

**PUBLIC TRANSPORT COMMISSION ACT.**

**New South Wales**



ANNO VICESIMO PRIMO

**ELIZABETHÆ II REGINÆ**

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**Act No. 53, 1972.**

An Act to constitute the Public Transport Commission of New South Wales and to define its powers, authorities, duties and functions; to dissolve the bodies corporate constituted under the name of the Commissioner for Railways and the Commissioner for Government Transport; to amend the Government Railways Act, 1912, the Transport Act, 1930, and certain other Acts; and for purposes connected therewith. [Assented to, 17th October, 1972.]

BE

*Public Transport Commission.*

No. 53, 1972 **BE** it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

Short title. 1. This Act may be cited as the "Public Transport Commission Act, 1972".

Commence-  
ment. 2. This Act shall commence upon such day as may be appointed by the Governor in respect thereof and as may be notified by proclamation published in the Gazette.

Interpreta-  
tion. 3. (1) In this Act, except in so far as the context or subject-matter otherwise indicates or requires—

"appointed day" means the day appointed and notified under section 2;

"Chief Commissioner" means the person appointed under this Act as the Chief Commissioner;

"Commission" means the Public Transport Commission of New South Wales constituted under this Act;

"commissioner" means a person appointed under this Act as a commissioner and includes the Chief Commissioner;

"Commissioner for Government Transport" means the Commissioner for Government Transport constituted as a body corporate under the Transport (Division of Functions) Amendment Act, 1952, as amended by the Transport (Division of Functions) Further Amendment Act, 1952;

"Commissioner

*Public Transport Commission.*

“Commissioner for Railways” means the Commissioner No. 53, 1972 for Railways constituted as a body corporate under the Transport (Division of Functions) Act, 1932;

“full-time commissioner” means a commissioner other than a nominated commissioner;

“nominated commissioner” means a commissioner appointed on the nomination of the Minister;

“statutory body” means any body declared under subsection (2) to be a statutory body for the purposes of this Act.

(2) The Governor may, by proclamation in the Gazette, declare any body constituted by or under any Act to be a statutory body for the purposes of the definition of “statutory body” in subsection (1).

4. (1) There is hereby constituted a corporation under the corporate name of the “Public Transport Commission of New South Wales” Constitution of Commission.

(2) The Commission—

- (a) shall have and may exercise and perform the powers, authorities, duties and functions conferred or imposed on it by or under this or any other Act;
- (b) shall, for the purposes of any Act, be deemed to be a statutory body representing the Crown; and
- (c) shall, in the exercise and performance of its powers, authorities, duties and functions (except in relation to the contents of a report or recommendation made by it to the Minister), be subject to the control and direction of the Minister.

5. (1) The Commission shall consist of five Appointment of commissioners. commissioners appointed by the Governor.

(2) Of the commissioners, two shall be appointed on the nomination of the Minister.

(3)

*Public Transport Commission.*

No. 53, 1972

(3) The provisions of the Public Service Act, 1902, do not apply to or in respect of the appointment of a commissioner, and a commissioner is not subject to the provisions of that Act during his term of office.

Chief Commissioner.

6. One of the full-time commissioners shall be appointed by the Governor as Chief Commissioner.

Provisions relating to commissioners generally.

7. (1) A full-time commissioner shall devote the whole of his time to the duties of his office and shall be paid such annual salary and allowances as the Governor may from time to time determine in respect of him.

(2) A full-time commissioner shall, subject to this Act, hold office as a commissioner for such term not exceeding seven years as may be specified in the instrument of his appointment.

(3) A nominated commissioner shall, subject to this Act, hold office as a commissioner for such term not exceeding three years as may be specified in the instrument of his appointment.

(4) A nominated commissioner shall be paid such remuneration and allowances as the Governor may from time to time determine in respect of him.

(5) A commissioner or a person who has been a commissioner shall, if otherwise qualified, be eligible for re-appointment as a full-time commissioner or nominated commissioner.

(6) Any such re-appointment shall be—

(a) in the case of a re-appointment as a full-time commissioner, for such term not exceeding seven years; and

(b)

*Public Transport Commission.*

(b) in the case of a re-appointment as a nominated commissioner, for such term not exceeding three years, No. 53, 1972

as may be specified in the instrument of his re-appointment.

(7) On the occurrence of a vacancy in the office of a commissioner otherwise than by the expiration of the term for which he was appointed, the Governor may appoint a person to hold office as a commissioner for the balance of his predecessor's term of office.

(8) A person appointed under subsection (7) shall, if his predecessor was appointed on the nomination of the Minister, be appointed on the nomination of the Minister.

(9) A person who is of or above the age of sixty-five years shall not be appointed as a full-time commissioner.

8. (1) The Minister may appoint a person, other than a commissioner, to act in the office of a full-time commissioner, other than the Chief Commissioner, or of a nominated commissioner while that commissioner is from time to time absent from his office through illness or any other cause or is acting as Chief Commissioner, and the person so appointed shall while so acting be deemed to be a full-time commissioner or a nominated commissioner, as the case may be, and have the immunities, powers, authorities, duties and functions of the commissioner in whose office he is acting. Appointment of substitutes to act during absence of commissioners.

(2) The Minister may appoint a full-time commissioner to act in the office of the Chief Commissioner while the Chief Commissioner is from time to time absent from his office through illness or other cause, and the commissioner so appointed shall while so acting be deemed to be the Chief Commissioner and have the immunities, powers, authorities, duties and functions of the Chief Commissioner.

(3) The Minister may, for any cause which to him seems sufficient, remove from office any person appointed under subsection (1) or (2).

(4)

*Public Transport Commission.*

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No. 53, 1972 (4) No person shall be concerned to enquire whether or not any occasion has arisen requiring or authorising a person to act in the office of a commissioner or requiring or authorising a commissioner to act in the office of the Chief Commissioner, and all acts or things done or omitted by the person or commissioner while so acting shall be as valid and effectual and shall have the same consequences as if they had been done or omitted by the commissioner in whose office the person was appointed to act or by the Chief Commissioner, as the case may be.

Casual  
vacancy.

9. (1) A commissioner shall be deemed to have vacated his office—

- (a) if he dies;
- (b) if, being a full-time commissioner, he engages in any paid employment outside the duties of his office;
- (c) if, being a full-time commissioner, he absents himself from duty for a period exceeding fourteen consecutive days except on leave granted by the Minister (which leave the Minister is hereby authorised to grant), unless his absence is occasioned by illness or other unavoidable cause;
- (d) if, being a nominated commissioner, he is absent from four consecutive meetings of the Commission of which reasonable notice has been given him either personally or in the ordinary course of post, except on leave granted by the Minister (which leave the Minister is hereby authorised to grant) before the expiration of four weeks after the last of those meetings;
- (e) if he becomes a bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his creditors or makes any assignment of his salary, remuneration or allowances as a commissioner, or of his estate, for their benefit;

(f)

*Public Transport Commission.*

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- (f) if he becomes a temporary patient or a continued treatment patient, a protected person or an incapable person, within the meaning of the Mental Health Act, 1958, or a person under detention, under Part VII of that Act; No. 53, 1972
- (g) if he is convicted in New South Wales of a felony or of a misdemeanour punishable by imprisonment for twelve months or upwards, or if he is convicted elsewhere than in New South Wales of an offence which if committed in New South Wales would be a felony or a misdemeanour so punishable;
- (h) if he resigns his office by writing under his hand addressed to the Governor and the Governor accepts the resignation;
- (i) if, at any meeting of the Commission at which he is present and at which any agreement or proposed agreement in which he has a direct or indirect pecuniary interest, or any other matter in which he has such an interest, is the subject of consideration or is included on the agenda for consideration—
- (i) he fails, as soon as practicable after the commencement of the meeting, to disclose to the meeting his interest in; or
  - (ii) he takes part in the consideration or discussion of, or votes on any question with respect to,
- the agreement, proposed agreement or other matter;
- (j) if—
- (i) he has any direct or indirect pecuniary interest in any agreement with the Commission, or in any other matter in which the Commission is concerned, other than an interest in an agreement or other matter which he has in the like manner to that

applicable,

*Public Transport Commission.***No. 53, 1972**

applicable, and subject to the like conditions applicable, in the case of persons who are not commissioners; or

(ii) by virtue of his office as a commissioner, he accepts or acquires any personal profit or advantage other than under this Act; or

(k) if he is removed from office by the Governor for misbehaviour or incompetence.

(2) A full-time commissioner shall be deemed to have vacated his office on the day on which he attains the age of sixty-five years.

(3) If—

(a) a company has a direct or indirect pecuniary interest in any agreement, proposed agreement or other matter the subject of consideration at a meeting of the Commission; or

(b) a company has a direct or indirect pecuniary interest in any agreement with the Commission or in any other matter in which the Commission is concerned,

a commissioner who—

(c) is a member of the governing body of, or is a substantial shareholder within the meaning of section 69C of the Companies Act, 1961, in, that company shall, for the purposes of subsection (1) (i) and (j), be deemed to have a direct or indirect pecuniary interest in that agreement, proposed agreement or other matter; or

(d) has a relevant interest, within the meaning of section 6A of that Act, in any share of the company shall for the purposes of subsection (1) (i) (i) be deemed to have a direct or indirect pecuniary interest in that agreement, proposed agreement or other matter.



*Public Transport Commission.*

**10.** (1) In this section, "superannuation scheme" means a scheme, fund or arrangement under which any superannuation or retirement benefits are provided and which is established by or under any Act.

No. 53, 1972  
Preservation of rights of commissioners previously public servants, etc.

(2) Subject to subsection (3) and to the terms of his appointment, where a full-time commissioner was, immediately before his appointment as commissioner—

- (a) an officer of the Public Service;
- (b) a contributor to a superannuation scheme;
- (c) an officer within the meaning of the Government Railways Act, 1912;
- (d) an officer within the meaning of the Transport Act, 1930, employed in the Department of Government Transport;
- (e) an officer employed by any statutory body; or
- (f) a person in respect of whom provision was made by any Act that he retain any rights accrued or accruing to him as an officer or employee,

he—

- (g) shall retain any rights accrued or accruing to him as such an officer, contributor or person;
- (h) may continue to contribute to any superannuation scheme to which he was a contributor immediately before his appointment as commissioner; and
- (i) shall be entitled to receive any deferred or extended leave and any payment, pension or gratuity,

as if he had continued to be such an officer, contributor or person during his service as a commissioner, and—

- (j) his service as a commissioner shall be deemed to be service as an officer or employee for the purpose of any law under which those rights accrued or were accruing, under which he continues to contribute or by which that entitlement is conferred; and

(k)

*Public Transport Commission.*

No. 53, 1972

(k) he shall be deemed to be an officer or employee, and the Commission shall be deemed to be his employer, for the purpose of the superannuation scheme to which he is entitled to contribute under this subsection.

(3) A commissioner who, but for this subsection, would be entitled under subsection (2) to contribute to a superannuation scheme or to receive any payment, pension or gratuity under that scheme shall not be so entitled upon his becoming (whether upon his appointment as a commissioner or at any later time while he holds office as a commissioner) a contributor to any other superannuation scheme, and the provisions of subsection (2) (k) cease to apply to or in respect of him and the Commission in any case where he becomes a contributor to such another superannuation scheme.

(4) Subsection (3) does not prevent the payment to a commissioner upon his ceasing to be a contributor to a superannuation scheme of such amount as would have been payable to him if he had ceased, by reason of resignation, to be an officer or employee for the purposes of that scheme.

(5) A commissioner shall not, in respect of the same period of service, be entitled to claim a benefit under this Act and another Act.

Commissioner entitled to re-appointment in former employment in certain cases.

**11. (1) In this section—**

“officer or employee of a prescribed authority” does not include a member of the Commission or of any other statutory body;

“prescribed authority” means the Commission and any other statutory body;

“retiring

*Public Transport Commission.*

“retiring age” means—

No. 53, 1972

- (a) in relation to a person who was, immediately before his appointment as a commissioner, an officer of the Public Service—the age of sixty years; and
- (b) in relation to a person who was, immediately before his appointment as a commissioner, an officer or employee of a prescribed authority—the age at which officers or employees, as the case may be, (being officers or employees of the class to which that person belonged immediately before his appointment as a commissioner) of that prescribed authority are entitled to retire.

(2) A full-time commissioner who ceases to be a commissioner, otherwise than pursuant to section 9 (1) (paragraph (h) excepted), shall, if he has not attained the retiring age, be entitled to be appointed, where, immediately before his appointment as a commissioner, he was—

- (a) an officer of the Public Service—to some office in the Public Service;
- (b) an officer or employee of a prescribed authority, being the Commission—to some office in the service of the Commission; or
- (c) an officer or employee of some other prescribed authority—to some office in the service of that prescribed authority,

not lower in classification and salary than that which he held immediately before his appointment as commissioner.

**12.** (1) The procedure for the calling of meetings of the Commission and for the conduct of business at those meetings shall, subject to this Act, be as determined by the Commission. Meetings  
of the  
Commis-  
sion.

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*Public Transport Commission.*

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No. 53, 1972

(2) The Chief Commissioner shall preside at all meetings of the Commission at which he is present.

(3) In the absence from a meeting of the Chief Commissioner and any person appointed under section 8 (2) to act in the office of the Chief Commissioner, a full-time commissioner elected by the commissioners present may preside at that meeting and, if there is an equality of votes at such an election, it shall be decided by lot which of the full-time commissioners having an equal number of votes shall preside.

(4) Three commissioners, of whom two shall be full-time commissioners, shall form a quorum at any meeting of the Commission and any duly convened meeting of the Commission at which a quorum is present shall be competent to transact any business of the Commission and shall have and may exercise and perform all the powers, authorities, duties and functions of the Commission.

(5) In the event of an equality of votes at any meeting of the Commission, the person presiding at the meeting shall have, in addition to a deliberative vote, a second or casting vote.

(6) Subject to subsection (5), a decision of a majority of the members present at a meeting of the Commission at which a quorum is present shall be the decision of the Commission.

(7) The Commission shall cause a record of its decisions and full and accurate minutes of the proceedings at its meetings to be kept.

(8) No matter or thing done, and no contract entered into, by the Commission, and no matter or thing done by any commissioner or by any other person acting under the direction or as a delegate of the Commission shall, if the matter or thing was done, or the contract was entered into, bona fide for the purpose of executing this Act or any other

Act

*Public Transport Commission.*

Act conferring or imposing powers, authorities, duties or functions on the Commission, subject the commissioner or person so acting personally to any action, liability, claim or demand. No. 53, 1972

(9) Nothing in subsection (8) shall exempt any commissioner or other person from liability to be surcharged with the amount of any payment which is disallowed by the Auditor-General, and which that commissioner or other person authorised or joined in authorising.

**13.** (1) In this section, "former Commissioner" means the Commissioner for Railways or the Commissioner for Government Transport. Dissolution  
of Commis-  
sioner for  
Railways  
and Com-  
missioner  
for Govern-  
ment  
Transport.

(2) On the appointed day, each of the former Commissioners is hereby dissolved and each of the persons holding office as a former Commissioner shall cease to hold that office.

(3) On and from the appointed day—

- (a) all real and personal property and all right and interest therein and all management and control thereof that, immediately before that day, was vested in or belonged to either of the former Commissioners shall vest in and belong to the Commission;
- (b) all moneys and liquidated and unliquidated claims that, immediately before that day, were payable to or recoverable by either of the former Commissioners shall be moneys and liquidated and unliquidated claims payable to or recoverable by the Commission;
- (c) all proceedings commenced before that day by either of the former Commissioners and pending immediately before that day shall be deemed to be proceedings pending on that day by the Commission

and

*Public Transport Commission.*

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No. 53, 1972

and all proceedings so commenced by any person against either of the former Commissioners and pending immediately before that day shall be deemed to be proceedings pending on that day by that person against the Commission;

- (d) all contracts, agreements, arrangements and undertakings entered into with, and all securities lawfully given to or by, either of the former Commissioners and in force immediately before that day shall be deemed to be contracts, agreements, arrangements and undertakings entered into with and securities given to or by the Commission;
- (e) the Commission may, in addition to pursuing any other remedies or exercising any other powers that may be available to it, pursue the same remedies for the recovery of moneys and claims referred to in this subsection and for the prosecution of proceedings so referred to as either of the former Commissioners might have done but for the enactment of this Act;
- (f) the Commission may enforce and realise any security or charge existing immediately before that day in favour of either of the former Commissioners and may exercise any powers thereby conferred on either of the former Commissioners as if the security or charge were a security or charge in favour of the Commission;
- (g) all debts, moneys and claims, liquidated and unliquidated, that, immediately before that day, were due or payable by, or recoverable against, either of the former Commissioners shall be debts due by, moneys payable by and claims recoverable against, the Commission; and
- (h) all liquidated and unliquidated claims for which either of the former Commissioners would, but for the enactment of this Act, have been liable shall be liquidated and unliquidated claims for which the Commission shall be liable.

(4)

*Public Transport Commission.*

(4) Subject to this Act, a reference in any other Act No. 53, 1972 or in any regulation, by-law or other statutory instrument or in any other document, whether of the same or of a different kind, being a reference to, or a reference to be read, construed, deemed or taken to refer to, either of the former Commissioners shall be read and construed as a reference to the Commission.

(5) A reference in any other Act or in any regulation, by-law or other statutory instrument or in any other document whether of the same or of a different kind, to, or to be read, construed, deemed or taken to refer to, the person holding office as either of the former Commissioners shall be read and construed as a reference to a commissioner nominated by the Commission.

(6) Subject to this Act, any act, matter or thing done or omitted to be done before the appointed day by, to or in respect of either of the former Commissioners shall, to the extent that but for the enactment of this Act that act, matter or thing would on or after that day have had any force or effect or been in operation, be deemed to have been done or omitted to be done by, to or in respect of the Commission.

(7) No attornment to the Commission by a lessee from either of the former Commissioners shall be required.

**14.** (1) The sums to be authorised by any Act, passed after the appointed day, to be appropriated out of the Government Railways Fund, the Government Railways Renewals Fund, the Metropolitan Transport Trust General Fund and the Newcastle and District Transport Trust General Fund, and to be issued and applied for or towards the sub-headings of expenditure to be specified in that Act in respect of those Funds and that would, but for this Act, have been available for expenditure in connection with the functions of the Commissioner for Railways or the Commissioner for Government Transport shall be deemed to be sums authorised by that Act

Appropriated funds unexpended to be available for Commission.

to

*Public Transport Commission.*

No. 53, 1972 to be appropriated out of those Funds and to be issued and applied for or towards the corresponding sub-headings of expenditure in connection with the functions of the Commission.

(2) The sums to be authorised by any Act, passed after the appointed day, to be appropriated out of the General Loan Account and to be applied for the public works and services to be specified in that Act under the headings "Department of Railways" and "Department of Government Transport" and that would, but for this Act, have been available for expenditure in connection with the functions of the Department of Railways or the Department of Government Transport shall be deemed to be sums authorised by that Act to be appropriated out of that Account and to be applied for or towards the corresponding public works and services in connection with the functions of the Commission.

Commission to conduct investigation and to report to Minister. **15.** (1) As soon as practicable after the appointed day, the Commission shall cause an investigation to be made of the rail, omnibus or other transport services operated by it, or under its control, under the Government Railways Act, 1912, or the Transport Act, 1930, and of the ferry services operated by the Sydney Harbour Transport Board, or managed and operated by any person or body under an arrangement with that Board, under the Sydney Harbour Transport Act, 1951, and, not later than two years after that day or such further period as the Governor may determine shall furnish to the Minister a report of its investigation recommending the organisational, administrative or other changes or adjustments which, in its judgment, are necessary in the public interest for the purpose of integrating, co-ordinating or improving those services and the legislative or other measures it considers necessary to give effect to that recommendation.

(2) In so far as any such investigation relates to or affects any ferry service referred to in subsection (1), the Sydney Harbour Transport Board shall afford the Commission

all



*Public Transport Commission.*

all such assistance and shall make available to it all such information with respect to that service as the Commission may require. No. 53, 1972

**16.** The persons who, immediately before the appointed day, were officers of the Commissioner for Railways or the Commissioner for Government Transport shall, on that day, become and be officers of the Commission. Transfer of certain officers and employees.

**17.** (1) In this section, "superannuation scheme" means a scheme, fund or arrangement under which any superannuation or retirement benefits are provided and which is established by or under any Act. Preservation of rights of transferred officers and employees.

(2) Subject to subsections (3) and (6), a person who becomes an officer of the Commission under section 16 shall—

- (a) retain any rights and privileges accrued or accruing to him as an officer of the Commissioner for Railways or the Commissioner for Government Transport, as the case may be;
- (b) continue to contribute to any superannuation scheme to which he was a contributor immediately before the appointed day; and
- (c) be entitled to receive any deferred or extended leave and any payment, pension or gratuity,

as if he had continued to be an officer of the Commissioner for Railways or the Commissioner for Government Transport, as the case may be, during the period he is an officer of the Commission, and—

- (d) his service as an officer of the Commission shall be deemed to be service as an officer for the purpose of any law under which those rights or privileges accrued or were accruing, under which he continues so to contribute or by which that entitlement is conferred; and

(e)

*Public Transport Commission.*

No. 53, 1972

(e) he shall be deemed to be an officer, and the Commission shall be deemed to be his employer, for the purpose of the superannuation scheme to which he is entitled to contribute under this subsection.

(3) An officer of the Commission who, but for this subsection, would be entitled under subsection (2) to contribute to a superannuation scheme or to receive any payment, pension or gratuity under that scheme shall not be so entitled upon his becoming, while he is such an officer, a contributor to any other superannuation scheme, and the provisions of subsection (2) (e) cease to apply to or in respect of him and the Commission in any case where he becomes a contributor to such another superannuation scheme.

(4) Subsection (3) does not prevent the payment to an officer of the Commission upon his ceasing to be a contributor to a superannuation scheme of such amount as would have been payable to him if he had ceased, by reason of resignation, to be an officer for the purposes of that scheme.

(5) An officer of the Commission shall not, in respect of the same period of service, be entitled to claim a benefit under this Act and another Act.

(6) Where a condition of employment of any officer transferred to the service of the Commission by section 16 was, immediately before the appointed day, regulated by an award or industrial agreement, that condition shall continue to be so regulated until it is varied by an award by which the Commission is bound made by a court of competent jurisdiction, or that condition is regulated by an industrial agreement to which the Commission is a party.

Appoint-  
ment of  
officers and  
employees.

**18.** (1) Without limiting its powers under the Government Railways Act, 1912, or the Transport Act, 1930, the Commission may appoint and employ such officers and employees as are necessary for carrying out the provisions of this Act.

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*Public Transport Commission.*

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(2) Every officer or employee of the Commission No. 53, 1972 appointed and employed under subsection (1) shall, subject to the terms of his appointment, continue in the service of the Commission at the will of the Commission only.

(3) All officers and employees of the Commission appointed and employed under subsection (1) shall be subject to the sole control and governance of the Commission which may, where their salary or wages or conditions of employment is or are not fixed in accordance with the provisions of any other Act, fix the salary or wages payable to those officers and employees and their conditions of employment.

(4) Regulations may be made under this Act for or with respect to the conditions of employment of persons appointed and employed under subsection (1).

(5) The regulations made for the purposes of subsection (4)—

- (a) shall have effect subject to any award by which the Commission is bound made by a court of competent jurisdiction and to any industrial agreement to which the Commission is a party;
- (b) shall have effect notwithstanding the provisions of subsection (3); and
- (c) may provide for the appointment of an Appeals Board to hear and determine appeals by persons appointed and employed under subsection (1) in respect of such matters relating to their employment as may be specified in the regulations, and may provide for the decision of any such Appeals Board to be final.

(6) A person whose duties of employment are, in the opinion of the Commission, to be solely or principally concerned with the exercise or performance of the Commission's powers, authorities, duties or functions under either the Government Railways Act, 1912, or the Transport Act, 1930, shall not be appointed or employed under subsection (1).

(7)

*Public Transport Commission.*

No. 53, 1972

(7) A person shall not be appointed or employed under subsection (1) to any position in the service of the Commission if, in the opinion of the Commission, there is some person in the service of the Commission who is employed under the Government Railways Act, 1912, or the Transport Act, 1930, and who is suitable to be employed in that position.

Certain officers and employees to be subject to either Government Railways Act, 1912, or Transport Act, 1930.

**19. (1) Where—**

- (a) after the appointed day, an officer is appointed or employed under the Government Railways Act, 1912, by the Commission; or
- (b) an officer was transferred to the service of the Commission by section 16 and was, immediately before the appointed day, an officer of the Commissioner for Railways,

that officer shall be, or continue to be, as the case may be, subject to the provisions of the Government Railways Act, 1912, relating to officers.

**(2) Where—**

- (a) after the appointed day, an officer is appointed or employed under the Transport Act, 1930, by the Commission; or
- (b) an officer was transferred to the service of the Commission by section 16 and was, immediately before the appointed day, an officer of the Commissioner for Government Transport,

that officer shall be, or continue to be, as the case may be, subject to the provisions of the Transport Act, 1930, relating to officers.

Public Service Act, 1902, not to apply to officers or employees of Commission.

**20.** The Public Service Act, 1902, does not apply to the appointment or employment of any officer or employee of the Commission who became such an officer or employee on or after the appointed day.

**21.**

*Public Transport Commission.*

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**21.** (1) For the purposes of exercising and performing the powers, authorities, duties and functions conferred or imposed on the Commission by this or any other Act, the Commission may, with the approval of the Minister of the Department concerned and on such terms as may be arranged, make use of the facilities, or the services of any of the officers or employees, of any Government Department.

No. 53, 1972  
Commission may make use of facilities and employees of the Crown, etc.

(2) The Commission may for the like purpose with the approval of any other body constituted by or under an Act and on such terms as may be arranged, make use of the facilities, or the services of any of the officers, servants or employees, of that body.

**22.** Where any difference, whether or not arising out of the construction of this Act or any other Act, arises between the Commission and the Commissioner for Motor Transport, the Commissioner for Main Roads, the Commissioner of Police, the council of any city, municipality or shire, or any Government Department or body constituted by or under any Act with respect to the carrying out of the provisions of this Act or any other Act under which powers, authorities, duties or functions are conferred or imposed on the Commission, or any matter arising thereout, the difference shall be determined by the Governor or in such manner as the Governor directs.

Differences between authorities.

**23.** (1) The Commission may by instrument in writing delegate to any commissioner or the holder of any prescribed office the exercise or performance of such of the powers (other than this power of delegation), authorities, duties or functions conferred or imposed on the Commission by or under this or any other Act as may be specified in the instrument of delegation and may in like manner revoke wholly or in part any such delegation.

Delegation.

(2)

*Public Transport Commission.*

No. 53, 1972

(2) A power, authority, duty or function, the exercise or performance of which has been delegated under this section may, while the delegation remains unrevoked, be exercised or performed from time to time in accordance with the terms of the delegation.

(3) A delegation under this section may be made subject to such conditions or such limitations as to the exercise or performance of any of the powers, authorities, duties or functions delegated, or as to time or circumstances, as may be specified in the instrument of delegation.

(4) Notwithstanding any delegation made under this section, the Commission may continue to exercise or perform all or any of the powers, authorities, duties or functions delegated.

(5) Any act or thing done or suffered by a delegate while acting in the exercise of a delegation under this section shall have the same force or effect as if the act or thing done had been done or suffered by the Commission and shall be deemed to have been done or suffered by the Commission.

Accounts  
to be kept  
by Com-  
mission.

**24.** (1) The Commission shall cause to be kept, in accordance with the directions, if any, given to it by the Auditor-General, proper books of account relating to the assets and liabilities of the Commission and to the moneys received or expended by the Commission for the purpose of the exercise and performance of its powers, authorities, duties and functions under this or any other Act.

(2) This section does not apply so as to require the Commission to keep books of account relating to any matter in respect of which books of account are required to be kept by the Commission under any other Act.

25.

*Public Transport Commission.*

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**25.** (1) The accounts of the Commission shall be audited and reported upon by the Auditor-General who shall have, in respect thereof, all the powers conferred on him by any law for the time being in force relating to the audit of public accounts, and the Audit Act, 1902, shall apply to members of the Commission and to officers and employees employed in the administration of this Act and any other Act under which powers, authorities, duties or functions are conferred or imposed on the Commission in the same manner as it applies to accounting officers of public departments.

No. 53, 1972  
Audit.

(2) The Auditor-General shall report to the Commission and the Minister—

(a) whether or not in his opinion—

- (i) due diligence and care have been shown in the collection and banking of moneys payable to the Commission;
- (ii) expenditure incurred has been duly authorised, vouched and supervised; and
- (iii) any of the moneys or other property of the Commission or over which it has control have or has been misappropriated or improperly or irregularly dealt with; and

(b) as to any other matters which in his judgment call for special notice or which are prescribed.

(3) Towards defraying the costs and expenses of any such audit the Commission shall pay to the Treasurer for credit of the Consolidated Revenue Fund such sums, at such periods, as the Treasurer may decide.

(4) This section does not apply so as to require the Auditor-General to audit and report upon any accounts of the Commission that he is required to audit and report upon under any other Act.

*Public Transport Commission.*

**No. 53, 1972** **26.** In any legal proceedings by or against the Commission no proof shall be required (until evidence is given to the contrary) of—

Proof of certain matters not required.

- (a) the constitution of the Commission;
- (b) any resolution of the Commission;
- (c) the appointment of any member or any officer or employee of the Commission; or
- (d) the presence of a quorum at any meeting of the Commission.

Common seal.

**27.** The common seal of the Commission shall be kept in the custody of the Chief Commissioner and shall only be affixed to any instrument or document in the presence of an officer of the Commission authorised in that behalf by the Commission with an attestation by the signature of that officer of the fact of the affixing of the seal.

Authentica-  
tion of  
certain  
documents  
of  
Commission.

**28.** Every summons, process, demand, order, notice, statement, direction or document requiring authentication by the Commission may be sufficiently authenticated without the seal of the Commission if signed by the Secretary or by any other officer or employee authorised to do so by the Commission.

Notice of  
action.

**29.** (1) Proceedings in respect of any damage or injury to a person or to property shall not be commenced against the Commission or any member, officer or employee of the Commission or any person acting in its or his aid for anything done or intended to be done or omitted to be done under this Act, until the expiration of one month after notice in writing has been served on the Commission, member, officer, employee or person as provided in this section.



*Public Transport Commission.*

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(2) The notice shall state—

No. 53, 1972

- (a) the cause of action;
- (b) the time and place at which the damage or injury was sustained; and
- (c) the name and place of abode or business of the intended plaintiff and of his attorney, if any, in the case.

(3) In the case of damage to property, any person who produces on demand his authority from the Commission shall be permitted to inspect the property damaged, and all facilities and information necessary to ascertain fully the value of the property damaged and the amount of money, if any, expended in repairing the damage shall be given to him.

(4) At the trial of any such action the plaintiff shall not be permitted to go into evidence of any cause of action that is not stated in the notice, and unless the notice has been served the plaintiff shall not be entitled to maintain the action, but at any stage of the proceedings the court in which the action is pending may, if the court deems it to be just or reasonable in the circumstances so to do—

- (a) amend any defect in the notice on such terms and conditions, if any, as the court may fix; or
- (b) direct that any non-compliance or insufficient compliance with this section shall not be a bar to the maintenance of the action.

(5) Every such action shall be commenced within the period (in this section referred to as the “prescribed period”) of twelve months next after the cause of action arises but, where an application is made to the Supreme Court for an extension of the prescribed period, that court may, if it is satisfied that sufficient cause has been shown or that, having regard to all the circumstances of the case, it would be reasonable so to do, make an order for extension of the prescribed period for such further period and subject to such terms and conditions, if any, as may be set out in the order.

(6)

*Public Transport Commission.*

**No. 53, 1972** (6) Any such application for extension may be made either within the prescribed period or at any time within twelve months thereafter.

(7) The Commission or any member, officer, employee or person to whom any such notice of action is given, may tender amends to the plaintiff, his attorney or agent at any time within one month after service of notice of action, and if the tender is not accepted may plead the tender as a defence to the action.

(8) This section does not apply to or in respect of any proceedings arising out of any thing done or intended to be done or omitted to be done under the Government Railways Act, 1912, or the Transport Act, 1930.

**Recovery of charges, &c. by Commission.** **30.** Any charge, fee or money due to the Commission, or to the Crown, in respect of any of the activities of the Commission under the provisions of this or any other Act or any regulation or by-law may be recovered by the Commission as a debt in a court of competent jurisdiction.

**Annual report.** **31.** (1) As soon as practicable after the thirtieth day of June in each year the Commission shall prepare and submit to the Minister a report of its work and activities for the twelve months preceding that date.

(2) The Minister shall lay the report or cause it to be laid before both Houses of Parliament as soon as practicable after the receipt by him of the report.

(3) A report under subsection (1) may include any report required to be made annually by the Commission under any other Act.

(4) In so far as a report under subsection (1) includes any matter that relates to a period in respect of which a report is required to be made annually by the Commission

under

*Public Transport Commission.*

under any other Act, the provision of that other Act which requires the report to be made in respect of that period has no operation. No. 53, 1972

**32.** The Governor may make regulations, not inconsistent with this Act, for or with respect to any matter which by this Act is required or permitted to be prescribed or which is necessary or convenient to be prescribed for carrying out or giving effect to this Act. Regulations.

**33.** The Local Government Act, 1919, is amended by omitting from section 270D (2) (d) the words and figures "for which a Transport Trust has been established under the Transport Act, 1930, as amended by subsequent Acts, the person for the time being holding the office of or duly acting as Commissioner for Government Transport, or an officer of the Department of Government Transport nominated by him" and by inserting instead the words ", within the meaning of the Transport Act, 1930, and within which a motor omnibus service operated by the Public Transport Commission of New South Wales is operated, a commissioner of that Commission nominated by that Commission or an officer of that Commission so nominated". Amendment of Act No. 41, 1919. Sec. 270D. (Constitution of parking advisory committees.)

**34.** The Sydney Harbour Transport Act, 1951, is amended— Amendment of Act No. 11, 1951.

- (a) by omitting from section 4 (2) (a) the words "Commissioner for Government Transport" and by inserting instead the words "Chief Commissioner of the Public Transport Commission of New South Wales"; Sec. 4. (Constitution of Board.)
- (b) by omitting from section 4 (3) the words "The Commissioner for Government Transport" and by inserting instead the words "The Chief Commissioner of the Public Transport Commission of New South Wales".

**35.**

*Public Transport Commission.*

No. 53, 1972 **35.** The State Planning Authority Act, 1963, is amended  
 Amendment of Act No. 59, 1963. by omitting from section 4 (1) (c) (xv) the words "the  
 Sec. 4. person for the time being holding the office of Commissioner  
 (Constitution of Authority.) for Railways" and by inserting instead the words "a person  
 nominated by the Minister administering the Public Transport  
 Commission Act, 1972, being a person who is an officer of a  
 Government Department administered by that Minister or an  
 officer or member of a statutory body administered by that  
 Minister".

Saving. **36.** The continuity of any body constituted by or under  
 any Act amended by section 33, 34 or 35 is not prejudiced or  
 affected by the operation of any of those sections.

Former Commissioner ceasing to hold office entitled to compensation and superannuation or retirement benefits. **37.** A person who, immediately before the appointed day,  
 held office as the Commissioner for Railways or the Commissioner for Government Transport shall, if he is not appointed  
 as a member of the Commission as first constituted under this Act, be paid, as a gratuity, such compensation as he would  
 have been entitled to had his services as that Commissioner been dispensed with otherwise than according to law, and shall  
 be entitled to receive any payment, pension or gratuity under any scheme providing superannuation or retiring benefits that  
 he would have been entitled to receive had he retired from his office on the appointed day.

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STANDARD