, or other passages, either over or under or by the sides of the Railway, of such dimensions as will be sufficient at all times to convey the water as clearly from the lands lying near or affected by

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the Railway as before the making of the Railway, or as nearly so as may be ; and such works shall be made from time to time as the Railway works proceed : A.D. 1901.

Also proper watering-places for cattle where by reason of the Railway the cattle of any person occupying any lands lying near thereto shall be deprived of access to their former watering-places ; and such watering-places shall be so made as to be at all times as sufficiently supplied with water as theretofore, and as if the Railway had not been made, or as nearly so as may be ; and the promoters shall make all necessary water-courses and drains for the purpose of conveying water to the said watering-places. Watering-places.

Provided always, that the promoters shall not be required to make such accommodation works in such a manner as would prevent or obstruct the working or using of the Railway, nor to make any accommodation works with respect to which the owners and occupiers of the land shall have agreed to receive, and shall have been paid, compensation instead of the making them.

**29** If any difference arise respecting the kind or number of any such accommodation works, or the dimensions or sufficiency thereof, or respecting the maintaining thereof, the same shall be determined in a summary way by Two or more Justices of the Peace upon complaint made by either party ; and such Justices shall also appoint the time within which such works shall be commenced and executed by the promoters. Differences as to accommodation works to be settled by Justices.

**30** If for Twenty-eight days next after the time appointed by such Justices for the commencement of any such works the promoters shall fail to commence such works, or having commenced shall fail to proceed diligently to execute the same in a sufficient manner, it shall be lawful for the party aggrieved by such failure himself to execute such works or repairs, and the reasonable expenses thereof shall be repaid to the party by whom the same shall have been so executed ; and if there be any dispute about such expenses, the same shall be settled by Two Justices : Execution of works by owners on default by the promoters.

Provided always, that no such owner or occupier or other person shall obstruct or injure the Railway, or any of the works connected therewith, for a longer time, nor use them in any other manner, than is unavoidably necessary for the execution or repair of such accommodation works.

**31** If any of the owners or occupiers of lands affected by the Railway shall consider the accommodation works made by the promoters, or directed by such Justices to be made by the promoters, insufficient for the convenient use of their respective lands, it shall be lawful for any such owner or occupier at any time, at his own expense, to make such further works for that purpose as he shall think necessary, and as shall be agreed to by the promoters, or in case of difference as shall be authorised by Two Justices of the Peace. Power to owner of land to make additional accommodation works.

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Works constructed under promoters' Engineer.

Accommodation works not to be required after Two years.

Owners to be allowed to cross until accommodation works are made.

Penalty on persons omitting to fasten gates.

Repairs of part of street where Railway is laid.

**32** If the promoters so desire, all such last mentioned accommodation works shall be constructed under the superintendence of their Engineer, and according to plans and specifications to be submitted to and approved by such Engineer.

**33** The promoters shall not be compelled to make any further or additional accommodation works for the use of owners and occupiers of land adjoining the Railway after the expiration of the prescribed period, or if no period be prescribed, after two years from the completion of the works and the opening of the Railway for traffic.

**34** Until the promoters shall have made the bridges or other proper communications which, under the provisions herein contained, the promoters are required to make between lands intersected by the Railway, and no longer, the owners and occupiers of such lands, and any other persons whose right-of-way shall be affected by the want of such communication, and their respective servants, may at all times freely pass and repass, with carriages, horses, and other animals, directly, but not otherwise, across the part of the Railway made in or through their respective lands, solely for the purpose of occupying the same lands, or for the exercise of such right-of-way, and so as not to obstruct the passage along the Railway, or to damage the same; nevertheless, if the owner or occupier of any such lands have in his arrangements with the promoters received or agreed to receive compensation for or on account of any such communications, instead of the same being formed, such owner or occupier of those claiming under him shall not be entitled so to cross the Railway.

**35** If any person omit to shut and fasten any gate set up at either side of the Railway for the accommodation of the owners or occupiers of the adjoining lands as soon as he and the carriage, cattle, or other animals under his care have passed through the same, he shall forfeit for every such offence any sum not exceeding Ten Pounds.

**PART III.****MAINTENANCE AND WORKING OF RAILWAYS.**

**36** The promoters shall at their own expense at all times maintain and keep in good condition and repair, with such materials and in such manner as the Road Authority shall direct, and to their satisfaction, so much of any road whereon any Railway of the promoters is laid as lies between the rails of the Railway and so much of the road as extends Eighteen inches beyond the rails of the Railway.

If the promoters abandon their undertaking, or any part of the same, and take up any Railway or part of any Railway belonging



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to them, they shall with all convenient speed, and in all cases within Six weeks at the most (unless the said Road Authority otherwise consents in writing), fill in the ground and make good the surface, and to the satisfaction of the said Road Authority restore the portion of road upon which such Railway was laid thereon, and clear away all surplus paving or metalling material or rubbish occasioned by such work, and they shall in the meantime cause the place where the road is opened or broken up to be fenced, and to be properly lighted at night : A.D. 1901.

Provided always, that if the promoters fail to comply with the provisions of this Section, the Road Authority may at any time after Seven days' notice to the promoters, open and break up the road, and do the work necessary for paving, repair, and maintenance of the road to the extent in this Section abovementioned instead of the promoters, and the expense incurred by the said Road Authority in so doing shall be repaid to them by the promoters.

**37** After the Railway is completed, the promoters shall properly and efficiently maintain the Railway and the rolling-stock thereof ; and the Minister shall from time to time appoint one or more officers to inspect the Railway and the rolling-stock thereof, and to report upon the state and condition of repair thereof, and the manner in which the same is being maintained. Railways to be kept in proper repair. 3

It shall be lawful for every officer so appointed for the purpose aforesaid from time to time to enter upon the Railway and to inspect the same and all the rolling-stock thereof, and the manner in which the Railway is being worked.

The Minister may, upon the report of any such officer as aforesaid, require the promoters to make such repairs to the Railway as may be necessary to ensure the efficient maintenance of the Railway in accordance with the provisions of this Act, and to make such additions to the rolling-stock thereof as may be necessary to carry such passengers, materials, and goods as may be offered for carriage on the Railway, and to provide such automatic or other brakes upon the rolling-stock as may in his opinion be necessary to ensure the safety of the passengers travelling thereon.

The promoters shall, within such time as the Minister shall require, make all such repairs to the Railway and additions to the rolling-stock thereof, and provide such brakes as the Minister shall so require as aforesaid ; and in default of the promoters carrying out such repairs and additions and providing such brakes as aforesaid, they shall be liable to a penalty not exceeding Five Pounds for every day which shall elapse before such repairs shall be effected, additions made, or brakes provided, as the case may be, such penalty to be recovered in a summary manner before any Two Justices of the Peace.

The cost of such inspection as aforesaid shall be paid by the promoters, but such cost shall not exceed the sum of One hundred Pounds in any one year.

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Minister to  
appoint officer to  
hold inquiry.

**38** The Minister shall also appoint one or more officers for the purpose of making any inquiry with respect to the condition of the Railway, or into the cause of any accident, and such officer or officers shall, for the purpose of any inquiry, have the following powers ; that is to say :—

- I. To enter and inspect the Railway, provided that no person so appointed shall exercise any powers or interference in the affairs of the promoters :
- II. To require by summons under his hand the attendance of any person who is engaged in the management, service, or employment of the Railway, and whom he thinks fit to call before him and examine for the said purpose, and may require answers or returns to such inquiries for the said purpose as he thinks fit to make :
- III. To require and enforce the production of all books, papers, and documents which he considers important for the said purpose.

Accidents on  
Railway to be  
reported.

**39** Where in or about the Railway any of the following accidents take place in the course of working the Railway ; that is to say :—

- I. Any accident attended with loss of life or personal injury to any person whomsoever :
- II. Any collision where one of the trains is a passenger train :
- III. Any passenger train accidentally leaving the rails :
- IV. Any accident of a kind not comprised in the foregoing descriptions, but which is of such a kind as to have caused, or to be likely to cause, loss of life or personal injury :

the promoters shall send notice of such accident, and of the loss of life or personal injury (if any) occasioned thereby, to the Minister.

Such notice shall be in such form and shall contain such particulars as the Minister shall from time to time direct, and shall be sent by the earliest practicable post after the accident takes place.

• The Minister may from time to time, by order, direct that notice of any class of accident shall be sent to him by telegraph, and may revoke any such order. While such order is in force, notice of every accident of the class to which the order relates shall be sent to the Minister by telegraph immediately after the accident takes place.

Failure to comply with the provisions of this Section shall render the promoters liable to a penalty not exceeding One hundred Pounds.

Minister may  
require formal  
investigation.

**40** If upon the report of any inquiry into the cause of any accident the Minister is of opinion that a more formal investigation of the accident, and of the causes thereof, and of the circumstances attending the same, is expedient, the Governor may, by order, direct

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such investigation to be held, and with such investigation the following provisions shall have effect:— A.D. 1901.

- i. The Governor shall, by the same or any subsequent order, appoint a Police Magistrate or Stipendiary Magistrate and Two Assessors of Engineering or other special skill and experience, to sit as a Court of Inquiry, at such time and place as the Governor shall think fit, for the purpose of holding such investigation :
- ii. The Magistrate so appointed shall be the President of such Court, and shall have the same power to summon and compel the attendance of witnesses, and to regulate the proceedings at any investigation held by such Court as he would have in respect of the hearing of any complaint or information which he would have authority to hear and determine under the authority of *The Magistrates Summary Procedure Act* : 19 Vict. No. 8.
- iii. The Court may, in addition to any other powers, enter and inspect any place or building, the entry or inspection whereof appears to them requisite for the said purpose :
- iv. No expenses shall be allowed for attending as a witness to any person engaged in the management, service, or employment of the promoters, or otherwise connected with the promoters :
- v. The Court shall make a report to the Minister, stating the causes of the accident, and all the circumstances attending the same, and any observations thereon, or on the evidence, or on any matters arising out of the investigation which they think fit to make ; and the Minister shall cause every such report to be made public in such manner as he thinks expedient.

*Signals and Brakes.*

**41**—(1.) The Minister may, from time to time, order the promoters to do, within a time limited by the order, and subject to any modification allowed by the order, any of the following things:— Minister may order use of certain signals and brakes.

- i. To adopt the block system on all or any part of the Railway open for the public conveyance of passengers :
- ii. To provide for the interlocking of points and signals on or in connection with all or any part of the Railway :
- iii. To provide for, and use on all trains carrying passengers, continuous brakes, which shall comply with the requirements of the Minister.

(2.) In making any order under this Section the Minister shall have regard to the nature and extent of the traffic on the Railway, and shall, before making any such order, hear the promoters or any person whom the Minister may consider entitled to be heard.

**42** If any officer appointed by the Minister as aforesaid shall, during the construction of the Railway, or after its completion, report that the Railway, or any part thereof, is at any time unsafe, Minister may interdict traffic when line is unsafe.

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the Minister may interdict the continuance of traffic thereupon until an officer appointed as aforesaid certifies that the Railway is safe and fit for public traffic.

If the promoters run a train upon any part of the Railway upon which traffic is so interdicted during the time such interdict is in force, they shall be liable to a penalty of One hundred Pounds for every day during which they shall so offend.

Power to enter upon adjoining lands to repair accidents, subject to certain restrictions.

**43** In case of accidents or slips happening, or being apprehended to the cuttings, embankments, or other works of the Railway, it shall be lawful for the promoters and their workmen and servants to enter upon the land adjoining thereto at any time whatsoever for the purpose of repairing or preventing such accidents, and to do such works as may be necessary for the purpose ; but in every such case the promoters shall, within Forty-eight hours after such entry, make a report to the Minister specifying the nature of such accident or apprehended accident, and of the works necessary to be done, and such powers shall cease and determine if the Minister shall, after considering the said report, certify that their exercise is not necessary for the public safety :

Provided that such works shall be as little injurious to the said adjoining lands as the nature of the accident or apprehended accident will admit of ; and shall be executed with all possible despatch ; and full compensation shall be made to the owners and occupiers of such lands for the loss, injury, or inconvenience sustained by them respectively by reason of such works, the amount of which compensation in case of any dispute about the same, shall be settled by arbitration in the mode prescribed by *The Lands Clauses Act* :

Provided also that no land shall be taken permanently for any such works otherwise than is herein provided with respect to the lands originally taken for the purpose of making the Railway.

**PART IV.****ACQUISITION OF LAND AND MATERIAL.**

Power to purchase land.

**44** The promoters may, for the purposes of the Railway, purchase, acquire, and take such land alienated from the Crown in fee simple and granted before the passing of the Special Act, or contracted to be alienated in fee simple from the Crown, as may be necessary for the purposes of the special Act.

Crown lands may be leased.

**45** It shall be lawful for the Minister, with the consent of the Governor in Council, to lease to the promoters at such rent for such term, and subject to such conditions, stipulations, and provisions as may be prescribed in the Special Act, such Crown Land as may be authorised to be leased by the Special Act, and every such lease when once granted shall be renewable from time to time.

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**46** For the purpose of enabling the promoters to purchase, acquire, and take land as hereinbefore provided, or any material required for the construction or maintenance of the Railway, *The Lands Clauses Act* shall, except as hereby varied, be incorporated with this Act, but there shall not be incorporated with this Act Sections Eight and Nine of the said *The Lands Clauses Act*.

A.D. 1901.  
 —  
*The Lands Clauses Act* incorporated.  
 21 Vict. No. 11.

In the construction of this Act and *The Lands Clauses Act* this Act shall be deemed to be the special Act, and the promoters shall be deemed to be the "promoters of the undertaking."

**47** The promoters, for the purpose of constructing, repairing, working, and maintaining the Railway, may, after Seven days' notice to the owner or occupier, enter upon any uncultivated land, and may fell, carry away, and use indigenous timber, except when the same is used for ornament or shelter to any dwelling-house, and may also dig, quarry, carry away, and use clay, stone, or other material, and may place and deposit upon such land any materials, waste, or spoil: Provided that full compensation for taking any of such materials, or for depositing any such materials, waste, or spoil as in this Section mentioned, shall be made to all parties interested for the damage thereby sustained, and such compensation shall be settled by arbitration in the mode prescribed by *The Lands Clauses Act* in cases of disputed compensation.

Materials from private land.

**48** The promoters may from time to time, for the purposes of this Act, dig, quarry, carry away, and use clay, stone, and other material upon any Crown land in the vicinity of the Railway, and may place and deposit upon any such Crown land any materials, waste, or spoil, and may fell all timber which in the opinion of the promoters it may be necessary to remove for the safe working of the Railway: Provided that full compensation shall, in the case of leased land, be made to the lessee for the damage done under this Section, and such compensation shall be settled by arbitration in the mode prescribed by *The Lands Clauses Act* in cases of disputed compensation.

Materials from Crown lands.

Compensation

**49** It shall be lawful for the promoters, and all persons by them authorised, after not less than Two nor more than Seven days' notice to the occupier or occupiers, to enter upon any lands, not being a garden, orchard, or plantation attached or belonging to a house, nor a park, planted walk, avenue, or ground ornamentally planted, and not being nearer to the house of the owner of any such lands than One hundred yards therefrom, and to occupy the said lands so long as may be necessary for the construction or repair of any works authorised by this Act, or the Special Act, or of the accommodation works connected therewith hereinafter mentioned, and to use the same for any of the following purposes; that is to say—

Power to take temporary possession of land.

For the purpose of constructing, building, or putting thereon any machinery:

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For the purpose of taking earth or soil by side-cuttings therefrom :

For the purpose of depositing soil thereon :

For the purpose of obtaining materials therefrom for the construction or repair of the works authorised by this Act or the Special Act, or such accommodation works as aforesaid : or

For the purpose of forming roads thereon to or from or by the side of the said works.

And, in exercise of such powers, it shall be lawful for the promoters and all other persons employed therein to deposit, and also to manufacture and work upon such lands, materials of every kind used in constructing the said works, and also to take from any such lands any timber, and also to dig and take from or out thereof any clay, stone, gravel, sand, or other things that may be found therein useful or proper for constructing the said works or any such roads as aforesaid, and for the purposes aforesaid to erect thereon workshops, sheds, and other buildings of a temporary nature, or any steam-engines or other machinery.

Provided always that nothing in this Act or the special Act contained shall exempt the promoters from an action for nuisance or other injury, if any, done in the exercise of the powers hereby conferred to the lands or habitations of any party other than the party whose lands shall be so taken or used for any of the purposes aforesaid.

Provided also that no stone or slate quarry, brickfield, or other like place which, at the time of the passing of the special Act, shall be commonly worked or used for getting materials therefrom for the purposes of selling or disposing of the same, shall be taken or used by the promoters, either wholly or in part, for any of the purposes hereinbefore mentioned.

Compensation to be made for occupation.

**50** In any of the cases aforesaid, where the promoters shall take possession of lands by virtue of the powers herein granted, it shall be incumbent on them, within One month after their entry upon such lands, upon being required to do so, to pay the occupier of the said lands full compensation for any damage which he may sustain by reason of the promoters so taking possession of his lands.

Appropriation of compensation in certain cases.

**51** The compensation payable by the promoters in respect of any land which shall be under contract of sale from the Crown shall be paid to the Commissioner of Crown Lands, who shall apply the same in reduction of the purchase-money due in respect of the land the subject of such contract, and shall pay the balance (if any) to the person who has contracted to purchase the land. A grant for the land in respect of which compensation has been paid as aforesaid may be forthwith issued to the promoters.

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## PART V.

A.D. 1901.

## PRIOR LEASES.

**52** If the Railway passes over leased land, the rights of the lessee shall not be affected except so far as may be necessary for carrying out the purposes of this Act and The Special Act, and the lessee may accordingly exercise all powers conferred upon him in respect of the leased land : Provided that he shall not carry on any mining operations within Fifty feet of the surface of any land comprised in the said lease and occupied by the promoters, nor in such a way as to endanger or inconvenience the working of the Railway.

Protection to rights of lessees.

Should any dispute arise between any persons under this Section the same shall be decided by arbitration in the mode prescribed by *The Lands Clauses Act*, and the Arbitrators or Umpire shall, in addition to any powers conferred upon them by the last mentioned Act, have power to decide what, if anything, shall be done or shall not be done by any person, and what damages and costs, if any, shall be paid by any person.

Settlement of disputes.

**53** If the Railway passes over leased land, the promoters shall serve upon the lessee a notice describing with all reasonable accuracy, by means of a plan or otherwise, the proposed course, direction, or situation of the Railway.

Notice of intention to make Railway.

**54** The promoters may, for the purpose merely of surveying and taking levels, after giving not less than Twenty-four hours' nor more than Seven days' notice to the lessee, enter upon any leased land without the previous consent of any person.

The promoters may enter after notice.

**55** In any case in which a notice is required to be served on the lessee under this Act, the same shall be deemed to be duly served if such notice is served upon the person in charge of or occupying the land in respect of which such notice is given, or, if there be no person in charge of or occupying such land, then such notice shall be deemed duly served upon proof of the same having been posted in some conspicuous place on the said land.

How notice may be served.

**56** Before any work shall be constructed under or in pursuance of the powers given by this Act and the Special Act through, over, or upon any leased land, the lessee shall be paid by the promoters such compensation (if any) as shall be determined by agreement between the lessee and the promoters ; and if such compensation shall not be fixed by agreement within Three months after the service of the notice mentioned in Section *Forty-nine*, then such compensation (if any) shall be determined by arbitration in the mode prescribed by *The Lands Clauses Act* in the case of disputed compensation.

Compensation to lessee.

Provided always that compensation shall not be payable to any person in respect of any land applied for or occupied under any

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lease or licence, if such application shall have been made or such occupation shall have taken place during or after the survey of the Railway.

Compensation,  
how estimated.

**57** In estimating the compensation (if any) to be paid to the lessee, regard shall be had only to the damage (if any) to be sustained by the lessee by reason of the severing of the lands occupied by the Railway from other lands of the lessee, or otherwise injuriously affecting such other lands or buildings or mining works by the exercise of the powers given to the promoters by this Act. The Arbitrators or Umpire shall not be bound to award any sum for damage unless in their opinion substantial damage shall have been sustained.

**PART VI.**

## COMPENSATION.

Compensation,  
how determined.

21 Vict. No. 11.

**58** Whenever by this Act compensation is directed to be made by the promoters to any persons whose interests are affected by the exercise of the powers hereby conferred, such compensation shall, except in cases herein specially provided for, be settled by arbitration in the mode prescribed by *The Lands Clauses Act* in cases of disputed compensation.

In estimating  
compensation to  
be paid for land  
taken for Railway,  
benefit to owner  
to be considered.

**59** In estimating the amount of compensation for severance or otherwise to be paid to any person for or in respect of land or material taken or used for the purposes of the Railway, the arbitrators or umpire shall take into consideration the benefit that is likely to accrue to the person to whom such land or material belongs by reason of the construction of the Railway through the land affected, and the arbitrators or umpire in awarding compensation to be paid for in respect of such land or material, shall make such deduction for such benefit as shall be deemed just; and in case it appears to the arbitrators or umpire that the benefit likely to accrue to the person through whose land the Railway is about to be taken is equal to or greater than the loss he will sustain by reason of the taking or using of his land or material for the Railway, the arbitrators or umpire shall award that no compensation is to be paid, and thereupon the same rights shall accrue as if compensation had been awarded and duly paid.

Dissatisfied  
party may appeal  
to a Judge of the  
Supreme Court.

**60** If either party is dissatisfied with the award of the arbitrators or the umpire appointed to determine the amount of compensation to be paid to any person whose interests are affected by the exercise of any of the powers conferred upon the promoters by this Act, and the amount of compensation awarded by the arbitrators or umpire exceeds One hundred Pounds, the dissatisfied party may



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appeal in the manner provided in Sections Seventy-three and Seventy-four from the award of the arbitrators or the umpire to a Judge of the Supreme Court, and the amount of the compensation in every such case shall thereupon be fixed by a Judge of the Supreme Court in the manner provided in such Sections. A.D. 1901.

**61** Where the promoters give notice of their intention to take land for any of the purposes of this Act, and the compensation in respect thereof is determined as in cases of disputed compensation, if the promoters deem it inexpedient to pay the amount of compensation so determined, it may, within Twenty-one days after notice of the amount of compensation so determined on, withdraw the first-mentioned notice on payment of all the costs of reference and award. If compensation excessive, promoters may give up land.

**PART VII.****LEVY AND RECOVERY OF TOLLS AND FARES, &c.**

**62** It shall be lawful for the promoters, subject as aforesaid, to use such moving power as may be authorised in the Special Act, and carriages or wagons to be drawn or propelled thereby, and to carry and convey upon the Railway all such passengers, materials, live stock, and goods, as shall be offered for that purpose, and to make and to sue for such charges in respect thereof as hereinafter specified. Authority to employ locomotive engines, carriages, and other locomotive powers, &c.

**63** It shall be lawful for the promoters from time to time to demand, take, collect, levy, and make such reasonable tolls, rates, fares, and charges for the carriage and conveyance of passengers, goods, merchandise, live stock, chattels, and other things of every description, over and along the Railway, as may from time to time be fixed by any By-law to be made as hereinafter mentioned and approved by the Governor : Provided that all such tolls, rates, fares, and charges shall at all times be subject to be altered and amended by the Governor. Rates and tolls.

Provided also that all such tolls be at all times charged equally to all persons and after the same rate in respect to all passengers and goods as aforesaid of the like number or quantity, in carriages of the same description, and conveyed or propelled by a like carriage or engine passing only over the same portion of the line of Railway under the same circumstances ; and no reduction or advance in any such tolls shall be made either directly or indirectly in favour of or against any particular person travelling upon or using the Railway.

**64** No provision in this Act contained shall prevent the promoters from taking (over and above the charges by this Act limited for the conveyance of animals or goods of any description, and by Increased charges may be taken by agreement.

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agreement with the owners or persons in charge thereof) any increased charges either by reason of any special service performed by the promoters in relation thereto, or in respect to the conveyance by passenger trains of animals or of goods (other than small parcels).

Rates and tolls  
may be recovered

**65** In case default is made in payment of any money due and payable under the authority of this Act or of the Special Act in respect of the carriage or conveyance of any passenger or any goods, merchandise, or live stock, chattels, or other things of every description, or the demurrage or storage of any goods or merchandise, the same may be recovered by the promoters in a summary way before any Two Justices of the Peace.

It shall be lawful for the promoters to detain the goods, merchandise, live stock, chattels, or other things in respect of which such money is payable until the same shall have been fully paid and satisfied.

If such goods, merchandise, or other things have been detained during a period of not less than Six months, it shall be lawful for the promoters to sell the same or so much thereof as may be necessary by public auction to be duly advertised, and to apply the proceeds in or towards satisfying the money so due and payable: Provided that live stock and perishable goods may be sold forthwith.

Members of  
Parliament may  
travel free.

**66** All members of Parliament of *Tasmania* shall be entitled to travel free over the Railway.

Members of  
Defence Force  
to travel free.

**67** Every member of the Defence Force of *Australia* serving in *Tasmania* being in uniform, shall, on production of a pass, signed by the Commanding Officer of his Corps, be conveyed free over the Railway to all musters, drills, parades, or rifle practices, and back again, under Regulations similar to those in force for the time being on the Tasmanian Government Railways.

Any person, whether a member of the Defence Force or not, who fraudulently obtains or attempts to obtain free conveyance by the Railway under the provisions of this Section, either, in the case of a member of the Force, by falsely representing that he is on his way to or from any muster, drill, parade, or rifle practice, or, in the case of any other person, by wearing the uniform of any Corps, shall be liable for every such offence to a penalty not exceeding Ten Pounds.

49 Vict. No. 16.

In this Section the word "Corps" shall have the same meaning as is assigned to it in Section Two of "The Defence Act, 1885."

Penalties on  
evasion of pay-  
ment of fares.

**68** If any person travelling, or having travelled, in any carriage on the Railway avoids, or attempts to avoid, payment of his fare, or if any person having paid his fare for a certain distance proceeds in any such carriage beyond such distance and does not pay the additional fare for the additional distance, or attempts to avoid payment thereof, or if any person refuses or neglects on ar-

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riding at the point to which he has paid his fare to quit such carriage, every such person shall for every such offence be liable to a penalty not exceeding Forty Shillings. A.D. 1901.

**69** Nothing in this Act contained shall extend to charge or make liable the promoters further or in any other case than according to the laws of this State stage-coach proprietors and common carriers would be liable, and the promoters shall at all times be liable to the benefit of every protection and privilege which may be enjoyed and possessed by such proprietors and carriers. Not to be liable to a greater extent than common carriers.

**70** No person shall be entitled to carry or to require to be carried upon the Railway, any *aqua fortis*, oil of vitriol, explosives, lucifer matches, or any goods which in the judgment of any person employed on the Railway may be of a dangerous nature; and if any person sends by the Railway any such goods without distinctly marking their nature on the outside of the package containing the same, or otherwise giving notice in writing to the bookkeeper or other person employed as aforesaid with whom the same are left at the time of so sending, he shall forfeit a sum of not less than Two Pounds nor more than Twenty Pounds for every such offence; and it shall be lawful for the person to whom the same is tendered to refuse to take any parcel suspected to contain goods of a dangerous nature, or he may require the same to be opened to ascertain the fact. Penalty for bringing dangerous goods on the Railway

## PART VIII.

## PURCHASE OF RAILWAY.

**71** It shall be lawful for the Minister, with the approval of Parliament, after the expiration of such period of time as may be fixed by any special Act, or earlier if the promoters shall so agree, upon giving Six months' notice to the promoters, to purchase, for and on behalf of His Majesty— Minister may purchase Railway.

- i. The Railway, and all works, wharves, piers, and docks, buildings, stations, and erections connected therewith, and the land upon which the same are respectively erected and built or used in connection therewith:
- ii. So much of any land as may have been purchased or acquired, or held, or used by the promoters for the purposes of the Railway:
- iii. All plant, permanent way, rolling-stock, machinery, and engines used in connection with the Railway:
- iv. All rights, privileges, powers, and advantages whatsoever affecting or appurtenant to the Railway which are

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vested in, held, enjoyed, or possessed by or conferred on the promoters or any person claiming by, through, or under the same by or under this Act and the special Act.

In case of difference, amount of purchase-money to be settled by arbitration.

**72** If the Minister and the promoters cannot agree upon the sum to be paid as the purchase-money of the Railway, such sum shall be settled by arbitration.

The reference shall be made to Two arbitrators, one of whom shall be appointed by the Minister, and the other shall be appointed by the promoters, and shall be subject to and in all respects conform to the provisions in that behalf contained in "The Arbitration Act, 1892."

56 Vict. No. 8.

Dissatisfied party may appeal to a Judge of the Supreme Court.

**73** If either the Minister or the promoters should be dissatisfied with the award of the arbitrators or the umpire appointed to determine the amount of purchase-money to be paid by the Minister to the promoters under this Part of the Act, the dissatisfied party may appeal as hereinafter provided from the award of the arbitrators or the umpire to a Judge of the Supreme Court, and the amount of the purchase-money shall thereupon be fixed by a Judge of the Supreme Court in the manner hereinafter provided.

Procedure upon appeal.

**74** If the dissatisfied party desires to appeal from the award of the arbitrators or umpire, he shall, within Fourteen days after the delivery to him of such award or a copy thereof, give notice in writing to the other party of his intention to appeal, and shall, within One month after the service of such notice upon the opposite party, prosecute such appeal in accordance with the Rules made as hereinafter provided, and the amount of compensation to be paid in any such case shall be ascertained by a Judge of the Supreme Court in such manner as he deems advisable, and subject to such conditions as he sees fit to impose; and the Judge may also in his discretion make an Order as to the party by whom the costs of the appeal shall be borne: Provided that a Judge of the Supreme Court may, upon what he shall deem sufficient cause, allow an appeal to be prosecuted after the expiration of the time hereinbefore allowed for that purpose; but no appeal shall be allowed after the expiration of Three months after the service of notice of intention to appeal: Provided also that where the party dissatisfied with the award gives notice to the other party as aforesaid, then such award shall not be made a Rule of Court until the Judge by an Order in writing under his hand determines the matter in dispute.

Judges may make rules.

**75** It shall be lawful for the Judges of the Supreme Court, or any Two of them, to frame and make rules determining the nature of the proceedings which shall be taken for carrying out the provisions of the Two last preceding Sections, but such rules shall have no force or effect until the same are published in the *Gazette*.

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## PART IX.

## POWER TO ASSIGN OR MORTGAGE.

**76** It shall be lawful for the promoters or their assigns, with the consent of the Minister, at any time and from time to time, by deed or instrument in writing, to assign and transfer all the rights, powers, privileges, benefits, concessions, and advantages conferred upon them by this Act and the special Act to any person or persons, or to any duly incorporated Company ; and upon such transfer or assignment being signed or executed, the person or persons or duly incorporated Company in whose favour such transfer or assignment is made shall then stand in the place of the promoters, and shall have all the liabilities, rights, powers, privileges, benefits, concessions, and advantages conferred upon the promoters by this Act and the special Act, including the power of assignment given by this Section, and shall be subject to all the obligations and conditions imposed upon the promoters by this Act and the special Act.

Power to assign and transfer rights, &amp;c.

**77** Subject to the provisions of this Act and the Special Act, the promoters may from time to time issue debentures or give and execute mortgages or other charges upon the Railway or its equipment, or the tolls, rates, fares, and charges, for the purpose of securing the payment of any sum or sums of money borrowed or raised by the promoters for the purposes of this Act or of the Railway, or for securing payments of any dividends or interest ; and such debentures, mortgages, or charges may be in such form and contain such powers and provisions as the promoters may deem expedient.

Promoters may raise money by mortgage.

**78** It shall be lawful for the promoters from time to time to let the Railway and the said tolls, rates, fares, and charges, together with all or any equipment or rolling-stock of or used in connection with the Railway ; and during the continuance of any such letting the person to whom the same shall be let, or the persons or person by him appointed, are hereby empowered to demand, levy, and take the said tolls, rates, fares, and charges, and to use the said equipment and rolling-stock and to manage the Railway and works of the promoters, in like manner, and shall have the like remedies and rights, and be subject to the like liabilities in respect of the same, as the promoters would have been empowered or would have had and would have been subject to but for such letting.

Promoters may let Railway tolls, &amp;c.

**79** The promoters may from time to time make and enter into and carry into effect contracts, agreements, and arrangements for or with reference to the use by any person of the Railway, and the tolls, rates, and charges to be paid for such use, and the terms and conditions of such use, and all incidental matters.

Promoters may make arrangements for use by others of Railway.

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## PART X.

## BY-LAWS.

Power for promoters to make By-laws.

**80** It shall be lawful for the promoters from time to time to make By-laws—

- I. For preventing the commission of any nuisance in or upon any carriage or on any premises of the promoters :
- II. For regulating the travelling upon or using and working of the Railway :
- III. For regulating the conduct of the officers and servants of the promoters :
- IV. For the levying and making of tolls, rates, fares, and charges :
- V. And generally for providing for the management of the Railway, and for all purposes which are usually comprised in the By-laws of a Railway Company.

And it shall also be lawful for the promoters from time to time to repeal or alter any such By-laws : Provided that such By-laws be not repugnant to law.

Penalty for infringement of By-laws.

**81** Any person offending against any By-law of the promoters shall forfeit for every such offence any sum not exceeding Ten Pounds, to be imposed by the promoters in such By-laws as a penalty for any such offence : and if the infraction or non-observance of such By-laws be attended with danger or annoyance to the public or hindrance to the promoters in the lawful use of the Railway, it shall be lawful for the promoters, their agents, or servants, summarily to interfere to obviate or remove such danger, annoyance, or hindrance, and that without prejudice to the penalty incurred by the offender.

By-laws to be confirmed by the Governor and published in *Gazette*.

**82** A copy of all By-laws made by the promoters shall be sealed with the seal of the promoters and submitted for approval to the Governor, who, on being satisfied that the same are framed in conformity with law, and are reasonable and proper, may confirm the same ; and no By-laws made by the promoters shall have any force or effect until a copy of such By-laws and of the confirmation thereof by the Governor shall have been published in the *Gazette*.

Further publication of By-laws.

**83** A copy of all By-laws made by the promoters shall also be painted on boards, or printed on paper and posted on boards, and hung up and affixed, and kept hung up and affixed, on some conspicuous part of every office and terminal station belonging to the promoters.

Governor may disallow By-laws.

**84** It shall be lawful for the Governor at any time to notify to the promoters his disallowance of any By-laws then in force, and the time at which the same shall cease to be in force, and no By-laws which shall be so disallowed shall have any force or effect after the time fixed by the notice of such disallowance, saving in so far as

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any penalty may have been then already incurred under the same: A.D. 1901.  
 Provided that a copy of such notice shall be published in the *Gazette*; and the time of disallowance fixed by such notice shall not be earlier than Fourteen days after the date of the first publication of such notice.

**85** The production of a copy of the *Gazette* containing a notice purporting to be a copy of any By-laws of the promoters and of the confirmation thereof by the Governor, or a notice of the disallowance by the Governor of any By-laws of the promoters, shall, in all cases and for all purposes, be deemed to be conclusive evidence that such By-laws have been duly made and confirmed, or disallowed, in manner therein appearing, and shall be *primâ facie* evidence that the provisions of this Act with respect to the publication of such By-laws have been complied with.

*Gazette to be evidence of By-laws.*

## PART XI.

## FORFEITURE OF RAILWAY.

**86** If at any time it is proved to the satisfaction of the Governor that the promoters—

- i. Have failed, after the completion of the whole or any section of the Railway, for a period of One month to work the traffic on the Railway pursuant to the stipulations or regulations in that behalf; or
- ii. Are insolvent, or neglect or fail to meet their lawful obligations to the officers or servants employed upon the Railway, or to any other creditor of the promoters; or
- iii. Have failed, after traffic has been interdicted by the Minister by reason of the Railway being unsafe for traffic, to render it fit for traffic within a reasonable time in that behalf;
- iv. Shall be guilty without reasonable cause of any breach of any of the provisions of this Act, or of the Special Act, and such breach shall continue after reasonable notice shall have been given by the Governor to the promoters to put an end to or remedy the same,

Attorney-General may move Supreme Court to prohibit further proceedings under certain circumstances.

the Attorney-General may, when and so often as any such breaches may happen, apply to the Supreme Court for a Rule calling upon the promoters to show cause, on a day to be mentioned in such Rule, why the promoters should not be prohibited from proceeding further with the construction of the Railway, or from continuing to work the same upon such grounds as may be set forth in such Rule; and such Rule may be served upon the promoters either by delivering the same to the promoters or any of them or to the agent of the promoters in *Tasmania* personally, or by leaving the same at the Registered Office of the promoters in *Tasmania*.

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Supreme Court may prohibit further proceedings, or may order payment of a sum of money by the promoters.

**87** If on the hearing of such Rule the Court shall be satisfied, either by affidavit or otherwise, that the promoters have been guilty, without reasonable cause, of any of the breaches of the provisions of this Act set forth in the said Rule, and that any such breach has continued after such reasonable notice as is mentioned in the immediately preceding Section has been given, the Court may, and is hereby authorised and empowered to prohibit the promoters from proceeding further with the construction of the Railway, or continuing to work the same.

Provided that the Court, upon the hearing of any such Rule, may, if it shall consider that the justice of the case would be met by so doing, order the promoters to pay to the Treasurer such a sum of money as the said Court may consider reasonable by way of penalty for the breach of any of the provisions of this Act ; and the said Court may also make such Order as to the costs of the proceedings as it may think fit ; and any Order so to be made for the payment of any sum of money or costs as aforesaid may be enforced in the same manner as may for the time being be provided for the enforcement of decrees and Orders of the said Court in its equitable jurisdiction.

Court may adjourn the hearing, and may grant time to file the affidavits ;

and may order issues to be tried by a Jury.

Rights to be forfeited.

If Railway abandoned, to become the property of the Government.

**88** The said Court may from time to time adjourn the hearing of any such Rule to show cause as aforesaid, and may give to the promoters such time as to the Court may seem reasonable for the purpose of enabling the promoters to file such affidavits as may be considered necessary in opposition to the ground set forth in the said Rule, and any affidavits that may have been filed in support thereof, and may also allow further time to the Attorney-General to file any affidavits in reply as to the Court may seem expedient ; and the said Court may also, if it shall see fit, direct the truth of the grounds set forth in the said Rule to be decided otherwise than by affidavit, and for that purpose may direct One or more issue or issues to be tried by a Jury in the like manner as issues directed by the Court in its equitable jurisdiction are tried.

**89** In the event of the promoters being prohibited by a Rule of the Supreme Court from proceeding further with the construction of the Railway, or from continuing to work the same as hereinbefore provided, the promoters shall lose and forfeit all rights, powers, and privileges conferred by this Act and the Special Act.

The Minister shall thereupon assume the entire charge and control of the Railway, and shall for the time being have and exercise all such privileges and powers, and incur the same liabilities and obligations as are respectively exercised and incurred by the promoters under the provisions of this Act and the Special Act.

**90** If at any time it is proved to the satisfaction of the Governor that the promoters have abandoned the Railway for a period of Three months, the fact shall be notified by Proclamation, and the Railway shall thereupon become the property of the Crown.



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**91** If, after lawful demand made by the Minister, the promoters, or any person in their employment, or acting on their behalf, refuse or refuses to give up peaceable and quiet possession of the Railway to the Minister, or to any person duly authorised by him to take possession of it, such promoters or other person shall be liable for each such offence to a penalty not exceeding Five hundred Pounds.

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Penalty for refusing to give up possession of Railway.

## PART XII.

## MISCELLANEOUS.

**92** Every person who shall wilfully or maliciously commit or cause any injury to any part of the Railway, or to any engine or carriage or truck belonging to the promoters and used on or in connection with the Railway, or who shall commit or cause any injury to any building or shed or other erection, or to any machinery or tool or appliance belonging to the promoters and used in connection with the Railway, or who shall throw any stones, gravel, earth, timber, or any other material or rubbish on any part of the Railway, or who shall drive, or cause or allow to be driven, any animal on any portion of the Railway where the same is fenced on both sides, or does any other act which obstructs the working of the Railway, or endangers any engine or carriage, or truck, or person riding therein, and every person who shall attempt to commit any of the acts or offences aforesaid shall, upon conviction, be liable to forfeit and pay for every such act or offence a penalty not exceeding Fifty Pounds, or to be imprisoned for any term not exceeding Six months, and to pay such sum as the Court or the convicting Justices may assess as the amount of damage done to any property of the promoters by the committal of the offence.

Penalty for injury to Railway, &c.

**93** If any person shall wilfully interfere with, move, injure, or damage any poles, stakes, marks, or instruments used by the promoters or their agents, servants, or workmen, for the purpose of surveying or marking out the line of the Railway or otherwise in connection therewith, or if any person shall wilfully do or commit any damage, injury, or spoil, or any nuisance to or upon the Railway or other roads or ways, or to or upon any other works of or belonging to the promoters, such person shall for every such offence forfeit and pay to the promoters a sum not exceeding Twenty Pounds over and above the damages occasioned thereto.

Penalty for damage to instruments, Railway, &c.

**94** If any person omit to shut and fasten any gate set up at either side of the Railway as soon as he and the carriage, cattle, or

Penalty on persons omitting to fasten gates.

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How notice to Road Authority may be given, or consent thereof obtained.

other animals under his care have passed through the same, he shall forfeit for every such offence a sum not exceeding Ten Pounds.

**95**—(1.) Any notice required to be given to any Road Authority under this Act shall be deemed duly given if served upon or left at the last known place of abode or posted to the Chairman or Secretary thereof, or left at the office of such Authority.

(2.) Any consent required to be given by any Road Authority under this Act shall be deemed duly given if signed by the Chairman of such Authority or other duly authorised officer thereof.

Penalty on persons obstructing formation of Railway.

**96** If any person shall wilfully obstruct any person acting under the authority of the promoters in the lawful exercise of their powers in setting out or making, forming, laying down, repairing, or renewing any Railway, or shall deface or destroy any mark made for the purpose of setting out the line of any Railway, or shall wilfully damage or destroy any property of the promoters, he shall, for every such offence, forfeit to the promoters a sum not exceeding Five Pounds.

Minister to have running powers over the Railway.

**97** The Minister shall have running powers over the Railway, to enable him to obtain supplies of any coal, wood, stone, gravel, or other material that may be required by the Tasmanian Government Railway Department for its own use, and the Department shall pay the Company at the rate of One Halfpenny a ton per mile on such material.

The weight of the engine and other rolling-stock shall not be heavier than that used by the promoters, nor shall the rate of speed be greater than that of the ordinary working time-table of goods trains of the Railway.

Promoters to furnish such returns as required as to persons employed.

**98** The promoters shall make to the Minister periodical returns as to the persons in his employment, whose duties involve the safety of trains or passengers, and who are employed for more than such number of hours at a time as may be from time to time named by the Minister.

The returns shall be delivered at such intervals, and be in such form, and contain such particulars, as the Minister may from time to time direct.

Minister may authorise construction of public road across Railway.

**99** Nothing in this Act contained shall be construed to prevent the construction of any road across the Railway at any point directed by the Minister upon payment of proper compensation for any interference with the works of the promoters, which compensation, in case of dispute, shall be settled by arbitration in the manner prescribed by *The Lands Clauses Act* in cases of disputed compensation, but the Minister may construct any public road across the Railway without paying any compensation for any interference with the Railway or the working thereof, or with the works of the promoters.

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**100** All offences against this Act, or any By-law made in pursuance of this Act shall be heard and determined, and all orders shall be made, and all penalties and sums of money imposed or made payable by this Act or any such By-law shall be recovered in a summary way, before any Two Justices of the Peace, in the mode prescribed by *The Magistrates' Summary Procedure Act*, and all penalties received by virtue of any such By-law shall be paid to the promoters.

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Offences to be dealt with summarily.

19 Viet. No 8.

