

TRANSPORT ACT 1981

No. 20 of 1981

TABLE OF PROVISIONS

<p>PART I—PRELIMINARY</p> <ol style="list-style-type: none"> 1. Short title. 2. Commencement. 3. Interpretation. <p>PART II—TRANSPORT COMMISSION</p> <ol style="list-style-type: none"> 4. Appointment and incorporation of Commissioner. <p>PART III—POWERS AND DUTIES OF COMMISSION</p> <ol style="list-style-type: none"> 5. Powers of the Commission. 6. Functions of the Commission. 7. Commission subject to control of Minister. 8. Appointment of officers, &c. 9. Transport Department. 10. Delegation by Commission. <p>PART IV—FINANCIAL PROVISIONS</p> <ol style="list-style-type: none"> 11. Bank accounts; Funds of Commission. 12. Power of Commission to borrow on overdraft. 13. Treasury advances. 14. Power of Commission to invest money held by it. 15. Right of Commission to requisition Treasurer for advance. 	<ol style="list-style-type: none"> 16. Commission to pay interest on loans. 17. Transport Commission Depreciation Fund. 18. Accounts to be prepared annually. 19. Application of balance shown in profit and loss account. 20. Statements of accounts. 21. Audit of accounts. <p>PART V—ADVISORY COMMITTEES</p> <ol style="list-style-type: none"> 22. Power of Minister to establish advisory committees. <p>PART VI—MISCELLANEOUS</p> <ol style="list-style-type: none"> 23. Police officers to assist Commission. 24. By-laws relating to Commission, &c. 25. Property of Commission exempt from rates and taxes. 26. Annual report, &c. 27. Regulations. 28. Dissolution of Transport Commission. 29. Repeal of certain Acts. <p>SCHEDULE 1—PROVISIONS WITH RESPECT TO TERM OF OFFICE AND CONDITIONS OF SERVICE OF COMMISSIONER</p>
---	--

SCHEDULE 2—PROVISIONS WITH
RESPECT TO APPOINTMENT AND
TERMS AND CONDITIONS OF
EMPLOYMENT OF OFFICERS AND
EMPLOYEES OF THE COMMISSION

SCHEDULE 3 — TRANSITIONAL
PROVISIONS AND SAVINGS

SCHEDULE 4—ACTS REPEALED



TRANSPORT ACT 1981

No. 20 of 1981

AN ACT to provide for the constitution of a transport authority for the purposes of co-ordinating, improving, regulating, and controlling certain transport services in this State and for related purposes and to repeal the Transport Act 1938.

[Royal Assent 6 May 1981]

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—This Act may be cited as the *Transport Act 1981*.

Short title.

2—(1) This section and section 1 shall commence on the date of assent to this Act.

Commence-
ment.

(2) Except as provided in subsection (1), this Act shall commence on a date to be fixed by proclamation.

Interpretation.

3—In this Act, except in so far as the context or subject-matter otherwise indicates or requires—

“ Commission ” means the Transport Commission incorporated under section 4;

“ Commissioner ” means the Commissioner for Transport appointed under section 4;

“ functions ” includes duties;

“ motor vehicle ” has the same meaning as it has in the *Traffic Act 1925*;

“ public vehicle ” has the same meaning as it has for the purposes of Part III of the *Traffic Act 1925*.

PART II

TRANSPORT COMMISSION

Appointment
and incorpora-
tion of
Commissioner.

4—(1) The Governor may, subject to this Act, appoint a Commissioner for Transport who is, by this subsection, incorporated as a corporation sole with the corporate name “ Transport Commission ”.

(2) The Commission—

(a) has perpetual succession;

(b) shall have an official seal;

(c) may take proceedings, and be proceeded against, in its corporate name;

(d) may, subject to this Act, purchase, exchange, take on lease, hold, hire, dispose of by way of lease or sale, and otherwise deal with property both real and personal;

(e) may do and be subject to all other things that corporations may, by law, do and be subject to and that are necessary for or incidental to the purposes for which it is incorporated; and

(f) has the functions imposed, and the powers conferred, on it by or under this or any other Act.

(3) All courts, judges, and persons acting judicially shall take judicial notice of the official seal of the Commission that has been affixed to a document and shall, unless the contrary is proved, presume that the seal was properly affixed.

(4) Schedule 1 has effect with respect to the term of office and conditions of service of the Commissioner.

PART III

POWERS AND DUTIES OF COMMISSION

5—(1) The Commission has power, subject to any directions given to it by the Minister pursuant to section 7— Powers of the Commission.

- (a) to regulate and control all or any means of transport by road, water, or air within the State other than any bus service operated by the Metropolitan Transport Trust;
- (b) to enter into contracts with any persons for the carrying on, and maintenance, of transport services in this State;
- (c) to carry on as a commercial undertaking the manufacture, maintenance, repair, and sale of light engineering products;
- (d) to grant exemptions in any case, or in prescribed classes of cases, from such payments or obligations (including payment of taxes levied in respect of motor vehicles) relating to transport as may be prescribed, and make such refunds and adjustments as may be necessary for that purpose;
- (e) 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; and
- (f) to do all things necessary or convenient to be done for or in connection with, or incidental to, the exercise of its powers or the performance of its functions under this Act or any other Act.

(2) The Commission has power subject to any directions given to it by the Minister pursuant to section 7 to operate and conduct shipping services between places within this State and between this State and any other part of the Commonwealth.

(3) In relation to any transport service acquired or initiated by the Commission and carried on by it, the Commission shall have, exercise, and enjoy the same powers, privileges, and immunities as are conferred by the *Railway Management Act 1935*, so far as the same are applicable in the same manner as if that service were a

railway service, and for the purposes of this Act those provisions shall be read and construed as if any reference in those provisions to a railway service included a reference to the transport service acquired or initiated by the Commission or carried on by it.

(4) Notwithstanding subsections (1) and (3), the Commission shall not acquire, initiate, or carry on any road transport service.

(5) In addition to the powers conferred on it by subsection (1), the Commission may, in the case of an emergency, subject to any directions given to it by the Minister pursuant to section 7, enter into a contract with any person for the carrying on and maintenance, in a particular case and for the purpose of meeting a particular emergency, of any transport service between any place in this State and any other place in this State and between any place in this State and any place outside this State.

Functions
of the
Commission.

6—(1) The functions of the Commission are—

- (a) to devise, initiate, and carry out measures for the co-ordination, improvement, and economic operation, of the means of, and facilities for, transport in this State, other than transport by rail and transport services operated by the Metropolitan Transport Trust;
- (b) to ensure so far as is practicable the provision of transport services adequate to meet the requirements of the public;
- (c) to administer the *Traffic Act 1925*; and
- (d) to do anything incidental or conducive to the performance of any of the preceding functions.

(2) A reference in subsection (1) (b) to transport services does not include a reference to transport by rail or transport services operated by the Metropolitan Transport Trust.

Commission
subject to
control of
Minister.

7—(1) In the exercise of the powers conferred, and the performance of functions imposed, on the Commission by or under this Act or any other Act, the Commission shall be subject to the control of the Minister.

(2) The Minister may, for the purpose of enabling him to exercise the control referred to in subsection (1), from time to time give a direction in writing to the Commission and the Commission shall, subject to this section, exercise the powers conferred, and perform the functions imposed, on it by or under this Act or any other Act in accordance with any such direction.

(3) The Commission is not bound by a direction given under subsection (2) unless the direction is in writing and signed by the Minister.

(4) The power conferred on the Minister by subsection (2)—

(a) shall not be exercised so as—

- (i) to require the Commission to do anything that it is not empowered to do by this Act or any other Act;
- (ii) to prevent the Commission from performing any function that it is expressly required by this Act or any other Act to perform, whether conditionally or unconditionally; or
- (iii) to interfere with the formation by the Commission of any opinion or belief in relation to any matter that has to be determined as a prerequisite to the performance or exercise by the Commission of any of its functions or powers under this Act or any other Act; and

(b) does not extend to any matter concerning a contract or agreement to which the Commission is a party and which is in force at the date fixed by proclamation under section 2 (2).

(5) Where the Minister gives a direction under subsection (2) and the direction is not complied with, the Minister may cause a copy of the direction to be laid on the table of each House of Parliament within the first 15 sitting days of the House after the direction is given by him.

(6) Subsection (2) does not authorize the Minister to give a direction with respect to the issue of any form of licence under the *Traffic Act 1925*.

8—(1) The Commission may appoint and employ such officers and employees as may be necessary for the exercise or discharge by the Commission of its powers and functions under this Act or any other Act. Appointment of officers, &c.

(2) Schedule 2 has effect with respect to the appointment and terms and conditions of employment of officers and employees of the Commission.

Transport
Department.

9—(1) The Commissioner, the Administrator of Road Transport appointed under the *Traffic Act 1925*, and all persons appointed and employed under section 8 or who, by virtue of clause 2 of Schedule 3, become officers appointed and employed under section 8 shall constitute a body to be known as the Transport Department.

(2) Any act or thing done or omitted to be done by a person referred to in subsection (1) in the name of the Transport Department which could be done or omitted to be done by the Commission shall be deemed to have been done or omitted to be done by the Commission.

Delegation by
Commission.

10—(1) The Commission may by instrument in writing delegate to a person specified in the instrument the performance or exercise of such of its functions and powers under this Act or any other Act (other than this power of delegation) as are specified in the instrument, and may, by instrument in writing, revoke wholly or in part any such delegation.

(2) A function or power, the performance or exercise of which has been delegated under this section, may, while the delegation remains unrevoked, be performed or exercised 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 limitations as to the performance or exercise of any of the functions or powers delegated, or as to time or circumstance, as are specified in the instrument.

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

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

(6) An instrument purporting to be signed by a delegate of the Commission in his capacity as such a delegate shall in all courts and before all persons acting judicially be received in evidence as if it were an instrument executed by the Commission under seal and, until the contrary is proved, shall be deemed to be an instrument signed by a delegate of the Commission under this section.

PART IV

FINANCIAL PROVISIONS

11—(1) The Commission shall establish such bank accounts as it considers necessary. Bank accounts; Funds of Commission.

(2) The funds of the Commission shall consist of—

- (a) receipts from the operation of any undertaking vested in or operated by the Commission;
- (b) charges imposed in connection with the licensing and operation of public vehicles (other than sums paid to the Commission under section 20A of the *Traffic Act 1925*);
- (c) proceeds of the sale, lease, or hire of equipment or property, or the sale of materials, the property of the Commission;
- (d) money advanced by the Treasurer to the Commission;
- (e) money payable to the Commission under any Act or any Commonwealth Act for the use of the Commission in the performance or exercise of any of its functions or powers under this Act or any other Act; and
- (f) money borrowed by the Commission under this Act.

(3) The funds of the Commission shall be applied only—

- (a) in the payment or discharge of the expenses, charges, and obligations incurred or undertaken by the Commission in the performance of its functions and the exercise of its powers; and
- (b) in the payment of any remuneration payable under this Act.

(4) The Commission shall pay any money received by it into such of the accounts referred to in subsection (1) as it determines.

Power of
Commission
to borrow on
overdraft.

12—(1) Subject to subsection (2), for the purpose of meeting working expenses, the Commission may, with the consent of the Treasurer, borrow money by overdraft on any bank account established under section 11.

(2) The total amount of overdrafts referred to in subsection (1) shall not at any time exceed \$100 000.

Treasury
advances.

13—(1) The Commission may at any time apply to the Treasurer for an advance for all or any of the following purposes:—

- (a) for meeting working expenses or for paying any interest payable by the Commission pursuant to this Act;
- (b) for paying any costs or expenses incurred by the Commission in or in connection with—
 - (i) the purchase of raw materials and manufactured articles (other than ships or aircraft) which the Commission considers necessary for any purpose in connection with the exercise of its powers or the performance of its functions under this Act or any other Act; and
 - (ii) the manufacture by the Commission of articles for use in connection with the exercise of its powers or the performance of its functions under this Act or any other Act,

and the Treasurer may, in his discretion, advance to the Commission such amount as, subject to this section, he thinks fit, upon such terms as to repayment as the Treasurer may determine.

(2) The Commission shall not expend any money advanced to it by the Treasurer under or for the purposes of this section for any purpose other than those specified in subsection (1).

Power of
Commission
to invest
money held
by it.

14—The Commission may invest any money held by it in such securities as the Treasurer may approve.

15—(1) Subject to the provisions of this Act, the Commission may requisition the Treasurer for any money required by the Commission for capital expenditure in connection with the exercise of its powers or the performance of its functions under this Act or any other Act and which has been voted by Parliament for that purpose, and the Treasurer may pay that money to the Commission. Right of Commission to requisition Treasurer for advance.

(2) Every payment made by the Treasurer to the Commission under this section which comprises or forms part of money voted by Parliament at any time for capital expenditure in connection with the exercise of the Commission's powers or the performance of its functions under this Act or any other Act shall be deemed to be a loan from the State to the Commission.

(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 capital expenditure of the Commission shall, as at the date when that amount is 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 that purpose.

16—(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 a loan referred to in section 15 and any advance made by the Treasurer to the Commission under section 13 or so much of the loan or advance as remains owing to the State, in accordance with the provisions of this section. Commission to pay interest on loans.

(2) The interest to be paid by the Commission under this section—

(a) shall be paid from the respective dates of the payments by the Treasurer to the Commission of the money comprising or forming part of a loan referred to in section 15 or an advance under section 13; and

(b) shall be at the State rate as defined in section 24 of the *Hydro-Electric Commission Act 1944*.

(3) During the period from the commencement of the construction of the works upon which a loan referred to in subsection (1) has been, or is being, expended, until such date as the Commission certifies that those works have been put into operation, the interest payable by the Commission under subsection (1) may be charged to, and be paid out of, the capital money comprising that loan.

17—(1) The Commission shall pay to the Board of Commissioners of the State Sinking Fund such sums as the Commission considers necessary to cover depreciation or obsolescence of any plant, machinery, or other assets of a wasting nature.

(2) All money received by the Board of Commissioners of the State Sinking Fund pursuant to subsection (1) shall be credited to an account to be called “ the Transport Commission Replacement and Loan Redemption Depreciation Account ”.

(3) The Board of Commissioners of the State Sinking Fund shall pay to the Treasurer, out of the money standing to the credit of the account referred to in subsection (2) at the commencement of each financial year, such sums as will reimburse the Treasurer in respect of the amount of sinking fund contributions payable by him in that financial year to the National Debt Commission in respect of a loan referred to in section 15.

(4) On any money being paid to the Treasurer by the Board of Commissioners of the State Sinking Fund pursuant to subsection (3), the amount of a loan referred to in that subsection shall be reduced by an amount equal to the sum of money so paid and shall also be reduced by any sum that the Commonwealth in accordance with the Financial Agreement contributes towards the redemption of such a loan.

(5) Subject to subsection (6), the Board of Commissioners of the State Sinking Fund shall pay to the Commission, out of the money standing to the credit of the account referred to in subsection (2), such sums as the Commission may require for—

- (a) the renewal of any plant, machinery, or other asset of a wasting nature;
- (b) the carrying out of any new work or the purchase of any new plant, machinery, or other assets, the carrying out or purchase of which is authorized by this Act or by Parliament; or
- (c) the purpose of writing off any abandoned or obsolete assets.

(6) The Treasurer, when required by the Commission, shall, out of loan money voted by Parliament for the purpose, reimburse the account referred to in subsection (2) in respect of any sum so applied in the carrying out of new works or the purchase of new plant, machinery, or other assets.

(7) The Commission shall debit to its profit and loss account and credit to the account referred to in subsection (2) interest at the State rate (as defined in section 24 of the *Hydro-Electric Commission Act 1944*) on all sums paid out of that account for the purposes of subsection (5) (b).

18—(1) Within 2 months after 1st July in each year, the Commission shall cause to be prepared—

Accounts to be prepared annually.

- (a) a separate trading account for the immediately preceding financial year, in respect of each of its branches, containing particulars of—
 - (i) the revenue accruing from the operations of that branch during the financial year to which the account relates; and
 - (ii) the expenditure properly chargeable to the trading account upon the working, maintenance, and management of the relevant branch of the Commission, including provision for depreciation,
 and the respective balances shown in the trading accounts shall be carried to the consolidated trading account referred to in paragraph (b);
- (b) a consolidated trading account for the immediately preceding financial year, containing particulars of the balances carried to it pursuant to paragraph (a), and the balance of the consolidated trading account shall be carried to the profit and loss account referred to in paragraph (c);
- (c) a profit and loss account for the immediately preceding financial year, containing the following particulars:—
 - (i) the net balance (whether debit or credit) carried to it from the consolidated trading account referred to in paragraph (b);
 - (ii) the expenditure properly chargeable to the profit and loss account in respect of head office administration;
 - (iii) the expenditure incurred in the administration of Part III of the *Traffic Act 1925*;

- (iv) the interest (other than interest payable under section 16 (3)) payable by the Commission to the Treasurer upon or in respect of all loans and advances owing by the Commission to the State, and also the interest payable by the Commission pursuant to section 17 (7), and all interest charged to the profit and loss account shall be specified separately, and the profit and loss account shall indicate to which branch of the Commission the interest relates;
- (v) any other items of expenditure properly chargeable to the profit and loss account;
- (vi) the revenue accruing from the licensing of public vehicles pursuant to the *Traffic Act 1925* and other fees and charges imposed pursuant to that Act in connection with the licensing and operation of public vehicles (excluding licensing fees for drivers of public vehicles); and
- (vii) any other items of revenue which are properly credited to the profit and loss account, and the balance of the profit and loss account shall be carried forward to the profit and loss appropriation account referred to in paragraph (d);
- (d) a profit and loss appropriation account for the immediately preceding financial year, showing the balance brought forward from the profit and loss account referred to in paragraph (c) and how that balance has been dealt with; and
- (e) a balance sheet containing particulars of all assets and liabilities of the Commission as at the end of the immediately preceding financial year.

(2) 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 funds of the Commission.

19—(1) Whenever in any financial year the profit and loss account in respect of the immediately preceding financial year shows a credit balance, that credit balance shall be applied in the following order of priority:—

- (a) reimbursing the Treasurer in respect of any debit balances shown in that account and reimbursed by the Treasurer under subsection (2);

- (b) 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 a Contingency Reserve Fund shall not be established except with the consent of the Governor;
- (c) establishing a special Redemption Reserve Fund, to which may be contributed such amounts 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; and
- (d) repaying loans referred to in section 15.

(2) Whenever, in any financial year, the profit and loss account in respect of the immediately preceding financial year shows a debit balance, the Treasurer shall reimburse the Commission in respect of the debit balance and shall pay to the Commission out of money to be provided by Parliament for that purpose the amount of that debit balance.

(3) Subject to subsection (4), where any payment is to be made by or to the Commission in any financial year under subsection (1) or (2), the payment shall be made within one month after the Auditor-General has certified to the correctness of the profit and loss account in respect of the immediately preceding financial year.

(4) Where a payment is required to be made by the Treasurer under subsection (2), the Treasurer may, pending the certification of the profit and loss account by the Auditor-General and the appropriation by Parliament of the necessary money, pay to the Commission (either in one amount or by instalments) such sums (not exceeding 75 per cent of the debit balance shown in the profit and loss account, as submitted to the Auditor-General for his certificate) as the Treasurer, after consultation with the Auditor-General, may consider reasonable, and that payment shall be a charge on the Consolidated Revenue Fund and be made out of that Fund without further appropriation than this section.

20—Within 2 months after 1st July in each year, the Commission shall cause to be prepared a statement of the amount of money received by it in the immediately preceding financial year—

Statements
of accounts.

(a) by way of—

- (i) registration fees in respect of motor vehicles;
- (ii) licensing fees for drivers of motor vehicles; and

(iii) fees payable in connection with the renewal or transfer of registrations and licences, under the *Traffic Act 1925*; and

(b) under the *Motor Vehicles Tax Act 1917*.

Audit of accounts.

21—(1) The Commission shall, not later than 1st September in each year, submit the statement of accounts referred to in sections 18 and 20 to the Auditor-General for audit.

(2) The Auditor-General has, in respect of the statement of accounts referred to in subsection (1) and other accounts of the Commission, all the powers conferred on him by any law for the time being in force relating to the audit of accounts.

PART V

ADVISORY COMMITTEES

Power of Minister to establish advisory committees.

22—(1) The Minister may, from time to time, by instrument in writing, establish advisory committees under such names as he may specify, for the purpose of advising or assisting him with respect to—

- (a) matters affecting the administration of this Act or the *Traffic Act 1925*;
- (b) matters relating to transport planning and policy;
- (c) matters relating to transport or transport services;
- (d) matters relating to traffic management and road safety; and
- (e) such other matters relating to transport as the Minister may determine.

(2) An advisory committee established under subsection (1) shall comprise such number of persons, holding such qualifications (if any), as the Minister may determine.

(3) A member of an advisory committee—

(a) shall—

(i) be appointed by the Minister for such period as the Minister thinks fit; and

(ii) hold and vacate office in accordance with the terms of his appointment or re-appointment;

(b) may be removed from office by the Minister by notice in writing addressed and delivered to that member; and

(c) may at any time resign his office by notice in writing addressed and delivered to the Minister.

(4) A person who is a member of an advisory committee shall not, by virtue of being such a member, be regarded as being an employee within the meaning of the *Retirement Benefits Act 1970*, the *Superannuation Act 1938*, or the *State Employees (Long-Service Leave) Act 1950* or as an officer of the Public Service or a person holding office under this Act, but an officer of the Public Service or a person holding office under this Act may hold office as a member of an advisory committee in conjunction with his office in the Public Service or under this Act, as the case may be.

(5) The Minister shall appoint one of the members of an advisory committee to be its chairman and may, if he thinks fit, appoint another of those members to be its deputy chairman.

(6) On the expiration of any period of appointment or re-appointment, a member of an advisory committee may be re-appointed for a further period.

(7) If a member of an advisory committee is unable for any reason to carry out his duties as such a member for any period, the Minister may appoint a person who, in his opinion, is suitably qualified to act in place of that member during that period, and that person shall, for that period, be deemed to be a member of that advisory committee.

(8) Each member of an advisory committee is entitled to receive such remuneration and allowances as may be prescribed or, if no such remuneration or allowances are for the time being prescribed, as may be determined by the Governor, but a member of an advisory committee who is an officer of the Public Service is not entitled to receive remuneration under this subsection, and is not entitled to receive an allowance under this subsection if he has received an allowance in respect of the same matter by virtue of his being such an officer.

(9) The holding of office as a member of an advisory committee shall be deemed not to be the holding of an office of profit or emolument within the meaning of section 32 of the *Constitution Act 1934*.

(10) Notwithstanding subsection (9), where a Member of Parliament holds office as a member of an advisory committee he is not entitled to receive any remuneration or allowances under this section as a member of an advisory committee except by way of remuneration for expenditure incurred by him in carrying out his functions as a member of an advisory committee.

(11) Meetings of an advisory committee shall be held in accordance with such directions as may be given by the Minister.

(12) The Minister may delegate to the chairman of an advisory committee any of the powers conferred on the Minister in respect of that committee.

(13) Subject to any directions given by the Minister, an advisory committee may regulate its own procedure.

PART VI

MISCELLANEOUS

Police officers
to assist
Commission.

23—All police officers shall, subject to the control of the Commissioner for Police, aid and assist the Commission in the performance of its functions and the exercise of its powers under this Act.

By-laws
relating to
Commission,
&c.

24—(1) The Commission may make by-laws in relation to the Commission or any branch of the Commission or any officers or employees of the Commission.

(2) By-laws made under subsection (1) are not statutory rules within the meaning of the *Rules Publication Act 1953*.

Property of
Commission
exempt from
rates and taxes.

25—(1) The Commission shall, as against all persons, have and enjoy, subject to this Act, the rights, privileges, and immunities of the Crown in respect of its ownership and occupation of—

(a) land occupied by it for administrative purposes under this Act;

(b) jetties under its control and management;

(c) aerodromes under its control; and

(d) land acquired by it for—

(i) occupation by it for administrative purposes under this Act; or

(ii) an aerodrome,

and not used for the purpose,

but not in respect of any other land.

(2) Nothing contained in subsection (1) shall prejudice or affect any rights, privileges, or immunities conferred, either expressly or by implication, on the Commission by any other provision of this Act in respect of any matters other than those to which that subsection relates.

26—(1) The Commission shall, within 4 months after the end of each financial year, furnish to the Minister a report of the operations, business, and affairs of the Commission in respect of that financial year and a copy of the statements of accounts for that financial year required to be submitted to the Auditor-General under section 21. Annual report, &c.

(2) The Minister shall cause a copy of the report and accounts referred to in subsection (1) to be laid on the table of each House of Parliament within the first 15 sitting days of the House after the report and accounts are received by him.

27—The Governor, on the recommendation of the Commission, Regulations. may make regulations for the purposes of this Act.

28—(1) The Transport Commission constituted under the *Transport Act 1938* is dissolved and, on and after the date fixed by proclamation under section 2 (2), a reference in any Act to the Transport Commission constituted under that Act shall be read as a reference to the Transport Commission incorporated under this Act. Dissolution of Transport Commission.

(2) The provisions set out in Schedule 3 have effect.

29—The Acts specified in Schedule 4 are repealed.

Repeal of certain Acts.

SCHEDULE 1

Section 4

PROVISIONS WITH RESPECT TO TERM OF OFFICE AND
CONDITIONS OF SERVICE OF COMMISSIONER

Appointment of
Commissioner.

1—The Commissioner shall be appointed for a term, not exceeding 5 years, specified in the instrument of his appointment and shall, if otherwise qualified, be eligible for re-appointment from time to time for a term, not exceeding 5 years, specified in the instrument of his re-appointment.

Age of
Commissioner.

2—A person who is of or above the age of 65 years shall not be appointed as Commissioner or continue in that office.

Commissioner
to hold
office on
terms and
conditions
specified in
instrument of
appointment.

3—Subject to the provisions of this Schedule, the Commissioner shall hold office on such terms and conditions as may be specified in the instrument of his appointment.

Commissioner
not to engage
in paid
employment
outside duties
of his office.

4—The Commissioner shall not, during his term of office, engage in any paid employment outside the duties of his office except with the approval of the Governor.

Public Service
Act 1973 not
to apply.

5—The provisions of the *Public Service Act 1973* do not apply to or in respect of the appointment by the Governor of the Commissioner and the Commissioner is not subject to the provisions of that Act during his term of office as Commissioner.

Remuneration
of
Commissioner.

6—The Commissioner is entitled to be paid such remuneration (including travelling and subsistence allowances) as the Governor may from time to time determine in respect of him.

Commissioner
deemed to
be employee
for purposes
of certain Acts.

7—The Commissioner shall be deemed to be an employee for the purposes of the *Superannuation Act 1938*, the *Retirement Benefits Act 1970*, and the *State Employees (Long-Service Leave) Act 1950*.

Vacation
of office.

8—(1) The Commissioner shall be deemed to have vacated his office—

- (a) if he dies;
- (b) if without the approval of the Governor he engages during his term of office in any paid employment outside the duties of his office;
- (c) if he resigns his office by writing under his hand addressed to the Governor and the Governor accepts his resignation;

- (d) if he becomes bankrupt, applies to take the benefit of any laws for the relief of bankrupt or insolvent debtors, compounds with his creditors, or makes any assignment of his remuneration or estate for their benefit;
- (e) if he becomes liable to be detained under the *Mental Health Act 1963* in a hospital, being a hospital within the meaning of section 3 (1) of that Act;
- (f) if he is convicted in this State of a crime or an offence which is punishable by imprisonment for 12 months or upwards, or if he is convicted elsewhere than in this State of an offence which, if committed in this State, would be a crime or an offence so punishable;
- (g) if he absents himself from duty for a period exceeding 14 days except—
 - (i) on leave granted by the Minister; or
 - (ii) through illness or other unavoidable cause;
- (h) if he is removed from office by the Governor under subclause (2); or
- (i) on his attaining the age of 65 years.

(2) The Governor may remove the Commissioner from office for misbehaviour, neglect of duty, or incompetence.

9—(1) If an officer of the Public Service is appointed to the office of Commissioner under this Act, he is entitled to retain all his existing and accruing rights as if his service in that office were a continuation of his service as an officer of the Public Service. Commissioner entitled to retain certain rights in certain circumstances.

(2) Where a person referred to in subclause (1) ceases to hold the office of Commissioner and becomes an officer of the Public Service, his service in that office shall be regarded as service in a permanent capacity in the Public Service for the purposes of determining his rights as an officer of the Public Service.

(3) In this clause—

“ officer of the Public Service ” means a person employed in any capacity in any branch of the Public Service, but does not include a person temporarily employed;

“ Public Service ” has the meaning assigned to that expression in the *Public Service Act 1973*.

SCHEDULE 2

Section 8

PROVISIONS WITH RESPECT TO APPOINTMENT AND TERMS AND
CONDITIONS OF EMPLOYMENT OF OFFICERS AND EMPLOYEES
OF THE COMMISSION

Age of
officers and
employees.

1—A person who has attained the age of 65 years shall not be appointed and employed as an officer or employee of the Commission, and an officer or employee of the Commission shall cease to be employed as such on attaining that age.

Officers, &c.,
to perform
the functions
determined by
Commission.

2—An officer or employee of the Commission shall perform such functions as the Commission may from time to time determine.

Certain terms
and conditions
of employment
of officers, &c.,
to be deter-
mined by
Commission.

3—Subject to the provisions of this Schedule, the terms and conditions of employment (including remuneration, allowances, and leave) of officers and employees of the Commission shall, subject to any award or industrial agreement relating to persons engaged in the work for which they are appointed and employed, be determined by the Commission.

Officers not
subject to
*Public Service
Act 1973*, &c.

4—(1) An officer of the Commission—

(a) in his capacity as such an officer, is not subject to the provisions of the *Public Service Act 1973*; and

(b) shall be deemed to be an employee within the meaning of the *Superannuation Act 1938* and the *Retirement Benefits Act 1970*.

(2) The Commission shall be deemed to be a State authority within the meaning of the *State Employees (Long-Service Leave) Act 1950* and, in relation to officers of the Commission, the Commission shall be deemed to be the prescribed authority for the purposes of that Act.

Provisions
applicable
where officer
of Public
Service is
appointed as
officer of
Commission.

5—(1) If an officer of the Public Service is appointed and employed under section 8 as an officer of the Commission, he is entitled to retain all his existing and accruing rights as if his service as an officer of the Commission were a continuation of his service as an officer of the Public Service.

(2) Where a person appointed as an officer of the Commission was, immediately before his appointment, an officer of the Public Service, sections 32 and 33 of the *Public Service Act 1973* shall continue to apply in respect of that person as if his service as an officer of the Commission were service as an officer of the Public Service and, for the purpose of those sections, he shall be deemed to be an officer of the Public Service while he remains an officer of the Commission.

(3) Where a person referred to in subclause (2) ceases to be an officer of the Commission and becomes an officer of the Public Service, his service as an officer of the Commission shall be regarded as service in the Public Service for the purposes of determining his rights as an officer of the Public Service.

(4) In this clause—

“ officer of the Public Service ” means a person employed in any capacity in any branch of the Public Service but does not include a person temporarily employed;

“ Public Service ” has the meaning assigned to that expression in the *Public Service Act 1973*.

SCHEDULE 3

Section 28

TRANSITIONAL PROVISIONS AND SAVINGS

Interpretation.

1—In this Schedule—

“former Commission” means the Transport Commission constituted under the repealed Act;

“proclaimed date” means the date fixed by proclamation under section 2 (2) of this Act;

“repealed Act” means the *Transport Act 1938*.

Officers of former Commission.

2—(1) Every person who immediately before the proclaimed date is employed as an officer under section 8 of the repealed Act shall, on that date, become an officer appointed and employed under section 8 of this Act.

(2) Subject to subclause (3), where any person, being an officer employed under section 8 of the repealed Act, becomes an officer appointed and employed under section 8 of this Act by virtue of subclause (1), that person shall—

(a) be paid a salary or wage not less than the salary or wage payable to him immediately before the proclaimed date and be entitled to receive the same allowances as those to which he was entitled immediately before that date;

(b) retain any rights that, immediately before the proclaimed date, have accrued or are accruing to him by virtue of his being an officer employed under section 8 of the repealed Act, including any rights accruing to him under the *Superannuation Act 1938* or the *Retirement Benefits Act 1970*;

(c) continue to contribute to any fund established under either of the Acts referred to in paragraph (b) that he was contributing to before that date; and

(d) be entitled to receive any leave (including long-service leave) and any remuneration, pension, gratuity, or other payment,

as if he had continued to be an officer employed under section 8 of the repealed Act and as if the former Commission had not been dissolved.

(3) Where any term or condition of employment of a person who becomes an officer appointed and employed under section 8 of this Act by virtue of subclause (1) is, immediately before he so becomes an officer, regulated by an award or industrial agreement under or in accordance with any law in force in this State that relates to industrial relations, that term or condition shall continue to be so regulated until an award regulating that term or condition and binding on the Transport Commission incorporated under this Act is made by a competent tribunal or that term or condition is regulated by an industrial agreement to which that Commission is a party.

Transfer of property, &c.

3—(1) Any estate or interest in land or other property and all rights, obligations, and liabilities of the former Commission that are subsisting immediately before the proclaimed date shall, on that date, be transferred to and vest in the Transport Commission incorporated under this Act.

(2) On and after the proclaimed date—

- (a) any money, and any claim, whether liquidated or unliquidated which, immediately before that date, was payable to or recoverable by the former Commission shall be money, or a claim, payable to or recoverable by the Transport Commission incorporated under this Act; and
- (b) any debt due from, or money payable by, or any claim whether liquidated or unliquidated enforceable against, the former Commission immediately before that date shall be a debt due from, or money payable by or a claim enforceable against the Transport Commission incorporated under this Act.

4—(1) The person holding office as Commissioner for Transport under the repealed Act immediately before the proclaimed date shall, on that date, be deemed to have been appointed as Commissioner for Transport under this Act and he shall, subject to this Act, hold office for the remainder of the period specified in the instrument of his appointment under the repealed Act. Commissioner
for Transport.

(2) All acts, matters, and things done or omitted to be done before the proclaimed date by, or done or suffered before that date in relation to, the Commissioner for Transport appointed under the repealed Act shall, on and after that date, have the same force and effect as if they had been done or omitted to be done by, or done or suffered in relation to, the Commissioner for Transport appointed under this Act.

5—Any approval given by the former Commission under the repealed Act shall be deemed to have been given by the Transport Commission incorporated under this Act. Approvals.

6—A document or certificate purporting to be signed by any one or more members of the former Commission and countersigned by the secretary of the former Commission for the purposes of proceedings under the *Traffic Act 1925* shall, where those proceedings are heard or continued after that commencement, be deemed to be a document purporting to have been signed by the secretary of the Transport Commission incorporated under this Act. Effect of
certain
documents, &c.,
purporting to
be signed
by employees
of former
Commission.

7—(1) Any prescribed committee established by the Minister before the proclaimed date and in existence immediately before that date shall be deemed to have been established under section 22 of this Act. Committees
established by
Minister.

(2) For the purposes of subclause (1), “prescribed committee” means a committee established by the Minister for the purpose of advising or assisting him with respect to—

- (a) matters relating to transport planning and policy; or
- (b) matters relating to transport or transport services.

References
to former
Commission
in documents,
&c.

8—A reference to the former Commission in any regulation, rule, by-law, order, certificate, notice, or other document shall, if that regulation, rule, by-law, order, certificate, notice, or other document was subsisting or in force immediately before the proclaimed date, be read after that date as a reference to the Transport Commission incorporated under this Act, and that regulation, rule, by-law, order, certificate, notice, or other document shall be construed and have effect accordingly.

Accounts
opened by
former
Commission.

9—Any account opened with a bank by the former Commission pursuant to section 18 of the repealed Act and in existence at the proclaimed date shall, on that date, be deemed to be an account established under section 11 of this Act by the Transport Commission incorporated under this Act.

Application
for advance
by former
Commission.

10—Any application for an advance made by the former Commission pursuant to section 20A of the repealed Act that has not been finally dealt with immediately before the proclaimed date shall, on that date, be deemed to have been made pursuant to section 13 of this Act by the Transport Commission incorporated under this Act.

Advances and
payments made
to former
Commission.

11—Any advance made pursuant to section 20A of the repealed Act, or any payment made pursuant to section 23 of that Act, made to the former Commission by the Treasurer shall, on that date, be deemed to have been made to the Transport Commission incorporated under this Act.

Investments
made by
former
Commission.

12—Any investment made before the proclaimed date by the former Commission pursuant to section 21 of the repealed Act shall, on that date, be deemed to have been made by the Transport Commission incorporated under this Act.

Requisition
made to
Treasurer
by former
Commission.

13—Any requisition made to the Treasurer by the former Commission pursuant to section 23 of the repealed Act that has not been finally dealt with immediately before the proclaimed date shall, on that date, be deemed to have been made pursuant to section 15 of this Act by the Transport Commission incorporated under this Act.

Money paid
to State
Sinking Fund
Commissioners
by former
Commission.

14—Any money paid before the proclaimed date by the former Commission to the State Sinking Fund Commissioners pursuant to section 25 of the repealed Act shall, on that date, be deemed to be money paid to the Board of Commissioners of the State Sinking Fund by the Transport Commission incorporated under this Act.

Accounts and
statements.

15—Sections 18 and 20 apply with respect to the preparation of accounts and statements referred to in those sections, and with respect to the audit of any such statements and accounts, as if the Transport Commission incorporated under this Act had had responsibility for the administration of the repealed Act for the portion of that period in which the Transport Commission was not so incorporated.

- 16—Section 26 applies with respect to the preparation of a report of the operation, business, and affairs of the Transport Commission incorporated under this Act for the period of 12 months ending on 30th June 1981 as if that Commission had had responsibility for the administration of the repealed Act for the portion of that period in which the Transport Commission was not so incorporated. Reports of operation, business, and affairs of Transport Commission.
- 17—Any directions issued by the former Commission to an authority under section 59 of the *Traffic Act 1925* and in force at the commencement of this Act shall be deemed to have been issued by the Transport Commission incorporated under this Act. Directions issued by former Commission.
- 18—Any prescribed traffic sign supplied by the former Commission to an authority under section 59 of the *Traffic Act 1925* shall be deemed to have been supplied by the Transport Commission incorporated under this Act. Traffic signs supplied by former Commission.
- 19—Any notice to an owner of land given by the former Commission under section 60 of the *Traffic Act 1925* and in force at the commencement of this Act shall be deemed to have been given by the Transport Commission incorporated under this Act. Notices given by former Commission.
- 20—Any application made to the former Commission under the *Traffic Act 1925* that has not been finally determined immediately before the proclaimed date shall, on that date, be deemed to have been made to the Transport Commission incorporated under this Act. Applications to former Commission.
- 21—Any legal or other proceedings that might, before the proclaimed date, have been continued or instituted by or against the former Commission may, on and after that date, be continued or instituted by or against the Transport Commission incorporated under this Act. Continuation of proceedings.
- 22—Any contract, agreement, arrangement, or undertaking entered into by the former Commission shall, if not executed, discharged, or otherwise terminated before the proclaimed date, be deemed to be a contract, agreement, arrangement, or undertaking entered into with the Transport Commission incorporated under this Act. Contracts, agreements, &c.
- 23—All acts, matters, and things done or omitted to be done by, or done or suffered in relation to, the former Commission before the proclaimed date shall, on and after that date, have the same force and effect as if they had been done or omitted to be done by, or done or suffered in relation to, the Transport Commission incorporated under this Act. Acts, &c., done by or to former Commission before proclaimed date.
- 24—Without limiting the generality of clause 23—
- (a) any licence granted, issued, renewed, or transferred by the former Commission and in force at the proclaimed date shall be deemed to have been granted, issued, renewed, or transferred, as the case may be, by the Transport Commission incorporated under this Act;
- (b) any refusal to issue, renew, or transfer a licence, or any cancellation of a licence, by the former Commission shall be deemed to be a refusal or cancellation, as the case may be, by the Transport Commission incorporated under this Act; General provisions with respect to certain acts, &c., done by former Commission.

- (c) any conditions or restrictions imposed by the former Commission in respect of any licences or permits and in force at the proclaimed date shall be deemed to have been imposed by the Transport Commission incorporated under this Act;
- (d) any variation of the conditions or restrictions made by the former Commission in respect of any licence in force at the proclaimed date shall be deemed to have been made by the Transport Commission incorporated under this Act;
- (e) any notice or other document or any information given, supplied, or furnished to the former Commission before the proclaimed date shall be deemed to have been given, supplied, or furnished to the Transport Commission incorporated under this Act;
- (f) any exemption granted, or any permit granted and issued under section 20 of the *Traffic Act* 1925, by the former Commission and in force at the proclaimed date shall be deemed to have been granted or issued by the Transport Commission incorporated under this Act;
- (g) any notice published in the *Gazette* by the former Commission and in force at the proclaimed date shall be deemed to have been published by the Transport Commission incorporated under this Act;
- (h) any order published in a newspaper by the former Commission and in force at the commencement of this Act shall be deemed to have been published by the Transport Commission incorporated under this Act;
- (i) any notice or regulation which the former Commission caused to be affixed to or posted up on any building, post, or other structure or erection pursuant to section 48 of the *Traffic Act* 1925 shall be deemed to have been caused to be affixed or posted by the Transport Commission incorporated under this Act;
- (j) any posts, standards, domes, studs, or other contrivances erected or installed in public streets or any markings made in or on the surface of a public street by the former Commission shall be deemed to have been erected, installed, or made, as the case may be, by the Transport Commission incorporated under this Act; and
- (k) any authorization given by, determination made by, directions given by, or requirements made by, the former Commission and in force at the proclaimed date shall be deemed to have been given or made, as the case may be, by the Transport Commission incorporated under this Act.

Surveys
undertaken
by former
Commission.

25—Any survey undertaken by the former Commission or any public inquiry held by the former Commission and not finally completed at the proclaimed date shall be continued by the Transport Commission incorporated under this Act as if it had been undertaken or held by the latter Commission.

SCHEDULE 4

Section 29

ACTS REPEALED

Year and number of Act	Short title of Act
2 & 3 Geo. VI No. 70	<i>Transport Act 1938</i>
11 & 12 Geo. VI No. 86	<i>Transport Act 1947</i>
No. 30 of 1956	<i>Transport Act 1956</i>
No. 30 of 1961	<i>Transport Act 1961</i>
No. 33 of 1964	<i>Transport Act 1964</i>
No. 8 of 1968	<i>Transport Act 1968</i>
No. 15 of 1970	<i>Transport Act 1970</i>
No. 47 of 1972	<i>Transport Act 1972</i>
No. 43 of 1973	<i>Transport Act 1973</i>
No. 45 of 1973	<i>Transport Act (No. 2) 1973</i>
No. 20 of 1978	<i>Transport Act 1978</i>

