

No. , 1972.

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## A BILL

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.

[MR MORRIS—26 *September*, 1972.]

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**B**E 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  
5 follows :—

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

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

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

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

15 "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;

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

25 "Commissioner for Government Transport" means the  
Commissioner for Government Transport consti-  
tuted 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;

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“Commissioner for Railways” means the Commissioner for Railways constituted as a body corporate under the Transport (Division of Functions) Act, 1932;

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

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

10 “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).

15 **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—

20 (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

25 (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.

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(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.

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

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. Provisions relating to commissioners generally.

(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.

15    (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.

20    (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 25 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

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(b) in the case of a re-appointment as a nominated commissioner, for such term not exceeding three years,

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

5 (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.

10 (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.

15 **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.

Appoint-  
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sioners.

25 (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  
30 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).

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(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  
5 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,  
10 as the case may be.

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

- (a) if he dies;
- 15 (b) if, being a full-time commissioner, he engages in any paid employment outside the duties of his office;
- 20 (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;
- 25 (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  
30 of those meetings;
- 35 (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;

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- 5 (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;
- 10 (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;
- 15 (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—
- 20 (i) he fails, as soon as practicable after the commencement of the meeting, to disclose to the meeting his interest in; or
- 25 (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—
- 30 (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

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

5 (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.

10 (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—

15 (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

20 (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—

25 (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

30 (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.



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**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.

Preservation of rights of commissioners previously public servants, etc.

5 (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;
- 10 (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;
- 15 (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—

- 20 (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
- 25 (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—

- 30 (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

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(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.

25 **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;

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

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

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“retiring age” means—

- 5 (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
- 10 (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.

15 (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—

- 20 (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
- 25 (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.

30 **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 Commission.

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(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 10 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 15 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 20 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 25 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 30 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

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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.

5 (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.

10 **13.** (1) In this section, "former Commissioner" means the Commissioner for Railways or the Commissioner for Government Transport.

Dissolution of Commissioner for Railways and Commissioner for Government Transport.

(2) On the appointed day, each of the former Commissioners is hereby dissolved and each of the persons holding 15 office as a former Commissioner shall cease to hold that office.

(3) On and from the appointed day—

20 (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;

25 (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;

30 (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

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- 5 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;
- 10 (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;
- 15 (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;
- 20 (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;
- 25 (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
- 30 (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.
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(4) Subject to this Act, 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, being a reference to, or a reference to be read, construed, 5 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 10 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 15 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 20 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 25 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 30 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.

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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.

- 5 (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  
10 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  
15 for or towards the corresponding public works and services in connection with the functions of the Commission.

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  
20 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,  
25 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  
30 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.

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

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all such assistance and shall make available to it all such information with respect to that service as the Commission may require.

5 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.

10 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—

- 15 (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;
- 20 (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,

25 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—

- 30 (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

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(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.

5 (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  
10 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.

15 (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.

20 (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  
25 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  
30 agreement to which the Commission is a party.

**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  
35 this Act.

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(2) Every officer or employee of the Commission 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.

5 (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  
10 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).

15 (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

25 (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.

30 (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,  
35 shall not be appointed or employed under subsection (1).

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5 (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.

19. (1) Where—

- 10 (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,

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

15 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—

- 20 (a) after the appointed day, an officer is appointed or employed under the Transport Act, 1930, by the Commission; or
- 25 (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.

20. The Public Service Act, 1902, does not apply to the 30 appointment or employment of any officer or employee of the Commission who became such an officer or employee on or after the appointed day.

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

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.

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(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.

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.

*Public Transport Commission.*

25. (1) The accounts of the Commission shall be audited <sup>Audit.</sup> 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  
5 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  
10 or imposed on the Commission in the same manner as it applies to accounting officers of public departments.

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

(a) whether or not in his opinion—

15 (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

20 (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.

25 (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.

30 (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.

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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;
- 5 (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.

10 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 Common seal.

15 of the fact of the affixing of the seal.

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 Authentication of certain documents of Commission.

20 other officer or employee authorised to do so by the Commission.

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. Notice of action.

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(2) The notice shall state—

- (a) the cause of action;
- (b) the time and place at which the damage or injury was sustained; and
- 5 (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  
10 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  
15 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  
20 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  
25 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  
30 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  
35 terms and conditions, if any, as may be set out in the order.

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*Public Transport Commission.*

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(6) Any such application for extension may be made either within the prescribed period or at any time within twelve months thereafter.

5 (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.

10 (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.

15 **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. Recovery of charges, &c. by Commission.

20 **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. Annual report.

25 (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.

30 (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.

5 **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.

10 **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.

25 (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.)

30 (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.**

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- 35.** The State Planning Authority Act, 1963, is amended by omitting from section 4 (1) (c) (xv) the words "the person for the time being holding the office of Commissioner 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".
- 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.
- 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.

Amendment  
of Act No.  
59, 1963.  
Sec. 4.  
(Constitu-  
tion of  
Authority.)

Saving.

Former  
Commis-  
sioner  
ceasing to  
hold office  
entitled to  
compensa-  
tion and  
superannua-  
tion or  
retirement  
benefits.

BY AUTHORITY

V. C. N. BLIGHT, GOVERNMENT PRINTER, NEW SOUTH WALES—1972

[25c]

## PUBLIC TRANSPORT COMMISSION BILL, 1972

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### EXPLANATORY NOTE

THE object of this Bill is to constitute the Public Transport Commission of New South Wales (hereinafter referred to as the "Public Transport Commission") and to confer and impose on it the powers, authorities, duties and functions of the Commissioner for Railways and the Commissioner for Government Transport and certain other powers, authorities, duties and functions.

The Bill—

- (a) provides that the Public Transport Commission will be a body corporate and will consist of five commissioners appointed by the Governor, two of whom are to be appointed on the nomination of the Minister;
- (b) provides that the commissioners, other than the nominated commissioners, shall devote the whole of their time to the duties of their office;
- (c) makes provision for the Minister to appoint persons to act in the place of any commissioner who is absent from his office through illness or any other cause;
- (d) requires the Commission to 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 or by arrangement with the Sydney Harbour Transport Board and within two years after the commencement of the Act or such further period as the Governor may determine to furnish to the Minister a report of its investigation recommending the organisational, administrative or other changes and adjustments which it considers to be necessary for the integrating, co-ordinating or improving of those services and the legislative and other measures which it considers necessary to give effect to the recommendation;
- (e) transfers all officers of the Commissioner for Railways and the Commissioner for Government Transport to the service of the Public Transport Commission, subject to the preservation of the rights attaching to them under their existing employment;
- (f) empowers the Public Transport Commission to appoint and employ officers and employees in certain limited circumstances;
- (g) amends the Local Government Act, 1919, with respect to the constitution of Parking Advisory Committees, the Sydney Harbour Transport Act, 1951, with respect to the constitution of the Sydney Harbour Transport Board and the State Planning Authority Act, 1963, with respect to the constitution of the State Planning Authority, these amendments being rendered necessary by the substitution of the Public Transport Commission for the Commissioner for Railways and the Commissioner for Government Transport;

- (h) makes certain provisions with respect to the payment of a gratuity to, and with respect to superannuation rights of, the persons who will be deprived by the Act of their offices as Commissioner for Railways and Commissioner for Government Transport; and
- (i) makes other provisions of a minor, ancillary or consequential character.

PROOF

No. , 1972.

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## A BILL

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.

[MR MORRIS—26 September, 1972.]

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BE

*Public Transport Commission.*

**B**E 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:—

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

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. Commence-ment.

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

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

15 "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;

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

25 "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



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*Public Transport Commission.*

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“Commissioner for Railways” means the Commissioner for Railways constituted as a body corporate under the Transport (Division of Functions) Act, 1932;

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

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

10 “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).

15 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—

20 (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

25 (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)

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*Public Transport Commission.*

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(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.

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

10     **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. Provisions relating to commissioners generally.

(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.

15     (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.

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

25     (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)

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*Public Transport Commission.*

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- (b) in the case of a re-appointment as a nominated commissioner, for such term not exceeding three years,  
as may be specified in the instrument of his re-appointment.
- 5 (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.
- 10 (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.
- 15 **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.
- 20 Appointment of substitutes to act during absence of commissioners.
- 25 (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
- 30 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)

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*Public Transport Commission.*

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(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  
5 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,  
10 as the case may be.

9. (1) A commissioner shall be deemed to have vacated <sup>Casual</sup> his office— <sup>vacancy.</sup>

- (a) if he dies;
- 15 (b) if, being a full-time commissioner, he engages in any paid employment outside the duties of his office;
- 20 (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;
- 25 (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  
30 of those meetings;
- 35 (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)

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- 5 (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;
- 10 (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;
- 15 (h) if he resigns his office by writing under his hand addressed to the Governor and the Governor accepts the resignation;
- 20 (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—
- 25 (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—
- 30 (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,

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

5 (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 10 have vacated his office on the day on which he attains the age of sixty-five years.

(3) If—

15 (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

20 (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—

25 (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

30 (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.

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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.

Preservation of rights of commissioners previously public servants, etc.

5 (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;
- 10 (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;
- 15 (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—

- 20 (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
- 25 (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—

- 30 (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)

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5 (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.

10 (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 15 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 20 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.

25 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;

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

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

“retiring



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*Public Transport Commission.*

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“retiring age” means—

5 (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

10 (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.

15 (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—

20 (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

25 (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.

30 **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 Commission.**

(2)

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*Public Transport Commission.*

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(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

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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.

5 (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.

10 **13.** (1) In this section, "former Commissioner" means the Commissioner for Railways or the Commissioner for Government Transport.

Dissolution of Commissioner for Railways and Commissioner for Government 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—

20 (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;

25 (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;

30 (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

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*Public Transport Commission.*

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- 5 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;
- 10 (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;
- 15 (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;
- 20 (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;
- 25 (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
- 30 (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.

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*Public Transport Commission.*

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(4) Subject to this Act, 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, being a reference to, or a reference to be read, construed, 5 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 10 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 15 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 20 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 25 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 30 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 un-expended to be available for Commission.

to

*Public Transport Commission.*

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.

- 5 (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  
10 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  
15 for or towards the corresponding public works and services in connection with the functions of the Commission.

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  
20 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,  
25 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  
30 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.

Commission  
to conduct  
investigation  
and to  
report to  
Minister.

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

all

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*Public Transport Commission.*

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all such assistance and shall make available to it all such information with respect to that service as the Commission may require.

5 **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.

10 **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 (7), a person who becomes an officer of the Commission under section 16 shall—

- 15 (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;
- 20 (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,

25 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—

- 30 (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

80—B

(e)

*Public Transport Commission.*

(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.

5 (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  
10 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.

15 (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.

20 (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  
25 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  
30 agreement to which the Commission is a party.

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  
35 this Act.

Appoint-  
ment of  
officers and  
employees.

(2)



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*Public Transport Commission.*

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(2) Every officer or employee of the Commission 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.

5 (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  
10 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).

15 (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;

20 (b) shall have effect notwithstanding the provisions of subsection (3); and

25 (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.

30 (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,  
35 shall not be appointed or employed under subsection (1).

(7)

*Public Transport Commission.*

(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.

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,

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

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 Commission 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.

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.

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

21.

*Public Transport Commission.*

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

(2) The Commission may for the like purpose with  
the approval of any other body constituted by or under an  
10 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 Differences  
the construction of this Act or any other Act, arises between between  
15 the Commission and the Commissioner for Motor Transport, authorities.  
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  
20 this Act or any other Act under which powers, authorities,  
duties or functions are conferred or imposed on the Commis-  
sion, or any matter arising thereout, the difference shall be  
determined by the Governor or in such manner as the  
Governor directs.

25 23. (1) The Commission may by instrument in writing Delega-  
delegate to any commissioner or the holder of any prescribed tion.  
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  
30 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.

(2)

*Public Transport Commission.*

(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.

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.

*Public Transport Commission.*

25. (1) The accounts of the Commission shall be audited <sup>Audit.</sup> 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  
5 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  
10 or imposed on the Commission in the same manner as it applies to accounting officers of public departments.

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

- (a) whether or not in his opinion—
- 15 (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
  - 20 (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.

25 (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.

30 (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.*

**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;
- 5** (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.

**10** **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 Common seal.

**15** of the fact of the affixing of the seal.

**20** **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. Authentication of certain documents of Commission.

**25** **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. Notice of action.

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*Public Transport Commission.*

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(2) The notice shall state—

- (a) the cause of action;
- (b) the time and place at which the damage or injury was sustained; and
- 5 (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  
10 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  
15 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  
20 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  
25 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  
30 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  
35 terms and conditions, if any, as may be set out in the order.

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*Public Transport Commission.*

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(6) Any such application for extension may be made either within the prescribed period or at any time within twelve months thereafter.

5 (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.

10 (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.

15 **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. Recovery of charges, &c. by Commission.

20 **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. Annual report.

25 (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.

30 (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.

5 **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.**

10 **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 15 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 20 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. Sec. 4. (Constitution of Board.)**

25 (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";

30 (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".

*Public Transport Commission.*

5 **35.** The State Planning Authority Act, 1963, is amended by omitting from section 4 (1) (c) (xv) the words "the person for the time being holding the office of Commissioner 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".

Amendment of Act No. 59, 1963. Sec. 4. (Constitution of Authority.)

10 **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.

Saving.

15 **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  
20 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.

Former Commissioner ceasing to hold office entitled to compensation and superannuation or retirement benefits.

**BY AUTHORITY**

V. C. N. BLIGHT, GOVERNMENT PRINTER, NEW SOUTH WALES—1972

PUBLIC TRANSPORT COMMISSION ACT, 1972,  
NO. 53

Reprinted under the Acts Reprinting Act, 1972,  
as at 18th May, 1978.

Amendments made by the following Act(s)  
are not included in the reprint:-

Public Transport Commission (Financial  
Accommodation) Amendment Act, 1978,  
No. 117

Miscellaneous Acts (Planning) Repeal and  
Amendment Act, 1979, No. 205

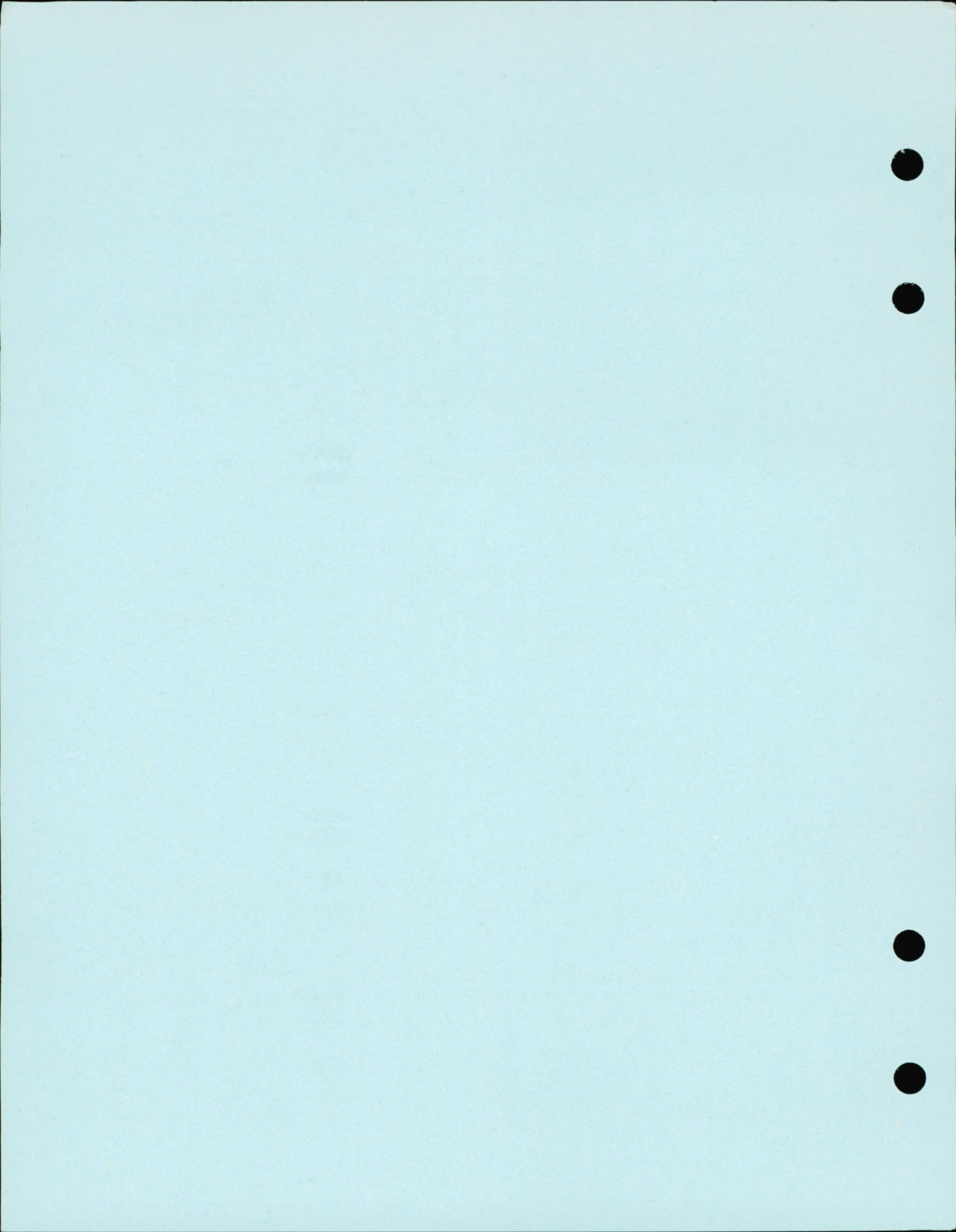
Public Transport Commission (Loans) Amendment  
Act, 1980, No. 59

Details of Amendments

s. 14AA	Ins.	No. 117,	1978,	s.	2(a)
s. 14B	Am.	" "	" "	"	2(b)
ss. 14IA-					
14IE	Ins.	" 59,	1980,	"	2
s. 35	Rep.	" 205,	1979,	Sch.	1

The Act is to be wholly repealed, on 1st  
July, 1980, by the Transport Authorities  
Act, 1980, No. 103, Sch. 7.

Note. Amendments are listed above irrespective  
of whether they are in force at the date of issue  
of this sheet.



**PUBLIC TRANSPORT COMMISSION ACT, 1972, No. 53**

Reprinted under the Acts Reprinting Act, 1972

[Reprinted as at 18th May, 1978]

**New South Wales**



ANNO VICESIMO PRIMO

**ELIZABETHÆ II REGINÆ**

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Act No. 53, 1972 (1), as amended by Act No. 32, 1974 (2); Act No. 81, 1974 (3); Act No. 58, 1975 (4); Act No. 4, 1976 (5); Act No. 30, 1976 (6); Act No. 6, 1977 (7); and Act No. 19, 1977 (8).

**Note.**—This Act is reprinted with the omission of certain amending provisions authorised to be omitted under sec. 6 of the Acts Reprinting Act, 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.

P45616A—1

(1) Public Transport Commission Act, 1972, No. 53. Assented to, 17th October, 1972. Date of commencement, 20th October, 1972, sec. 2 and Gazette No. 110 of 20th October, 1972, p. 4115.

(2) Public Transport Commission (Amendment) Act, 1974, No. 32. Assented to, 19th April, 1974.

(3) Public Transport Commission and Sydney Harbour Transport (Amendment) Act, 1974, No. 81. Assented to, 27th November, 1974.

(4) Public Transport Commission (Amendment) Act, 1975, No. 58. Assented to, 9th October, 1975.

(Reference notes continued on page 2.)

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*Public Transport Commission.*

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**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 :—

**PART I.**

**PRELIMINARY.**

New heading added,  
Act No. 6,  
1977, Sch. 1  
(1).

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.

Division of  
Act.  
New section  
added,  
Act No. 6,  
1977, Sch. 1  
(2).

**2A.** This Act is divided as follows :—

**PART I.—PRELIMINARY—ss. 1–3.**

**PART II.—THE COMMISSION—ss. 4–21.**

**PART III.—GENERAL—ss. 21A–37.**

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;

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(5) Statutory and Other Offices Remuneration Act, 1975 (1976 No. 4). Assented to, 7th January, 1976. Date of commencement of sec. 28 (1) and Schedule 5, 2nd February, 1976, sec. 2 (2) and Gazette No. 15 of 30th January, 1976, p. 398.

(6) Public Transport Commission (Amendment) Act, 1976, No. 30. Assented to, 1st April, 1976.

(7) Public Transport Commission (Amendment) Act, 1977, No. 6. Assented to, 11th March, 1977.

(8) Notice of Action and Other Privileges Abolition Act, 1977, No. 19. Assented to, 24th March, 1977. Date of commencement, 19th August, 1977, sec. 2 and Gazette No. 92 of 19th August, 1977, p. 3541.

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*Public Transport Commission.*

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“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 and the Deputy Chief Commissioner, if any; Amended, Act No. 81, 1974, s. 2 (a) (i).

“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 for Railways” means the Commissioner for Railways constituted as a body corporate under the Transport (Division of Functions) Act, 1932;

“Deputy Chief Commissioner” means the person, if any, appointed under this Act as the Deputy Chief Commissioner; New definition added, Act No. 81, 1974, s. 2 (a) (ii).

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

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

“regulations” means regulations made under this Act; New definition added, Act No. 32, 1974, s. 2 (a).

“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).

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*Public Transport Commission.*


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**New heading added, Act No. 6, 1977, Sch. 1 (3).**

## PART II.

## THE COMMISSION.

Constitution of Commission.

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

(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.

Appointment of commissioners.

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

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

(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 and Deputy Chief Commissioner.

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

**New subsection added, Act No. 81, 1974, s. 2 (b).**

(2) One of the full-time commissioners, other than the Chief Commissioner, may be appointed by the Governor as Deputy Chief Commissioner.



*Public Transport Commission.*

(3) The Deputy Chief Commissioner shall, while the Chief Commissioner is from time to time absent from his office through illness or any other cause, act in the office of the Chief Commissioner and shall while so acting be deemed to be the Chief Commissioner and shall have the immunities, powers, authorities, duties and functions of the Chief Commissioner.

New subsection added, Act No. 81, 1974, s. 2 (b).

7. (1) A full-time commissioner shall devote the whole of his time to the duties of his office.

Provisions relating to commissioners generally.

Amended, Act No. 4, 1976, Sch. 5.

(1A) A full-time commissioner is entitled to be paid—

New subsection added, Act No. 4, 1976, Sch. 5.

- (a) remuneration in accordance with the Statutory and Other Offices Remuneration Act, 1975; and
- (b) such travelling and subsistence allowances as the Minister 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 (including travelling and subsistence allowances) as the Minister may from time to time determine in respect of him.

Amended, Act No. 4, 1976, Sch. 5.

(4A) The office of a nominated commissioner shall, for the purposes of any Act, be deemed not to be an office or place of profit under the Crown.

New subsection added, Act No. 58, 1975, s. 2.

(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.

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(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) in the case of a re-appointment as a nominated commissioner, for such term not exceeding three years,

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

**New subsection added,  
Act No. 30,  
1976, s. 2  
(a) (i).**

(6A) The Governor may at any time by instrument in writing cancel the balance of the term of office of a full-time commissioner and by the same instrument re-appoint him as a full-time commissioner without any interruption of service for any term for which he could have been re-appointed had his term of office expired.

**Amended,  
Act No. 30,  
1976, s. 2  
(a) (ii).**

(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 any term for which he could have been appointed had his predecessor's term of office expired.

(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.

**Appointment of  
substitutes  
to act  
during  
absence of  
commissioners.**

**Amended,  
Act No. 81,  
1974, s. 2  
(c) (i) (ii).**

**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 the Deputy Chief Commissioner, if any, or of a nominated commissioner while that commissioner is from time to time absent from his office through illness or any other cause, 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.

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(2) If a Deputy Chief Commissioner has not been appointed, 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.

Amended,  
Act No. 81,  
1974, s. 2  
(c) (iii).

(2A) A person appointed under subsection (2) shall cease to act in the office of the Chief Commissioner upon the appointment of a Deputy Chief Commissioner.

New subsection added  
Act No. 81,  
1974, s. 2  
(c) (iv).

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

(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 the Deputy Chief Commissioner or a commissioner to act in the office of the Chief Commissioner, and all acts or things done or omitted by the person, Deputy Chief Commissioner 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.

Amended,  
Act No. 81,  
1974, s. 2  
(c) (v) (vi).

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

Casual  
vacancy.

- (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;

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Amended,  
Act No. 4,  
1976, Sch. 5.

- (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 remuneration or allowances as a commissioner, or of his estate, for their benefit;
- (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;
- (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;

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(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, 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

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- (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.

Preservation of rights of commissioners previously public servants, etc.

**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.

(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;

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- (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) 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.

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

Repealed, Act No. 30, 1976, s. 2 (b) (i).

**11. (1) In this section—**

“officer or employee of a prescribed authority” \* \*

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

Amended, Act No. 30, 1976, s. 2 (b) (ii) (iii).

“retiring age” means—

- (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, a member, officer or employee of a prescribed authority—the age at which members, officers or employees, as the case may be, (being members, 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.

Amended, Act No. 30, 1976, s. 2 (b) (iv)-(vi).

(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;



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- (c) an officer or employee of some other prescribed authority—to some office in the service of that prescribed authority; or
- (d) a member of a prescribed authority—to some office in the service of the Government,

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 Commission.

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

(3) \* \* \* \* \*

Repealed,  
Act No. 81,  
1974, s. 2  
(d).

(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.

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(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 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.

(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.

(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 all proceedings

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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.

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Amended,  
Act No. 81,  
1974, s. 2  
(e) (i).

(4) Subject to this Act, 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, being a reference to, or a reference to be read or construed as a reference to, or deemed or taken to refer to, either of the former Commissioners shall be read and construed as a reference to the Commission.

Amended,  
Act No. 81,  
1974, s. 2  
(e) (ii).

(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 or construed as a reference to, or 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.

Dissolution  
of Sydney  
Harbour  
Transport  
Board.  
New section  
added,  
Act No. 81,  
1974, s. 2  
(f).

**13A.** (1) In this section—

“Board” means the Sydney Harbour Transport Board constituted under the Sydney Harbour Transport Act, 1951;

“former Commissioner” has the meaning ascribed thereto in section 13 (1).

(2) Section 13, other than section 13 (1) and (5), applies to and in respect of—

(a) the Board in the same way as it applies to and in respect of each of the former Commissioners; and

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- (b) each of the persons holding office as a member of the Board in the same way as it applies to and in respect of each of the persons holding office as a former Commissioner.

(3) In applying the provisions of section 13, other than section 13 (1) and (5), in accordance with subsection (2), "appointed day" means 1st December, 1974.

(4) On and from 1st December, 1974, 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—

- (a) to a member of the Board, otherwise than as the chairman of the Board, shall be read and construed as a reference to a commissioner; or
- (b) to the chairman of the Board shall be read and construed as a reference to the Chief Commissioner.

**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 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.

Appropriated funds un-expended to be available for 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"

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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.

Temporary accommodation.  
New section added, Act No. 32, 1974, s. 2 (b).

**14A.** The Treasurer may advance such money to the Commission, upon such terms and conditions as to repayment and interest, as may be agreed upon.

Purposes for which money may be borrowed.  
New section added, Act No. 32, 1974, s. 2 (b).

**14B.** The Commission may from time to time with the concurrence of the Treasurer and the approval of the Governor borrow money for—

- (a) the purpose of carrying out and performing any of its responsibilities, powers, authorities, duties and functions;
- (b) the renewal of loans;
- (c) the discharge or partial discharge of any loan or any indebtedness to the Treasurer; or
- (d) any other purpose of this Act or any other Act which confers or imposes upon the Commission any responsibilities, powers, authorities, duties or functions.

Reserves for repayments.  
New section added, Act No. 32, 1974, s. 2 (b).

**14c.** (1) The Commission shall establish a reserve for loan repayment fund in respect of each loan or renewal loan raised by the Commission.

(2) The Commission shall during each year transfer to each such fund from the revenue of the Commission a sum not less than the sum that the Commission in its application for approval of the loan specified that it proposed to transfer to that fund.

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(3) Money held as a reserve for loan repayment may be invested in Government securities of the Commonwealth or of the State of New South Wales, or in debentures, bonds, inscribed stock or other prescribed securities in any loan of the Commission, or in any securities guaranteed by the Government of that State, or in such other securities as the Governor may approve or as may be prescribed, in each case at their current market price.

(4) Any interest or profits realised on any such investments shall be added to and form part of the reserve for loan repayment fund from which the investments were made.

(5) All money paid into the reserve for loan repayment fund in respect of any loan or renewal loan may be applied in or towards repayment of any other loan or renewal loan but may not be applied for any other purpose until the loan or renewal loan in respect of which the fund has been established has been repaid.

(6) Where the Commission decides to cancel debentures, bonds, inscribed stock or other prescribed securities purchased from the reserve for repayment of the loan for which they were issued, the Commission shall, in addition to the sum otherwise payable to the reserve for repayment of that loan and subject to any agreement to which it is a party whereby it undertakes to pay interest at a higher rate to that reserve, pay to that reserve interest at the rate of four and one-half per centum per annum on the face value of the cancelled securities from the date of their cancellation until the maturity of the loan.

(7) If, after a loan has been repaid, there remains in the reserve for repayment of that loan any balance, that balance shall form part of the general funds of the Commission.

(8) A reserve for loan repayment fund shall not be subject to seizure in satisfaction of any debt other than the loan in respect of which the reserve was created.

(9) This section shall not apply to any loan to be repaid by instalments at intervals of one year or less.

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Debentures,  
etc.  
New section  
added,  
Act No. 32,  
1974, s. 2  
(b).

**14D.** (1) For securing the repayment of the principal and interest on any money borrowed, the Commission may as provided by the regulations issue debentures, bonds, inscribed stock or other prescribed securities.

(2) Every such debenture or bond and every coupon originally annexed to the debenture or bond and whether separated therefrom or not shall be transferable by simple delivery.

(3) Inscribed stock shall be transferable in the books of the Commission in accordance with the regulations.

(4) Debentures, bonds, inscribed stock or prescribed securities issued under this Act shall as regards both the issue and transfer thereof for full consideration or money or money's worth be deemed to be included in the general exemptions from stamp duty under Part III of the Stamp Duties Act, 1920, contained in the Second Schedule to that Act.

(5) The holder of a coupon originally annexed to a debenture or bond and whether separated therefrom or not shall be entitled to receive payment from the Commission of the interest specified in the coupon upon its presentation on or after the date when, and at the place where, the interest is payable.

(6) The due repayment of any loan in respect of which debentures, bonds, stock or any other prescribed securities have been issued by the Commission, and the interest thereon, shall be a charge upon the income and revenue of the Commission from whatever source arising and is hereby guaranteed by the Government.

(7) Any liability arising under the guarantee given by subsection (6) shall be discharged out of money provided by Parliament.

(8) The charge created by subsection (6) shall not prejudice or affect any power of the Commission to sell, convey, lease or otherwise deal with, free of the charge, any property vested in it.



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**14E.** (1) Any trustee, unless expressly forbidden by any instrument creating the trust, may invest any trust money in his hands in stock inscribed by the Commission, and the investment shall be deemed to be an investment authorised by the Trustee Act, 1925.

Trustees.  
New section  
added,  
Act No. 32,  
1974, s. 2  
(b).

(2) Any debenture issued or stock inscribed by the Commission shall be a lawful investment for any money which any company, council or body corporate incorporated by any Act is authorised or directed to invest in addition to any other investment expressly provided for the investment of that money.

(3) No notice of any express, implied or constructive trust shall be received by the Commission or by any servant of the Commission in relation to any debenture or coupon issued or stock inscribed by the Commission.

**14F.** (1) If any debenture or bond issued by the Commission is lost, destroyed or defaced before it has been redeemed, the Commission may, subject to the provisions of this section, issue a new debenture or bond in its place.

Lost  
debentures.  
New section  
added,  
Act No. 32,  
1974, s. 2  
(b).

(2) A new debenture or bond issued under subsection (1) with interest coupon annexed shall bear the same date, number, principal sum and rate of interest as the lost, destroyed or defaced debenture or bond.

(3) Where a debenture or bond is lost or destroyed, a new debenture or bond shall not be issued unless—

- (a) it has been established to the satisfaction of the Supreme Court that the debenture or bond has been lost or destroyed before redemption;
- (b) such advertisements as the Court may direct have been published;
- (c) six months have elapsed since the publication of the last of those advertisements; and

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(d) sufficient security has been given to the Commission to indemnify it against any double payment if the missing debenture or bond is presented for redemption.

(4) Where a debenture or bond is defaced a new debenture or bond shall not be issued unless and until the defaced debenture or bond is lodged with the Commission for cancellation.

(5) The provisions of this section shall apply to and in respect of the case of a lost, destroyed or defaced coupon in the same way as they apply to and in respect of a lost, destroyed or defaced debenture or bond.

(6) Notwithstanding any other provision of this section, in case of the loss, theft, destruction, mutilation or defacement of any debenture or bond issued under section 14i, a duplicate or new debenture or bond may be issued upon proof to the satisfaction of the Commission of the loss, theft or destruction, or upon surrender of the mutilated or defaced debenture or bond, as the case may be, and upon the Commission receiving security or indemnity satisfactory to it against double payment if the missing debenture or bond be at any time thereafter presented for payment.

Protection  
of  
investments.  
New section  
added,  
Act No. 32,  
1974, s. 2  
(b).

**14G.** (1) A person advancing money to the Commission shall not be bound to inquire into the application of the money advanced, or be in any way responsible for its non-application or misapplication.

(2) A notification in the Gazette of the approval of the Governor having been given to a borrowing by the Commission shall, in favour of a lender and of any holder of security given by the Commission, be conclusive evidence that all conditions precedent to the borrowing have been complied with and, where the approval notified is to the borrowing by the Commission in a place outside New South Wales and in a particular currency, shall also be conclusive evidence in favour of those persons of the approval of the Governor to the borrowing in the place and in the currency specified in the notification.

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**14H.** All debentures, bonds, stock or other securities which are secured upon the income and revenue of the Commission shall rank *pari passu* without any preference one above another by reason of priority of date or otherwise.

Debentures,  
bonds, etc.,  
to rank  
*pari passu*.  
New section  
added,  
Act No. 32,  
1974,  
s. 2 (b).

**14I.** (1) Notwithstanding any other provision of this Act any money which the Commission is authorised to borrow may be borrowed by a loan raised wholly or in part in such place outside New South Wales as the Governor on the recommendation of the Treasurer may approve, and may be negotiated and raised in any currency.

Raising  
loans in any  
country.  
New section  
added,  
Act No. 32,  
1974, s. 2  
(b).

(2) Any such loan may be raised wholly or in part by the issue of debentures, bonds, stock or other securities in any form and containing any term, condition or provision permitted under the law of the place where the loan is raised and the Commission may establish and conduct in that place registries relating to the securities issued in respect of that loan.

(3) The Commission may in respect of any such loan agree that a sinking fund shall be established and controlled at such place and in such manner as may be found necessary or expedient in the circumstances of the case and, where any sinking fund is so established, the provisions of section 14C shall apply with regard to that loan only in respect of the amount, if any, the repayment of which is not provided for by the sinking fund established under the agreement.

(4) In connection with the raising of any loan under this section, the Commission may enter into such agreements as it thinks fit with respect to the form of the debentures, bonds, stock or other securities referred to in subsection (2), or for the sale of those debentures, bonds, stock or other securities, or the granting of an option to purchase those debentures, bonds, stock or other securities, or for services to be performed by any person in Australia or in any other part of the world in connection with that loan or with the issue, management and redemption of or otherwise with respect to those debentures, bonds, stock or other securities, and

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any such agreement may be upon such terms and conditions and may contain such provisions for the giving or receipt of consideration as the Commission thinks fit.

(5) Copies of any agreement referred to in subsection (4) shall be forwarded to the Minister who shall cause them to be laid before both Houses of Parliament as soon as possible after the loan is raised.

(6) The Governor may, upon the recommendation of the Commission, by notification published in the Gazette, appoint two or more persons to enter into for and on behalf of the Commission all such agreements as the Commission is by this section authorised to enter into and to sign, execute, or otherwise perfect all such agreements, debentures, bonds, stock or other securities as are by this section provided for and to do all such things as may be necessary or convenient to be done for the purpose of raising any loan under this Act and may, upon the like recommendation and by a like notification, revoke or vary any such appointment and make any fresh appointment.

(7) The production of a copy of the Gazette containing a notification of any appointment referred to in subsection (6) or the revocation thereof shall, in favour of a lender or of any holder of a security, be conclusive evidence of the appointment or revocation.

(8) All debentures, bonds, stock or other securities bearing the signatures of the persons so appointed in that behalf shall be deemed to be securities lawfully issued under seal by the Commission and the principal money and interest secured thereby shall be a charge upon the income and revenue of the Commission from whatever source arising, and the due repayment of that principal money and that interest is hereby guaranteed by the Government, and all agreements and any instruments purporting to be made or issued under the authority of this section and bearing the signatures of those persons shall be deemed to have been lawfully made or issued by the Commission and, if they purport to have been sealed by those persons, to have been lawfully executed by the Commission under seal.

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*Public Transport Commission.*

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(9) A holder of any such debenture, bond, stock or other security shall not be bound to inquire whether the issue of the debenture, bond, stock or security was in fact duly authorised.

(10) Subject to this section and the law in force in the place where any loan is raised under this section and applicable to that loan and the securities issued in connection therewith, the provisions of this Act other than sections 14D (1), 14F (3) and 14F (4) shall apply to and in respect of that loan and those securities in the same way as they apply to and in respect of any other loan and any other securities.

**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.

Commission  
to conduct  
investigation  
and to report  
to Minister.

(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 such assistance and shall make available to it all such information with respect to that service as the Commission may require.

**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.

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*Public Transport Commission.*

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Preservation of rights of transferred 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.

(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) 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)

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*Public Transport Commission.*

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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.

17A. (1) In this section—

“company employee” means a person who was, on 5th October, 1974, and who continues until 30th November, 1974, to be, an employee of either of the companies employed in or with respect to the operation of passenger ferry services on Port Jackson;

Transfer,  
&c., to  
Commission  
of employees  
of certain  
companies  
operating  
ferry  
services.  
New section  
added,  
Act No. 81,  
1974, s. 2  
(g).

“company superannuation scheme” means a scheme or arrangement under which a transferred employee might, if he had continued in the employment of either of the companies on and from 1st December, 1974, have become entitled, after that date, to superannuation, pension, retirement or other benefits;

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*Public Transport Commission.*

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“the companies” means The Port Jackson and Manly Steamship Company Limited and Sydney Harbour Ferries Pty. Limited;

“transferred employee” means a company employee who becomes an employee of the Commission in accordance with subsection (2).

(2) A company employee—

- (a) who, before 1st December, 1974, is offered by the Commission an appointment and employment under section 18 as an employee of the Commission; and
- (b) who has been directed by the Commission before 1st December, 1974, to present himself for work as an employee of the Commission on or after 1st December, 1974, and—
  - (i) presents himself for work in accordance with that direction; or
  - (ii) has, in the opinion of the Commission, a reasonable excuse for not presenting himself for work in accordance with that direction but presents himself for work as such an employee as soon as practicable after the date specified in that direction,

shall, upon presenting himself for work under paragraph (b) (i) or (ii), as the case may be, become an employee of the Commission and be deemed to have been appointed and to be employed under section 18.

(3) A transferred employee shall be paid salary or wages at a rate not less than the rate which was payable to him immediately before 1st December, 1974, subject to any adjustment necessary to give effect to any fluctuation in a basic or minimum wage by reference to which his salary or wages is or are fixed. until the salary or wages payable to him is or are varied or altered pursuant to the award of a competent tribunal or an industrial agreement or by the Commission.



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*Public Transport Commission.*

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(4) Where any condition of employment of a transferred employee was, immediately before 1st December, 1974, regulated by an award or industrial agreement, that condition shall continue to be so regulated until an award of a competent tribunal by which the Commission is bound or an industrial agreement is made regulating that condition.

(5) The period of service of a transferred employee with either of the companies shall be deemed to be service with the Commission for the purposes of annual leave, sick leave or long service leave.

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

(7) Subject to subsection (8), the Commission is authorised to negotiate and agree with the companies, or either of them, a transferred employee and any other person for—

- (a) the continuation, termination or variation of any company superannuation scheme;
- (b) the substitution of any company superannuation scheme by, or the replacement of any company superannuation scheme with, any other superannuation scheme; or
- (c) the merger of any company superannuation scheme with any other company superannuation scheme or with any other superannuation scheme,

and the Commission may do and perform all such other acts and things as it considers necessary to effect such an agreement.

(8) An agreement made by the Commission under subsection (7) shall be not less favourable to a transferred employee than the company superannuation scheme it affects.

**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.

Appoint-  
ment of  
officers and  
employees.

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*Public Transport Commission.*

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(2) Every officer or employee of the Commission 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).

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*Public Transport Commission.*

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(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.

**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,

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

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.

**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.

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

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*Public Transport Commission.*


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Commission may make use of facilities and employees of the Crown, etc.

**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.

(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.

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**PART III.**
**GENERAL.**

New heading added, Act No. 6, 1977, Sch. 1 (4).

**21A.** A person shall not wilfully damage or deface any property vested in or belonging to the Commission.

Penalty : \$400 or imprisonment for 6 months.

Damage to Commission's property. New section added, Act No. 6, 1977, Sch. 1 (4).

**21B.** (1) In this section—

“owner”, in relation to a vehicle, includes—

(a) a person who is the owner or joint owner or part owner of the vehicle and any person, other than the lessor under a hire-purchase agreement relating to the vehicle, who has the use of the vehicle under such an agreement; and

(b) in the case of a vehicle that is a motor vehicle—

(i) the person in whose name the vehicle is registered under the regulations made under the Motor Traffic Act, 1909, except where that person has sold or otherwise disposed of the vehicle and has

Parking of vehicles on land vested in the Commission.

New section added, Act No. 6, 1977, Sch. 1 (4).

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*Public Transport Commission.*

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complied with the provisions of those regulations applicable to him with respect to that sale or disposal; or

- (ii) where the vehicle has affixed to it a trader's plate issued under that Act for use as prescribed by those regulations—the person to whom that trader's plate is on issue;

“parking offence” means the offence committed by a person who contravenes any regulation made under this Act for or with respect to the standing, waiting or parking of vehicles.

(2) Where a parking offence occurs, the person who, at the time of the occurrence of the offence, is the owner of the vehicle to which the offence relates is, by virtue of this section, guilty of an offence under the regulation relating to the parking offence in all respects as if he were the actual offender guilty of the parking offence unless the court is satisfied that the vehicle was, at the relevant time, a stolen vehicle or a vehicle illegally taken or used.

(3) Nothing in this section affects the liability of an actual offender in respect of a parking offence but, where a penalty has been imposed on, or recovered from, any person in relation to any parking offence, no further penalty shall be imposed on or recovered from any other person in relation thereto.

(4) Notwithstanding anything in subsection (2) or (3), no owner of a vehicle is, by virtue of this section, guilty of an offence if he—

- (a) within 21 days after service on him of a summons in respect of that offence, supplies by statutory declaration to the informant the name and address of the person who was in charge of the vehicle at all relevant times relating to the parking offence concerned; or
- (b) satisfies the court that he did not know and could not with reasonable diligence have ascertained that name and address.

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*Public Transport Commission.*

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(5) A statutory declaration that relates to more than one parking offence shall be deemed not to be a statutory declaration supplying a name and address for the purposes of subsection (4).

(6) Where a statutory declaration supplying the name and address of a person for the purpose of subsection (4) is produced in any proceedings against that person in respect of the parking offence to which the statutory declaration relates, the statutory declaration is evidence that that person was, at all relevant times relating to that parking offence, in charge of the vehicle to which the parking offence relates.

(7) The provisions of this section shall be construed as supplementing, and not as derogating from, any other provision of this Act or the regulations or any other Act or regulation, by-law or ordinance under any other Act.

Differences  
between  
authorities.

**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.

Delegation.  
Amended,  
Act No. 6,  
1977, Sch. 1  
(5).

**23.** (1) The Commission may by instrument in writing delegate to any commissioner or any officer or employee of the Commission 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.

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*Public Transport Commission.*

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(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.

**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.

Accounts  
to be kept  
by Com-  
mission.

(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.

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*Public Transport Commission.*

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**Audit.**

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.

(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.*

**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.

**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. Common seal.

**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. Authentication of certain documents of Commission.

**29.** \* \* \* \* \* Repealed, Act No. 19, 1977, Sch. 1.

**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. Recovery of charges, &c. by Commission.

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*Public Transport Commission.*

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Proceedings  
for offences  
against Act.  
New section  
added, Act  
No. 6, 1977,  
Sch. 1 (6).

**30A.** Proceedings for an offence against this Act or the regulations may be taken before a court of petty sessions constituted by a stipendiary magistrate or any 2 justices of the peace.

Appropriation  
of penalties.  
New section  
added,  
Act No. 6,  
1977,  
Sch. 1 (6).

**30B.** Any pecuniary penalty recovered pursuant to this Act shall be—

- (a) paid to the Commission; and
- (b) allocated by the Commission to any fund under its control that it considers appropriate.

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 Commissioner 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.

Regulations.  
Amended,  
Act No. 6,  
1977, Sch.  
1 (7).

**32.** (1) 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 and, in particular, for or with respect to the standing, waiting or parking of vehicles on land vested in the Commission.

New subsection  
added,  
Act No. 6,  
1977, Sch.  
1 (8).

(2) A regulation may impose a penalty not exceeding \$100 for any contravention thereof.

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*Public Transport Commission.*

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**33.** (*The amending provision relating to the Local Government Act, 1919, is not reprinted : Acts Reprinting Act, 1972,* Amendment of Act No. 41, 1919.  
s. 6.)

- 34.** The Sydney Harbour Transport Act, 1951, is amended— Amendment of Act No. 11, 1951. Sec. 4. (Constitution of Board.)
- (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”;
  - (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.** (*The amending provision relating to the State Planning Authority Act, 1963, is not reprinted : Acts Reprinting Act, 1972,* Amendment of Act No. 59, 1963.  
s. 6.)

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

**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 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. Former Commissioner ceasing to hold office entitled to compensation and superannuation or retirement benefits.

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*Public Transport Commission.*


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BY AUTHORITY

D. WEST, GOVERNMENT PRINTER, NEW SOUTH WALES—1978







*I certify that this PUBLIC BILL, which originated in the LEGISLATIVE ASSEMBLY, has finally passed the LEGISLATIVE COUNCIL and the LEGISLATIVE ASSEMBLY of NEW SOUTH WALES.*

I. P. K. VIDLER,  
*Clerk of the Legislative Assembly.*

*Legislative Assembly Chamber,  
Sydney, 11 October, 1972.*

## 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

*I have examined this Bill, and find it to correspond in all respects with the Bill as finally passed by both Houses.*

L. A. PUNCH,  
*Chairman of Committees of the Legislative Assembly.*

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*Public Transport Commission.*

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**B**E 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

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*Public Transport Commission.*

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“Commissioner for Railways” means the Commissioner 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 commissioners appointed by the Governor.

Appointment  
of commis-  
sioners.

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

(3)

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*Public Transport Commission.*

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(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)

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*Public Transport Commission.*

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(b) in the case of a re-appointment as a nominated commissioner, for such term not exceeding three years,  
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.

Appoint-  
ment of  
substitutes  
to act  
during  
absence of  
commis-  
sioners.

(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)

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*Public Transport Commission.*


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(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)

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*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;
- (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,

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*Public Transport Commission.*

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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.



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*Public Transport Commission.*

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**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.

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)

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*Public Transport Commission.*

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(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-appoint-  
ment  
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

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*Public Transport Commission.*

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“retiring age” means—

- (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.

(2)

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*Public Transport Commission.*

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(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

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*Public Transport Commission.*

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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.

(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**

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*Public Transport Commission.*

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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)

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*Public Transport Commission.*

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(4) Subject to this Act, 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, 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

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*Public Transport Commission.*

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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

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*Public Transport Commission.*

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all such assistance and shall make available to it all such information with respect to that service as the Commission may require.

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)

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*Public Transport Commission.*

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(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.

(2)

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*Public Transport Commission.*

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(2) Every officer or employee of the Commission 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)

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*Public Transport Commission.*

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(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.

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*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. 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)

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*Public Transport Commission.*

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(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.**

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*Public Transport Commission.*

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**25.** (1) The accounts of the Commission shall be audited **Audit.** 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.

(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.

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*Public Transport Commission.*

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Proof of  
certain  
matters not  
required.

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

- (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.

(2)



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*Public Transport Commission.*

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(2) The notice shall state—

- (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)

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*Public Transport Commission.*

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(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

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*Public Transport Commission.*

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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.

**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.**

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*Public Transport Commission.*

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Amendment of Act No. 59, 1963.  
Sec. 4.  
(Constitution of Authority.)

**35.** The State Planning Authority Act, 1963, is amended by omitting from section 4 (1) (c) (xv) the words "the person for the time being holding the office of Commissioner 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.

*In the name and on behalf of Her Majesty I assent to this Act.*

A. R. CUTLER,  
*Governor.*

*Government House,  
Sydney, 17th October, 1972.*