

T A S M A N I A.

THE TRANSPORT ACT 1938.

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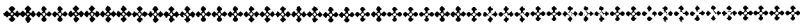
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ANNO SECUNDO ET TERTIO
GEORGII VI. REGIS.

No. 70.



AN ACT to provide for the Co-ordination, Regulation, Control, and Improvement of the Means of, and Facilities for, Transport in this State; to constitute a Transport Authority for the purposes thereof; and to amend the *Railway Management Act 1935*, and the *Roads and Jetties Act 1935*.

[16 December, 1938.]

A.D.
1938.

BE it enacted by His Excellency the Governor of Tasmania, by and with the advice and consent of the Legislative Council and House of Assembly, in Parliament assembled, as follows:—

PART I.

PRELIMINARY.

1—(1) This Act may be cited as the *Transport Act 1938*.

(2) This Act shall commence on a day to be fixed by proclamation.

Short title
and com-
mencement.

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R peal.

2—(1) The enactments enumerated in the schedule are hereby repealed to the extent therein specified.

(2) Such repeal, so far as the same relates to sections eleven and twelve of the *Railway Management Act 1935*, shall not take effect until the first day of July, one thousand nine hundred and thirty-nine.

Interpreta-
tion.

3 In this Act unless the contrary intention appears—

“The Commission” means the Transport Commission constituted under this Act :

“The Commissioner” means the Commissioner for Transport appointed under this Act.

PART II.

THE TRANSPORT COMMISSION.

Appointment
of Commis-
sioner.

4—(1) The Governor may appoint some person as and to be Commissioner for Transport under and for the purposes of this Act.

(2) The Commissioner shall hold office for such term, being not less than three or more than five years, as may be specified in the instrument of appointment.

(3) The Commissioner shall be paid by way of salary such remuneration as the Governor may determine, and as may be specified in the instrument of appointment, and such remuneration shall not be reduced during the period for which he is appointed, except with the consent of the Commissioner.

(4) The Commissioner shall be entitled to one month's leave of absence annually for recreation purposes.

(5) The Commissioner shall not be subject to the provisions of the *Public Service Act 1923*.

Constitution
of Com-
mission.

5—(1) There is hereby constituted for the purposes of this Act a Commission to be called “The Transport Commission.”

(2) The Commission shall consist of three persons who shall comprise the Commissioner and two Associate Transport Commissioners to be appointed by the Governor.

(3) The Commissioner shall be Chairman of the Commission and shall devote the whole of his time to the performance of the duties of his office.

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(4) Each of the Associate Commissioners shall be appointed for the same term as the Commissioner and shall devote so much of his time to the performance of the duties of his office under this Act as shall be set out in the instrument of his appointment.

(5) In the event of a casual vacancy in the office of Associate Commissioner the person appointed to fill such vacancy shall be appointed for the unexpired portion of the term for which the vacating member was appointed.

(6) The Associate Commissioners shall be paid such fees by way of remuneration as the Governor shall determine.

(7) The Commissioner when present shall preside at all meetings of the Commission; and in his absence from any meeting the members present shall elect a Chairman for that meeting.

(8) Any two members of the Commission shall form a quorum and may transact any business notwithstanding any vacancy in the Commission.

(9) The Chairman shall have a deliberative vote only except in any case where the voting on any question is equal, when he shall also have a casting vote.

(10) Subject to this Act the Commission may regulate its own procedure.

6—(1) The Commission shall be a body corporate by the name of "The Transport Commission," with perpetual succession and a common seal and power to hold land and to do and suffer all such acts, matters and things as may be done or suffered by a body corporate.

Incorporation.

(2) Except as provided by section thirty-three the Commission shall be absolutely free from political control in the administration of this Act.

7—(1) Any Commissioner may be suspended from his office by the Governor —

Suspension and removal of Commissioner.

- i. For misbehaviour, neglect, or incompetence:
- ii. In the case of the Commissioner, if he engages, during his term of office, in any paid employment outside the duties of his office:
- iii. If he becomes bankrupt, or applies to take or takes the benefit of any Act relating to bankrupt or insolvent debtors, or compounds with his creditors, or makes an assignment of his salary for their benefit:

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iv. If he becomes incapable of performing his duties :
or

v. If he in anywise participates or claims to be entitled to participate in the profit of, or in any benefit or emolument arising from, any contract or agreement made by or on behalf of the Government of this State.

(2) The Minister shall cause to be laid before each House of Parliament a full statement of the grounds of suspension within the first seven sitting-days after such suspension, and shall deliver a copy of such statement to the Commissioner within seven days after such suspension.

(3) The Commissioner, when suspended under this section, shall be restored to office unless each House of Parliament, within twenty-one days from the time when such statement has been laid before it, declares by resolution that he should be removed from office.

(4) The Commissioner shall be entitled to address either House of Parliament, personally or by counsel, before any such resolution as aforesaid is passed by such House.

(5) If each House of Parliament within the said time so declares, the Commissioner shall be removed from office by the Governor.

(6) A Commissioner shall not be removed from office except as hereinbefore provided.

(7) In this section "Commissioner" includes an Associate Commissioner, except in paragraph ii. of subsection (1) hereof.

PART III.

POWERS AND DUTIES OF COMMISSION.

Appointment
of officers.

8—(1) The Commission may appoint and employ such and so many officers, servants, and workmen as it may think necessary for the purposes of this Act.

(2) The remuneration, privileges, conditions of employment, duties, functions and discipline of persons so appointed shall be determined and regulated as may be prescribed.

General powers
of Commission.

9—(1) For the purposes of this Act, and subject to its provisions, the Commission shall have power to—

i. Control all or any means of transport by road, rail, or air, within the State other than the railways operated by the Emu Bay Railway Com-

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pany Limited, or the Mount Lyell Mining and Railway Company Limited or any tramway or bus service operated by a municipal council : A.D. 1938.

- ii. Enter into contracts with any persons for the carrying on, and maintenance, of transport services within this State :
- iii. Recommend to the Governor regulations for the control of transport, or any particular class of transport :
- iv. With the approval of the Governor, make by-laws in relation to its department, or any branch or part of its department, or any staff or employees engaged therein :
- v. Grant exemptions in any case, or in prescribed classes of cases, from such payments or obligations relating to transport as may be prescribed, and make such refunds and adjustments as may be necessary for that purpose :
- vi. Delegate to any person such of its powers and functions in relation to any particular matter as it may think necessary : and
- vii. Exercise all or any of the powers conferred by—
 - (a) The *Railway Management Act 1935* upon—
 - (i) The Minister ; or
 - (ii) The Commissioner for Railways :
 - (b) The *Traffic Act 1925* upon—
 - (i) The Commissioner of Police : or
 - (ii) The Transport Committee : and
 - (c) The *Roads and Jetties Act 1935* upon—
 - (i) The Minister ; or
 - (ii) The Committee ; and
 - (d) This Act, upon the Commission—

and, generally, to take such steps and to do all such acts, matters, and things, as it may think necessary or desirable for effecting the co-ordination of transport services, and the improvement of the means of, and facilities for, transport in this State.

(2) In relation to any transport service acquired or initiated by the Commission and carried on by it, the Commission, shall have, exercise, and enjoy all the like powers, privileges, and immunities as are conferred by the provisions of all relevant sections of the *Railway Management Act 1935*, so far as the same are applicable in the

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same manner as if such service were a railway service, and for the purposes of this Act such provisions shall be read and construed as if any reference therein to a railway service included a reference to such transport service as aforesaid.

(3) The provisions of section eighty-five of the Act last cited shall apply to any person transported, or seeking to be transported, by such service as if the same were a railway service.

Administration of certain Acts.

10—(1) The Commission shall be charged with the administration of—

- i. The *Railway Management Act 1935* :
- ii. The *Traffic Act 1925*, and
- iii. The *Roads and Jetties Act 1935*—

subject to the provisions of this Act.

(2) The Commission at any time may delegate to the Commissioner such of its power and functions under this Act as it may think fit, and in respect of any matter so delegated to him the Commissioner shall have, and may exercise, all the powers of the Commission.

Duties of Commission.

11—(1) It shall be the duty of the Commission to devise, initiate, and carry out methods and measures for the co-ordination, improvement, and economic operation of the means of, and facilities for, transport in this State and consistently therewith to ensure as far as may be the provision of services adequate to meet the requirements of the public.

(2) Where any existing railway transport service is acquired by the Commission, as provided by this Act, it shall take all reasonable measures to ensure that so far as is economically possible the service to the public shall be maintained at a standard at least equal to that available before such acquisition, and that the fares, freights, and charges payable in respect thereof shall not be greater than such as are reasonably necessary for the economic operation of such service.

PART IV.

STATE RAILWAYS.

Incorporation and application of 26 Geo. V. No. 33.

12—(1) The *Railway Management Act 1935* is hereby incorporated and shall be read as one with this Part.

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(2) In the application of the said Act to this Part any reference to the Commissioner for Railways or to the Minister shall be read and construed as a reference to the Commission. A.D. 1938.

13—(1) Upon the commencement of this Act the Commission shall take over, assume, perform, and be subject to all the powers, duties, and obligations of the Commissioner for Railways. Powers and duties of Commission.

(2) The Commission may appoint some person as General Manager of Railways upon such terms and conditions as the Commission may think fit, and may delegate to such person such of its powers and authority under the said Act as the Commission may think necessary.

PART V.

ROAD TRANSPORT AND AIR TRANSPORT.

14—(1) The *Traffic Act* 1925 is hereby incorporated, and shall be read as one, with this Act. Incorporation and application of 16 Geo. V. No. 38.

(2) In the application of the said Act to this Part any reference to—

- i. The Commissioner of Police; or
- ii. The Transport Committee—

shall be read and construed as a reference to the Commission.

(3) Upon the commencement of this Act the Transport Committee shall cease to exist and no further appointments shall be made to, or for the purposes of, that body.

15 For the purposes of this Part, and the administration of the *Traffic Act* 1925, the Commission, in addition to any other powers conferred upon it by the said Act and this Act, shall have power to— Additional powers of Commission.

- i. Refuse to register any motor-vehicle which is intended to be used for any purpose which, in the circumstances of the particular case, would, in the opinion of the Commission, be detrimental to the public interests;
- ii. Impose, and shall impose, in respect of the issue of any licence of a public vehicle, or of the carrying out of any contract entered into with him such

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conditions as are necessary for the fixing of hours and conditions of labour in conformity with or for ensuring the observance of any Federal or State award or determination :

- iii. Suspend or cancel any licence issued in respect of a public vehicle :
- iv. Grant, issue, and revoke such permits in respect of special services, places, or occasions, as it may think necessary : and
- v. Determine in any case the special conditions and charges, if any, which shall be imposed in respect of the issue of any licence or permit ; or of the registration or operation of any vehicle used, or intended to be used, as a public vehicle.

Vehicle deemed to be a public vehicle in certain cases.

16—(1) For the purposes of this Part, and of the *Traffic Act 1925*, a vehicle shall be deemed to be used as a public vehicle if goods are transported in such vehicle—

- i. For the purposes of sale : or
- ii. In the course of any trade or business—

subject to such exceptions and exemptions as may be prescribed; and any such vehicle may be licensed under the *Traffic Act 1925*, as prescribed and on payment of the prescribed fee.

(2) The provisions of this section shall not operate to require the licensing of a motor-vehicle, which is owned and used by a person engaged in the business of agriculture or horticulture, for the purposes only of transporting his produce from farm to market, or of transporting commodities for use on his farm or in his household.

(3) The provisions of this section shall not apply to a motor-vehicle owned by a pastoralist and used by him for the carriage of his own—

- i. Livestock or produce (other than wool) :
- ii. Wool to market where in the opinion of the Commission, such wool could not reasonably be expected to be forwarded by rail.

(4) The provisions of section fifty of the *Traffic Act 1925* shall apply in respect of an officer of the Commission as if he were a police officer.

Incorporation and application of 26 G o. V. No. 82.

17—(1) The *Roads and Jetties Act 1935* is hereby incorporated, and shall be read as one, with this Act.

Transport.

(2) In the application of the said Act to this Part any reference to— A.D. 1938.

- i. The Minister; or
- ii. The Committee—

shall be read and construed as a reference to the Commission.

(3) The provisions of this section shall not operate to prevent the exercise by the Minister of all or any of the powers conferred upon him by section twenty-one of the said Act.

(4) Where, by an Act passed for the relief of unemployment, the Minister is authorised to execute and carry out any work to which the said Act is applicable, the same may be executed and carried out as if this Act had not been passed.

PART VI.

FINANCIAL PROVISIONS.

18—(1) The Commission shall cause to be opened with the Commonwealth Bank of Australia, at Hobart, in the name of the Transport Commission, such accounts as may be necessary, and all moneys received on account of the Commission shall be deposited therein, and all expenditure of, or in connection with, the Commission, shall be drawn from such accounts.

Bank
account.

(2) No money shall be drawn from any such account as aforesaid except by cheque signed by the Commissioner or an officer to be appointed by the Commission and countersigned by the officer appointed for that purpose by the Commission.

19—(1) After the thirtieth day of June, one thousand nine hundred and thirty-nine, the revenues and moneys at the disposal of the Commission shall comprise all—

Revenue.

- i. Receipts from the operation of Government Railways and from any other agency vested in or operated by the Commission :
- ii. Registration fees in respect of motor vehicles :

Transport.

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- III. Licensing fees for drivers and conductors :
- IV. Registration fees in respect of cycles :
- V. Fees payable in connection with the renewal or transfer of registrations or licences :
- VI. Charges imposed in connection with the licensing and operation of public vehicles :
- VII. Petrol tax made available to the State by the Commonwealth :
- VIII. Taxation on motor-vehicles :
- IX. Moneys received by the Treasurer by way of land tax :
- X. Proceeds of the sale of equipment, property or materials the property of the Commission :
- XI. Moneys advanced by the Treasurer to the Commission : and
- XII. Moneys payable to the Commission under any Act.

(2) The Treasurer shall pay to the Commission all moneys—

- I. Made available to the State by the Commonwealth from taxation by way of petrol tax : and
- II. Received by him by way of land tax.

(3) The Commission shall expend and apply the moneys mentioned in—

- I. Paragraph VII. of subsection (1) hereof, in accordance with the law relating to such moneys : and
- II. Paragraphs II. to V. and VIII. of the said subsection (1) (less the cost of collection), for the purposes of the *Roads and Jetties Act 1935*, and for defraying the cost of the control of, and provision of facilities for, motor traffic ; or for the purposes of section thirty-eight—

and not otherwise.

(4) Except where otherwise expressly provided the revenues of the Commission in any financial year shall be applied in defraying—

- I. The working and establishment expenses and expenditure on, or provision for the maintenance and renewal of the undertaking and the execution and performance of the powers and duties of the Commission which are properly chargeable to revenue account :

Transport.

II. Depreciation: and

III. Interest charges—

A.D. 1938.

respectively, in respect of that financial year, and in the order above set forth.

(5) The Treasurer may advance to the Commission out of any moneys at his disposal, such sum not exceeding ten thousand pounds as the Commission may require to meet the cost of the administration of this Act prior to the first day of July, one thousand nine hundred and thirty-nine.

(6) The Commission shall repay to the Treasurer, as and when required out of the revenues received by it as provided by subsection (1) hereof, all amounts advanced by the Treasurer as provided by subsection (5) hereof.

20—(1) The Commission with the consent of the Treasurer, shall have power to borrow money by overdraft on any bank account opened as provided by section eighteen, but such overdraft shall not at any time exceed in the whole thirty thousand pounds.

Commission
may over-
draw on
bank
account.

(2) The Commission may at any time—

I. In lieu of borrowing money by overdraft: or

II. For the purpose of paying off any such overdraft or any part thereof—

apply to the Treasurer for a temporary advance and the Treasurer in his discretion may, out of any moneys at his disposal, advance to the Commission such amount as he shall think fit upon such terms as to repayment thereof, payment of interest thereon, and otherwise as the Treasurer shall determine.

21 The Commission may invest any moneys held by it in any such securities as may be prescribed, or as the Governor may approve.

Commission
may invest
moneys held
by it.

22—(1) There shall be debited to the Commission in the Treasury books on the first day of July, one thousand nine hundred and thirty-nine, a sum representing the capital indebtedness of the Railways as appearing in the Railway accounts for the financial year ending on the thirtieth of June, one thousand nine hundred and thirty-nine.

Sum to be
debited as a
loan to the
Commission
on first of
July, 1939.

(2) The sum debited as aforesaid shall be deemed to constitute a loan from the State to the Commission, and is hereinafter called “the principal loan.”

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Commission may requisition Treasurer for advance: Moneys advanced out of new votes to be deemed to be loans to the Commission: Costs of raising moneys for Commission to be charged to the Commission.

23—(1) Subject to the provisions of this Act, the Commission may requisition the Treasurer for any moneys required by the Commission for capital expenditure, or for meeting expenses of working, depreciation, interest or for capital expenditure in connection with the transport undertaking which shall have been voted by Parliament for that purpose, and the Treasurer may pay the same to the Commission forthwith.

(2) Every payment made by the Treasurer to the Commission under this section, subsequently to the thirtieth day of June, one thousand nine hundred and thirty-nine, which comprises or forms part of money voted by Parliament at any time for the transport undertaking, shall be deemed to be a loan from the State to the Commission, and all such loans are hereinafter called "additional loans".

(3) The amount of all charges and expenses incurred by the Treasurer in borrowing and raising any sum of money voted by Parliament for the transport undertaking, shall as at the date when such amount shall have been ascertained, be deemed to constitute a payment by the Treasurer to the Commission under this section, and to form part of the money voted by Parliament for the purpose aforesaid.

Commission to pay interest on loans.

24—(1) The Commission shall pay to the Treasurer, on account of the Consolidated Revenue, quarterly on the last days of September, December, March, and June respectively, in each financial year, interest in respect of the principal and additional loans or so much thereof as shall remain owing to the State, subject to the provisions and at the rates hereinafter provided.

(2) Such interest as aforesaid shall be paid—

- i. In respect of the principal loan, from the first day of July, one thousand nine hundred and thirty-nine : and
- ii. In respect of the additional loans, from the respective dates of the payments by the Treasurer to the Commission of the moneys comprising such additional loans.

(3) The interest to be paid by the Commission on each such quarterly day as aforesaid on any moneys comprising or forming part of any of the said loans shall be at the State rate as defined by section thirty-eight of the *Hydro-Electric Commission Act 1929*.

Transport.

(4) The interest payable by the Commission to the Treasurer as provided by subsection (1) hereof, upon any portion of the aforesaid loans during the construction of the works upon which such loans have been, or are being, expended, until the Commission shall certify that such works have been put into operation, shall be charged to, and be defrayed out of, the capital moneys of the loan by the expenditure of which such works have been constructed.

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25—(1) The amount standing in the books of the Treasury at the commencement of this Act to the credit of the Tasmanian Government Railways Replacement and Depreciation Fund, with all interest accruing due in respect thereof up to the date of such commencement, shall be paid to the State Sinking Fund Commissioners to the credit of “the Transport Commission’s Depreciation, Replacement, and Loans Redemption Fund.”

Adjustment
of accounts
in Treasury
books.

(2) The amounts standing to the credit of such fund as aforesaid (which is hereinafter called “the Depreciation Fund”) shall be available at all times for the requirements of the Commission for the purposes hereinafter mentioned.

(3) The amounts payable as provided by section four of the *Railway Capital (Reduction) Act 1936* shall be paid to the State Sinking Fund Commissioners to the credit of the Depreciation Fund, up to the thirtieth day of June, one thousand nine hundred and thirty-nine, and thereafter such amounts shall cease to be payable.

(4) The State Sinking Fund Commissioners shall pay out of the Depreciation Fund annually, on the first day of July in each year, to the Treasurer such sum, not being less than five thousand pounds, as the Treasurer may determine, to be applied in reduction of loan liability.

(5) The State Sinking Fund Commissioners, on the requisition of the Commission, shall pay to the Commission out of the Depreciation Fund, such sums as the Commission may require for the purpose of the purchase of new assets or renewing or replacing any plant, machinery, or asset of the Commission.

26—(1) The Commission shall make provision for and place to the credit of a separate account, such sums as the Commission may consider necessary to cover obsolescence, and for the purposes of renewing or replacing plant, machinery, and other assets of a wasting nature.

Obsolescence
and replace-
ment.

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(2) The balance of all moneys provided by the Commission as aforesaid, after payment thereof of all amounts required for the purposes aforesaid in the financial year in which the same were so set aside, shall be paid by the Commission to the State Sinking Fund Commissioners.

(3) All moneys received by the State Sinking Fund Commissioners as provided by section twenty-five and this section, shall be invested by them, and such moneys and all accumulations thereof shall be available to the Commission if and when required by it for—

- I. Depreciation :
 - II. For the purposes of any new work :
 - III. The replacement or renewing of any plant, machinery, or other asset of a wasting nature : or
 - IV. The redemption of any loan owing by the Commission to the Treasurer or any part thereof—
- and the State Sinking Fund Commissioners shall pay to the Commission out of such moneys such sums as the Commission may require for any of such purposes.

(4) For the purpose of providing any sum required by the Commission as aforesaid, the State Sinking Fund Commissioners may sell and dispose of any securities in their hands in respect of the said moneys, or any of them, or may transfer to the Commission securities of which the face value is equal to the amount required by the Commission as aforesaid.

Accounts to
be kept by
Commission.

27 The Commission shall cause true accounts to be kept and such accounts shall include—

- I. A Trading Account :
- II. A Profit and Loss Account : and
- III. An Account of assets and liabilities of the Commission.

Trading
accounts, &c.,
to be pre-
pared yearly.

28—(1) Within three months after the first day of July in every financial year, the Commission shall cause to be prepared—

- I. A trading account, containing particulars of the gross receipts accruing from the operations of the Commission during the immediately preceding financial year, and the total expenditure upon the working, management, and maintenance of the Transport Department :

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- ii. A profit and loss account for the immediately preceding financial year containing the particulars mentioned in subsection (2) of this section : and
- iii. A balance-sheet, containing particulars of all the assets and liabilities of the Commission as at the end of the immediately preceding financial year.

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(2) The profit and loss account shall show as a debit or credit, as the case may be, the balance carried to it from the trading account, and the balance of the profit and loss account shall be arrived at after making provision for the payment and setting aside of—

- i. Interest, other than interest payable as provided by subsection (4) of section twenty-four payable by the Commission to the Treasurer upon, or in respect of, all loans owing by the Commission to the State :
- ii. Such amount, as a contribution towards the Depreciation Account, as the Commission may consider necessary to provide for renewing or replacing any plant, machinery, or other asset of a wasting nature, and to provide sinking funds in respect of loans as hereinbefore provided.

(3) The Commission shall supply to the Treasurer, as and when required by him, such information as the Treasurer may require in respect of the expenditure of the revenues of the Commission.

29—(1) Whenever, in any financial year, the profit and loss account, in respect of the immediately preceding financial year, shall show a credit balance, such credit balance may be applied for the purposes of—

Provisions
as to profit
and loss
account.

- i. Establishing a Contingency Reserve Fund, to which the Commission may contribute such amount as it considers necessary to meet any unforeseen expenditure that may arise ; but such Contingency Reserve Fund shall not at any time, without the consent of the Governor, exceed twenty thousand pounds :
- ii. Reimbursing the Treasury for any losses sustained by the Commission in the operation of the undertaking and debited to the Commission as additional loans :

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- iii. Establishing a special Redemption Reserve Fund, to which may be contributed such amount as the Commission may recommend and the Governor may approve, for the purpose of liquidating any special costs incurred in the construction of capital works:
- iv. Liquidating additional loans not included under paragraph ii.: and
- v. Meeting the interest charges payable on that portion of the capital invested in the railways which has been transferred from the railway capital indebtedness to the State public debt—
- in the order above set forth.

(2) Whenever, in any financial year, the profit and loss account, in respect of the immediately preceding financial year, shall show a debit balance, the Treasurer shall pay to the Commission out of the Consolidated Revenue, without any other authority than this section, the amount of such debit balance.

(3) Where any payment is to be made to, or by, the Commission in any financial year under the foregoing provisions of this section, the same shall be made within one month after the Auditor-General shall have certified to the correctness of the profit and loss account in respect of the immediately preceding financial year.

Accounts to
be submitted
to Minister:
And to be
laid before
Parliament:
Powers of
Auditor-
General.

30—(1) The accounts hereinbefore referred to shall be submitted to the Auditor-General not later than the first day of October in each year for audit by him, and, when so audited, shall forthwith be forwarded by the Commission to the Minister, together with the Auditor-General's certificate as to the correctness thereof and the annual report required by section forty.

(2) The said balance-sheet and accounts, and annual report shall be laid before each House of Parliament within the first ten sitting-days of such House after the receipt thereof by the Minister.

(3) The Auditor-General shall have, in respect of the accounts of the Commission, all the powers conferred upon him by the *Audit Act* 1918, in relation to the audit of public accounts.

Transport.

PART VII.

A.D. 1938.

ADMINISTRATION.

Officers of
the Public
Service.

31—(1) For the purposes of the administration of this Act there shall be a department of the Public Service to be called the Transport Department.

(2) The Commission, with the approval of the Governor, at any time may require that any officer employed in any department or branch of the service of the State shall be transferred to the Transport Department and such officer shall be transferred accordingly, at a salary not less than that received by him at the time of such transfer.

(3) Every officer transferred to the Transport Department and who prior to such transfer held a permanent position in the service shall retain all his existing and accruing rights and privileges under the Act under which he was appointed to such position.

(4) In the application of the *Public Service Act 1925*, to this Act the powers thereby conferred upon the Governor shall be vested in, and exercisable by, the Commission.

(5) In addition to such powers as aforesaid the Commission shall have power in any case in which in its opinion the services of a person possessing special qualifications for a particular office are required, to appoint to such office any person who in its opinion possesses such qualifications.

(6) In the appointment or removal of any person as provided by subsection (5) hereof the Commission shall not be bound by the provisions of the *Public Service Act 1925*.

(7) For the purposes of the *Public Service Act 1925*, the Commissioner shall be deemed to be the permanent head of the Transport Department.

32—(1) All officers employed in the Railway Department at the commencement of this Act shall continue to be subject to the provisions of the *Railway Management Act 1935*, as amended by this Act, and shall retain all their existing and accruing rights and privileges thereunder.

Railway
officers.

(2) Where by reason of any curtailment of services or reduction of staff any person who at the commencement of this Act was employed in a permanent position by the Commissioner for Railways is removed from office under this Act he shall be entitled, in priority to any other applicant, to appointment to any vacant office in the Transport Department for which, in the opinion of the Commission, he has the necessary qualifications.

Transport.

A.D. 1938.

PART VIII.

GENERAL.

Minister may
appeal to
the Governor
in certain
cases.

33—(1) If the Minister for Transport is dissatisfied with any decision or determination made by the Commission under this Act he may appeal therefrom to the Governor in manner prescribed.

(2) The Governor shall hear and determine the question at issue, and his decision thereon shall be final and conclusive.

(3) The Commission may submit to the Governor in such manner and at such times as may be prescribed, such representations and evidence in support of its decision or determination as it may think necessary.

(4) Where any decision or determination of the Commission has been annulled, reversed, or varied, under this section, the Treasurer shall pay to the Commission out of the Consolidated Revenue the amount of any loss which the Commission shall prove, as prescribed, to the Auditor General to have been sustained by it as the result of such annulment, reversal, or variation.

Provision for
concessional
charges in
certain cases.

34—(1) In the operation of any service carried on by it, the Commission shall charge such fares and freight charges as shall be reasonably economic, having regard to the costs of operation of such service.

(2) Where in the opinion of the Governor, the freight charges imposed by the Commission so far as the same apply to or affect any industry are greater than the charges which can be paid conformably with the economic operation of such industry, the Governor may direct the Commission to make such rebates or remissions from such charges in respect of such industry as the Governor may determine; and the Commission shall comply with such direction.

(3) Where any such direction is given, the Treasurer shall pay to the Commission as and when prescribed the amount by which the revenues of the Commission are reduced by reason of the rebates and remissions made in conformity with such direction.

(4) If in any such case, any question arises as to whether the charges imposed by the Commission exceed such as are reasonably economic charges, the Commission, when required by the Governor so to do, shall submit to the Auditor-General proof that such charges are economic.

Transport.

(5) The Auditor-General shall make such investigation as he may think necessary and shall certify to the Governor what charges are reasonably economic charges in each instance. A.D. 1938.

(6) The amount, if any, payable by the Treasurer to the Commission, as provided by subsection (3) hereof, shall be calculated by subtracting the total sum received by the Commission by way of freight charges during the relevant period in respect of the relevant goods transported from the sum which it would have received if it had imposed in respect of such goods, the charges which, but for this section, would have been payable, or the charges which the Auditor-General has certified as aforesaid to be economic, whichever are the less.

35—(1) If any officer who is transferred to the Transport Department as provided by section thirty-one is compulsorily removed from office under this Act he shall be entitled in priority to any other applicant to be appointed to any vacant position in—

Provision
for trans-
ferred
officers.

- i. The Transport Department : or
- ii. Any other department or branch of the Public Service—

for which he possesses the necessary qualifications, at a salary not less than that received by him at the time of such transfer as aforesaid ; and in default of any such position being available, he shall be entitled to be paid by the Commission such amount by way of compensation as may be agreed between the Commission and such officer, or, in default of agreement, as may be determined by arbitration in accordance with the provisions of the *Arbitration Act 1892*.

(2) The provisions of subsection (1) hereof shall not apply to any officer retired in pursuance of the Act under which he was appointed on account of age, or of ill-health, or of any act, default, misconduct, incompetence, or incapacity on his part.

36—(1) The Commissioner of Police shall transfer to the Commission all records, property, and equipment in his possession in relation to the administration of the *Traffic Act 1925*.

Police
Department
to assist
Commission.

(2) All police officers shall, subject to the control of the Commissioner of Police, aid and assist the Commission in the administration of this Act and shall enforce the provisions of this Act.

Transport.

A.D. 1938.

Road works,
&c., to be
carried out
by Director of
Public
Works.

37—(1) All works authorised or directed by the Commission to be effected under or for the purposes of the *Roads and Jetties Act* 1935, or the *Federal Aid Roads and Works Act* 1937, shall be constructed, carried out, and effected by the Director of Public Works.

(2) Except in the case of works effected in pursuance of the provisions of subsection (3) or subsection (4) of section seventeen, the Commission shall pay out of the funds at its disposal the cost of all such works as aforesaid.

Special pro-
vision for
certain muni-
cipalities.

38—(1) Upon the Councils of any of the Municipalities of Bruny, Flinders, King Island, or Zeehan respectively satisfying the Commission that such Council, within the immediately preceding financial year, has expended upon the roads of its Municipality a sum not less than the total amount of motor taxes collected in such municipality in such year, the Commission shall pay to such Council an amount equal to ninety-eight pounds per centum of such total.

(2) Upon the proclamation of a State highway extending from Queenstown to the town of Zeehan and connecting that town with the State highway system, the provisions of subsection (1) hereof shall cease to apply to the municipality in which such town is situate.

Pr p rty of
Commission
exempt
from rates
and taxes.

39 No rates or taxes shall be imposed or payable in respect of any property owned and used by the Commission for the purposes of this Act.

Annual
report.

40 The Commission shall furnish to the Minister annually with the accounts mentioned in section thirty a report of the operations, business, and affairs of the Transport Department in respect of the immediately preceding financial year.

Amendment
of 26 Geo. V.
No. 33, s. 98.

41 Section ninety-eight of the *Railway Management Act* 1935 is hereby amended by deleting the words "into the Consolidated Revenue" and substituting therefor the words "to the Transport Commission" (at the end of subsection (1)).

Saving of
1 Edw. VIII.
No. 33.

42 Nothing in this Act shall affect the operation of the *Hobart Bridge Act* 1936, or derogate from the rights thereby conferred.

Transport.

43—(1) The Governor, on the recommendation of the Commission, may make regulations for the purposes of this Act. A.D. 1938.
Regulations.

(2) Any such regulations may provide for the licencing of agents in relation to transport services and may impose fees in respect thereof and prescribe the conditions which shall be complied with by persons acting as such agents.

THE SCHEDULE.

Regnal Year and Number.	Title of Act.	Extent of Repeal.
26 Geo. V. No. 33	<i>The Railway Management Act, 1935</i>	Sections 4 to 7, 11 and 12
26 Geo. V. No. 82	<i>The Roads and Jetties Act, 1935</i>	Sections 4 to 6, and 16
1 Edw. VIII. No. 40	<i>The Railway Capital (Reduction) Act, 1936.</i>	Section 4

