

MINISTRY OF TRANSPORT ACT.

Act No. 3, 1932.

George V.
No. 3, 1932.

An Act to constitute a Department of Transport; to provide for the constitution of a Board of Commissioners, and for the exercise by that Board of the powers and functions of the Railway Commissioners for New South Wales, the Metropolitan Transport Trust, the Newcastle and District Transport Trust, the Commissioner of Road Transport, the Management Board, the Main Roads Board of New South Wales, and the State Transport (Co-ordination) Board; to amend the Government Railways Act, 1912-1931, and certain other Acts; and for purposes connected therewith. [Assented to, 22nd March, 1932.]

BE

BE it enacted by the King's Most Excellent Majesty, No. 3, 1932.
 by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

1. This Act may be cited as the "Ministry of Transport Act, 1932." Short title.

2. This Act shall commence on a day to be appointed by the Governor, and notified by proclamation published in the Gazette. Commencement.

3. (1) In this Act, unless the context or subject-matter otherwise indicates or requires,— Interpretation.

"Board of Commissioners" means The Transport Commissioners of New South Wales constituted under this Act.

"Chief Transport Commissioner" means Chief Transport Commissioner appointed under this Act.

"Commissioner of Road Transport" means the Commissioner of Road Transport appointed under the Transport Act, 1930.

"Commissioner" means a Transport Commissioner appointed under section seven of this Act.

"Government Department" includes any person administering any Act other than this Act and subject to and for the purposes of this Act, includes the Main Roads Board of New South Wales, the Railway Commissioners for New South Wales, the Commissioner of Road Transport, the Metropolitan Transport Trust, the Newcastle and District Transport Trust, the Management Board and the State Transport (Co-ordination) Board, but does not include a person holding office as a Minister of the Crown.

"Management Board" means the Management Board constituted under the Transport Act, 1930.

(2) A reference in this Act either generally or particularly to any provision of any other Act, shall, if such provision is amended or replaced after the commencement of this Act be deemed a reference to the provision as so amended or replaced.

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Construction
of Act.

4. This Act shall be read and construed subject to the Commonwealth of Australia Constitution Act, and so as not to exceed the legislative power of the State to the intent that where any provision of this Act, or the application thereof to any person or circumstances is held invalid, the remainder of this Act, and the application of such provision to other persons or circumstances shall not be affected.

Establishing
of office of
Minister for
Transport.cf. Act No. 6,
1907, s. 2.

5. (1) The Governor may by proclamation published in the Gazette create the office of Minister for Transport. The said office shall be an office of profit under the Crown, created by Act of Parliament as an office of the Executive Government.

Management of
Department of
Transport.
cf. *Ibid.*

(2) The Minister for Transport shall be a responsible Minister of the Crown.

(3) For the purposes of the improvement and co-ordination of transport and the carrying into effect of the objects and purposes of this Act there shall be a Department of Transport under the Minister for Transport.

Department
of Transport.

6. (1) The Department of Transport shall comprise—

(a) The Government departments, sub-departments thereof, or parts of such departments or sub-departments which immediately before the commencement of this Act, administered the Government Railways Act, 1912-1931, the Transport Act, 1930, the Main Roads Act, 1924-1929, the Motor Vehicles (Taxation) Act, 1924, the Motor Tax Management Act, 1914, as amended by subsequent Acts, the Motor Traffic Act, 1909-1930, and the State Transport (Co-ordination) Act, 1931.

(b) any other Government department, any sub-department thereof, or any part of any such department or sub-department which may from time to time be transferred to the Department of Transport by the Governor by proclamation published in the Gazette.

(2) The Department of Transport shall be divided into the following Branches:—

(a) **Railway and Tramway Transportation Branch,** to control traffic operations of railways and tramways and matters connected therewith and incidental thereto. (b)

- (b) Highway and Roads Transportation Branch, to control the registration, licensing and operations of aircraft and highway and road vehicles and traffic matters connected therewith and incidental thereto.
- (c) Power and Mechanical Branch, to control locomotive power, rolling stock, workshops, electrical, steam and other power operations and matters connected therewith and incidental thereto.
- (d) Way and Works Branch, to control construction and maintenance of railways, tramways, roads, highways, signalling equipment, water supplies, buildings and other works; control and management of coal mines and matters connected therewith and incidental thereto.
- (e) Commercial Branch, to control freight and passenger traffic relative to railways and tramways, real estate interests, catering and refreshment rooms, the sale of spirituous and other liquors and matters connected therewith and incidental thereto.
- (f) Finance Branch, to control general finance, audit and statistical operations and management of stores and matters connected therewith and incidental thereto.
- (g) Staff Branch, to control staff, superannuation, and general industrial matters together with instructional, ambulance, suggestions and inventions, and workmen's compensation and medical activities.
- (h) Legal Branch.
- (i) Secretary to the Board of Commissioners, to control advertising, publicity, investigation matters and activities, in addition to the powers conferred and duties imposed upon him under the provisions of section eight of this Act.

(3) Upon the recommendation of the Chief Transport Commissioner the Governor may from time to time by proclamation published in the Gazette add to, vary or interchange the operations or activities of any or all of the abovementioned branches.

(4)

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(4) On and from the date of the commencement of this Act the administration of the Metropolitan Traffic Act, 1900, as amended by subsequent Acts, shall be vested in the Minister for Transport.

Board of
Commis-
sioners.

7. (1) There shall be a Board of Commissioners which shall be a body corporate by the name of "The Transport Commissioners of New South Wales," and by that name shall have perpetual succession and a common seal and may sue and be sued in its corporate name, and shall, for the purposes and subject to the provisions of this or any other Act, be capable of purchasing, holding, granting, demising, disposing of, or otherwise dealing with real and personal property, and of doing and suffering all such other acts and things as bodies corporate may by law do and suffer.

(2) For the purposes of any Act, the Board of Commissioners shall be deemed a statutory body representing the Crown.

(3) The Board of Commissioners shall comprise a Chief Transport Commissioner and seven Transport Commissioners appointed by the Governor together with the person for the time being holding the office of Commissioner of Police or acting in that office. Before the appointment of a Transport Commissioner the Chief Transport Commissioner shall be invited to report to the Governor with regard to the appointment, and full consideration shall be given to the representations, if any, made by the Chief Transport Commissioner.

(4) Each of the seven Transport Commissioners shall be appointed to the charge of one of the branches of the Department of Transport referred to in paragraphs (a), (b), (c), (d), (e), (f) and (g) of subsection two of section six of this Act with such duties as are allotted by the Chief Transport Commissioner.

(5) The Board of Commissioners shall, subject to the control of the Minister, carry into effect the objects and purposes of this Act and have and discharge the powers, functions and duties thereby conferred and imposed upon it.

(6) Each of the seven Transport Commissioners shall be the head of the branch of the Department
of

of Transport to which he is appointed and will be responsible to the Chief Transport Commissioner for the efficient control and administration of his branch.

Where the employment of any officer of any such branch is regulated by the Public Service Act, 1902, the Transport Commissioner in charge of the Staff Branch shall be in relation to that officer a permanent head for the purposes of that Act.

(7) The solicitor for the Board of Commissioners shall be the head of the Legal Branch of the Department of Transport and shall be responsible to the Chief Transport Commissioner for the efficient control and administration of that branch.

(8) On their appointment each of the seven Transport Commissioners shall be officers of the Department of Transport.

Where the employment of any such Commissioner is regulated by the Government Railways Act, 1912-1931, his appointment shall not be subject to the provisions of sections seventy-one, seventy-three, seventy-four, seventy-five, seventy-six and seventy-seven of that Act.

(9) The salaries, fees, and allowances of the Commissioners shall be fixed by the Governor, and shall be subject to any deduction provided by the Public Service Salaries (No. 2) Act, 1931, or any Act substituted for or amending that Act.

The Board of Commissioners shall apportion the salaries, fees and allowances of the Commissioners and of the officers and employees of the Department of Transport, and any additional administrative expenses, in an equitable manner between and charge the amounts so apportioned upon the various funds created under the provisions of the State Transport (Co-ordination) Act, 1931, the Government Railways Act, 1912-1931, the Transport Act, 1930, and the Main Roads Act, 1924-1929.

(10) In case of the illness, suspension or absence of the Chief Transport Commissioner, the Governor may appoint as deputy of the Chief Transport Commissioner, any one of the seven Transport Commissioners, who shall, during such illness, suspension or absence of the Chief Transport Commissioner, exercise his powers and perform his duties.

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In case of the illness, suspension or absence of any Transport Commissioner, or where one of the Transport Commissioners is appointed in pursuance of this section to act as deputy of the Chief Transport Commissioner, the Governor may appoint a person to be deputy of the Transport Commissioner ill, suspended, absent, or whilst so acting, and any person so appointed shall have all the powers and perform all the duties of such Commissioner.

(11) The provisions of the Public Service Act, 1902, shall not apply to the appointment of a Commissioner.

(12) Subject to this Act the Chief Transport Commissioner shall hold office for the term for which he is appointed and such term shall not exceed seven years, but such Commissioner shall be eligible for re-appointment for a further term not exceeding seven years.

(13) The Chief Transport Commissioner may be suspended or removed for misbehaviour or incompetence, as follows :—

- (a) He may be suspended from his office for misbehaviour or incompetence, but shall not be removed from office except as hereinafter provided :

The Minister shall cause to be laid before Parliament a full statement of the grounds of suspension within seven sitting days after such suspension if Parliament is in session, and if not, then within seven sitting days after the commencement of the next session.

- (b) A Chief Transport Commissioner suspended under this subsection 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 the said Commissioner ought to be removed from office, and if each House of Parliament within the said time does so declare, the said Commissioner shall be removed by the Governor accordingly.

(14)

(14) The Chief Transport Commissioner and each Commissioner shall be deemed to have vacated his office if he—

- (a) engages in New South Wales during his term of office in any paid employment outside the duties of his office except with the approval of the Governor ;
- (b) becomes bankrupt, compounds with his creditors, or makes an assignment of his salary for their benefit ;
- (c) absents himself from duty for a period of fourteen consecutive days, except on leave granted by the Governor ;
- (d) becomes incapable of performing his duties ;
- (e) resigns his office by writing under his hand ;
- (f) becomes in any way concerned or interested in any contract or agreement made by or on behalf of the Board of Commissioners, or in anywise participates or claims to be entitled to participate in the profit thereof or in any benefit or emolument arising therefrom.

(15) A Commissioner who at the date of his appointment was an officer of the Public Service, the Railway Commissioners for New South Wales, the Metropolitan Transport Trust, the Newcastle and District Transport Trust, or the Main Roads Board of New South Wales shall, in the event of his office as a Commissioner being discontinued or abolished, be eligible for and shall be appointed to an office in the Public Service or in the Department of Transport not lower in salary than that which he held at the date of his appointment as a Commissioner ; and a Commissioner who at the date of his appointment was an officer of the State Transport (Co-ordination) Board shall, in the event of his office as a Commissioner being discontinued or abolished, be eligible for and shall be appointed to an office in the Department of Transport not lower in salary than that which he held at the date of his appointment as Commissioner.

(16) Notwithstanding anything contained in any Act, nothing contained in this Act shall affect the rights accrued or accruing under the Public Service Act, 1902, the Superannuation Act, 1916-1930, the
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Government Railways Act, 1912-1931, the Main Roads Act, 1924-1929, or the Transport Act, 1930, to any person appointed a Commissioner under this Act who at the time of his appointment or at any time previously thereto was an officer of the Public Service, the Railway Commissioners for New South Wales, the Main Roads Board of New South Wales, the Metropolitan Transport Trust, or the Newcastle and District Transport Trust.

(17) Any officer of the Public Service, the Railway Commissioners for New South Wales, the Main Roads Board of New South Wales, the Metropolitan Transport Trust, the Newcastle and District Transport Trust, or the State Transport (Co-ordination) Board appointed a Commissioner under this Act shall continue to contribute to any fund or account, and shall be entitled to receive any deferred or extended leave, and any payment, pension, or gratuity as if he were an officer or employee within the meaning of the Public Service Act, 1902, the Superannuation Act, 1916-1930, the Government Railways Act, 1912-1931, the Main Roads Act, 1924-1929, or the Transport Act, 1930, as the case may be, and for such purposes his services as a Commissioner shall be deemed to be service for the purposes of such Acts. Any person so appointed as a Commissioner who previously to such appointment has been an officer of the Public Service, the Railway Commissioners for New South Wales, the Main Roads Board of New South Wales, the Metropolitan Transport Trust, or the Newcastle and District Transport Trust may receive during his term of office any payment, pension, or gratuity to which he may be or become entitled under the said Acts or any of them.

(18) If the Chief Transport Commissioner or any of the Transport Commissioners appointed under this Act, has at any time previous to such appointment been an officer of the Railway Commissioners for New South Wales, the Main Roads Board of New South Wales, the Metropolitan Transport Trust, or the Newcastle and District Transport Trust, and on and from the date upon which he ceased to be such officer of the Railway Commissioners for New South Wales, the Main Roads Board of New South Wales, the
Metropolitan

Metropolitan Transport Trust, or the Newcastle and District Transport Trust, and until his appointment under this Act, has been continuously employed in some position or positions in the Public Service of New South Wales, or in some public position or positions under the control of a Minister of the State of New South Wales, he shall continue to contribute to any fund or account as if he had remained, until his appointment under this Act, an officer of the Railway Commissioners for New South Wales, the Main Roads Board of New South Wales, the Metropolitan Transport Trust, or the Newcastle and District Transport Trust, and shall be entitled to receive any payment, pension, or gratuity, as if he had remained an officer of the Railway Commissioners for New South Wales, the Main Roads Board of New South Wales, the Metropolitan Transport Trust, or the Newcastle and District Transport Trust, as the case may be, and for such purposes his services in positions in the Public Service of New South Wales, in public positions controlled by a Minister of the State of New South Wales, and as Chief Transport Commissioner or Transport Commissioner under this Act, shall be deemed to be service for the purposes of the Government Railways Act, 1912-1931, the Main Roads Act, 1924-1929, or the Transport Act, 1930, as the case may be.

8. The Board of Commissioners shall appoint a Secretary, who, subject to its directions, shall have power to execute documents on its behalf and affix the seal of the Board of Commissioners thereto.

He shall, under the direction of the Chief Transport Commissioner, control all matters set forth in paragraph (i) of subsection two of section six of this Act, and shall also have such other powers and perform such other duties as may from time to time be directed by the Chief Transport Commissioner.

9. (1) Upon the commencement of this Act the Railway Commissioners for New South Wales, the Metropolitan Transport Trust, the Newcastle and District Transport Trust, the Commissioner of Road Transport, the Management Board, the Main Roads Board of New South Wales, and the State Transport (Co-ordination) Board shall cease to function and the duties,

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duties, powers, authorities and functions including the power to recommend or concur in the making of any regulations or ordinances conferred and imposed upon them or any of them by or under any Act shall be executed and performed by the Board of Commissioners constituted under this Act.

(2) Upon the transfer of any Government department, any sub-department thereof, or any part of any such department or sub-department to the Department of Transport as provided for in paragraph (b) of subsection one of section six of this Act, such Government department, sub-department thereof, or part of such department or sub-department, shall be administered by the Board of Commissioners as from the date specified in the proclamation by which the transfer is notified.

(3) Upon such commencement the Chief Railway Commissioner for New South Wales, the vice-chairman and members of the Metropolitan Transport Trust, and of the Newcastle and District Transport Trust, the Commissioner of Road Transport, the members of the Management Board, and the State Transport (Co-ordination) Commissioners shall cease to hold office.

(4) As from the date of such commencement Hugh Hamilton Newell, Esquire, shall cease to hold office as President of the Main Roads Board.

(5) As from the date of such commencement Thomas Haynes Upton, Esquire, shall cease to hold office as a member of the Main Roads Board.

Appoint-
ments and
transfers.

10. (1) The Chief Railway Commissioner for New South Wales, the Commissioner of Road Transport, the Chief State Transport (Co-ordination) Commissioner, any other of the State Transport (Co-ordination) Commissioners, Hugh Hamilton Newell, Esquire, and Thomas Haynes Upton, Esquire, shall be eligible for appointment to an office constituted under this Act. The said officers shall be compensated for any loss of salary or privileges by reason of the operation of this Act.

(2) The members of the Management Board shall be eligible for and shall be appointed to an office in the Department of Transport not lower in salary than that which they held at the date of their appointment as members of the said Management Board, subject, however,

however, to any deduction provided by the Public Service Salaries (No. 2) Act, 1931, or any Act substituted for or amending that Act.

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(3) Any officer in the employ of the State Transport (Co-ordination) Board shall, in the event of his office as an officer of that Board being discontinued or abolished, be eligible for and shall be appointed to an office in the service of the Board of Commissioners not lower in salary than that which he held as an officer of the State Transport (Co-ordination) Board, subject, however, to any deduction provided by the Public Service Salaries (No. 2) Act, 1931, or any Act substituted for or amending that Act.

(4) Any officer of the Public Service employed by the Commissioner of Road Transport pursuant to the provisions of subsection seven of section eighteen of the Transport Act, 1930, shall, upon the recommendation of the Board of Commissioners, be retransferred to the Department of the Public Service in which he was an officer immediately prior to his employment with the Commissioner of Road Transport, or subject to the approval of the Public Service Board, shall be transferred to some other Department of the Public Service at a salary not lower than that which he was receiving at the date of his appointment as an officer in the employ of the Commissioner of Road Transport, subject, however, to any deduction provided by the Public Service Salaries (No. 2) Act, 1931, or any Act substituted for or amending that Act.

11. (1) The Board of Commissioners may for the purposes of any Act required by this Act to be administered by such Board purchase lands and easements over lands.

Powers of Board of Commissioners.

(2) The Board of Commissioners shall, for the purposes of any Act required by this Act to be administered by such Board, have all necessary rights to enter upon, and in its corporate name resume, the lands and grounds or easements thereover of any person whomsoever, subject to the same conditions in respect of compensation, and to all other provisions and regulations as under the provisions of the Public Works Act, 1912, or any Acts amending the same, are applicable to the resumption of land for railway purposes.

cf. Act No. 18, 1930, s. 75.

(3)

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(3) The Board of Commissioners may employ, in an advisory or consulting capacity, and so use the services of any person or persons not employed in the Public Service of the State of New South Wales, or in the Department of Transport, at such remuneration as may in any such case be fixed by the Board of Commissioners.

(4) For the purposes of this Act the Board of Commissioners may make use of the services—

- (a) of any officer or employee of the Department of Transport in any one or more of the branches of that Department; and
- (b) with the approval of the Minister administering any other Government department, of any officer or employee of the Government department controlled by the Minister so approving.

Delegation.

(5) The Board of Commissioners may delegate to the Commissioner of Police or to any person or authority any of its powers, duties, functions, or authorities under this or any other Act or under any by-laws, ordinances or regulations, and the person or authority to whom such delegation is made may exercise and discharge the powers, duties, functions and authorities delegated as fully and effectually as the Board of Commissioners could have exercised and discharged the same.

(6) A delegation may be made in respect of any particular matter or of any class of matters or generally or may be limited to any part of the State and may be made subject to or on such terms and conditions as the Board of Commissioners thinks fit.

(7) Every delegation under this section shall be revocable at the will of the Board of Commissioners, but no delegation shall prevent the exercise of any power, duty, function, or authority by the Board of Commissioners.

(8) The provisions of this section shall be read and construed as in aid of and not in derogation from any provisions of this or any other Act administered by the Department of Transport.

(9)

(9) Any officer or servant whose services are used by the Board of Commissioners as referred to in subsection four of this section shall continue to contribute to any fund or account and shall be entitled to receive any annual, sick, deferred, or extended leave and any privileges and any payment, pension or gratuity, as if he had remained an officer or employee within the meaning of the Public Service Act, 1902, the Superannuation Act, 1916-1930, the Government Railways Act, 1912-1931, the Transport Act, 1930, or the Main Roads Act, 1924-1929, as the case may be, and for any of such purposes his service as aforesaid shall be deemed to be service for the purposes of any such Act

(10) Where the Board of Commissioners makes use of the services of any officer or employee of any Government department other than the Department of Transport, the salary or wages of such officer or employee shall continue to be paid by such Government department, but the funds of such department shall be recouped by the Board of Commissioners.

(11) It shall be lawful for the Board of Commissioners and any person providing or authorised to provide railway services or road services of public vehicles to make, carry into effect, rescind, or vary agreements for all or any of the following purposes, that is to say—

Working agreements. (cf. London Passenger Transport Bill, 1931, cl. 18.)

- (a) the interchange, accommodation, and conveyance of traffic arising on, coming from, or destined for, any service provided by the Board of Commissioners or any other party to the agreement;
- (b) the payment, collection, and apportionment of the fares and charges and other receipts arising from any such service;
- (c) the through running of vehicles or the through carriage of passengers or goods, and the fixing of fares and charges in relation thereto;
- (d) the provision and use of any vehicles, lands, depots, buildings, sheds, or property required in connection with any services to which the agreement relates.

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The Board of Commissioners may grant franchises limited by conditions.

cf. No. 41, 1919, s. 420.

(12) (a) The Board of Commissioners may grant permission to any person not authorised by statute or otherwise to run omnibuses or other public vehicles drawn by animal or mechanical power in any public street or road for the carriage of goods or passengers for hire or for any consideration.

(b) In any such case the Board of Commissioners shall enter into an agreement with such person which shall contain provisions dealing with the following subjects:—

- (i) The term of years for which permission is given.
- (ii) The consideration to be paid to the Board of Commissioners for such permission.
- (iii) Whether the Board of Commissioners is to have an option of purchase, if so, when, for what sum, and on what terms.
- (iv) The consideration to be paid by the Board of Commissioners if it exercises its option of purchase before the expiration of the term of years for which such permission is given.
- (v) The regulation of the charges to be made to the public for services rendered.
- (vi) The provision to be made for the repair of any damage resulting from the exercise of the powers conferred under any such agreement and the securing of the public safety.
- (vii) The indemnifying of the Board of Commissioners against damage.
- (viii) The full protection of the rights of the public to free passage upon public places.
- (ix) The maintenance of the efficiency of the service, the plant and machinery, and the testing thereof.
- (x) Such other subjects as the Board of Commissioners may deem necessary in the public interest.

(c) Any such agreement shall not be binding upon either of the parties thereto or have any force or effect in law or equity unless and until the approval of the Governor has been signified in writing upon such agreement or a certified copy thereof.

(d)

(d) Before the approval of the Governor is given under this section, the agreement, or a certified copy thereof, shall be laid before both Houses of Parliament, and if either House pass a resolution (of which notice has been given at any time within fifteen sitting days after such agreement or a certified copy thereof has been so laid before Parliament) disallowing the agreement or any part thereof, the agreement or part thereof, as the case may be, shall be disallowed.

For the purposes of this subsection "sitting days" means days upon which a House meets for the despatch of business; and a prorogation or dissolution of Parliament shall not prevent the running of the fifteen sitting days within which the notice of motion to disallow an agreement or part is to be given.

12. (1) On and from the day upon which the exercise of any power, authority, function or duty under any Act is transferred to the Board of Commissioners any reference in such Act to the Minister shall be read and construed as a reference to the Minister administering this Act.

Construction
of Acts,
by-laws, &c.

(2) In the construction and for the purposes of any Act, by-law, regulation, ordinance or any other instrument or document whatsoever of the same or a different nature passed or made before the transfer to the Department of Transport of the administration of any Act by or under this Act and for the purposes of the exercise of any power, authority, function or duty so transferred, any reference to the Minister theretofore administering any such Act or exercising any such power, authority, function, or duty, or to the office of such Minister or to the Government department in which such Act was theretofore administered shall be deemed and taken to refer to the Minister for Transport, the office of the Minister for Transport and the appropriate branch of the Department of Transport, as the case requires.

In the construction and for the purposes of any Act, by-law, regulation, ordinance, or any other instrument or document whatsoever of the same or a different kind or nature passed or made for the purposes of the exercise of any power, authority, function or duty transferred to the Board of Commissioners by or under this Act, any reference to the Railway Commissioners for New South
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Wales, the Metropolitan Transport Trust, the Newcastle and District Transport Trust, the Main Roads Board of New South Wales, the Commissioner of Road Transport, the Management Board, or the State Transport (Co-ordination) Board, shall be read, deemed and taken to refer to the Board of Commissioners.

Savings.

13. (1) Where any matter or thing has been commenced by or under the authority of the Minister of any other Government department before the transfer to the Department of Transport of the administration of any Act by or under this Act, or of any power, authority, function, or duty under any such Act, and such matter or thing is in relation to the administration so transferred, or the exercise of any power, authority, function, or duty so transferred, such matter or thing may be carried on and completed by or under the authority of the Minister for Transport.

Where any matter or thing has been commenced by or under the authority of the Railway Commissioners for New South Wales, the Metropolitan Transport Trust, the Newcastle and District Transport Trust, the Main Roads Board of New South Wales, the Commissioner of Road Transport, the Management Board, or the State Transport (Co-ordination) Board before the transfer to the Board of Commissioners by or under this Act of any power, authority, function or duty under any Act, and such matter or thing is in relation to the exercise of any power, authority, function or duty so transferred, such matter or thing may be carried on and completed by or under the authority of the Board of Commissioners.

(2) Where at the time of the transfer by or under this Act of the administration of any Act or of any power, authority, function or duty under any such Act any legal proceeding (including any arbitration or appeal therefrom or proceedings or matters arising thereout) is pending to which any other Minister is a party, and such proceeding has reference to the administration transferred by or under this Act or to the exercise of any power, authority, function or duty so transferred, such proceeding may be continued by or against the Minister for Transport.

(3)

(3) Any action or proceeding and any cause of action or proceeding pending or existing immediately before the commencement of this Act in relation to a railway matter by or against the Railway Commissioners for New South Wales, a tramway or transport matter by or against the Metropolitan Transport Trust or the Newcastle and District Transport Trust, a main roads matter by or against the Main Roads Board of New South Wales, or in relation to any matter by or against the Commissioner of Road Transport or the State Transport (Co-ordination) Board, may be continued by or against the Board of Commissioners constituted under this Act.

(4) All moneys and liquidated and unliquidated claims which immediately before the commencement of this Act are payable to or recoverable by the Railway Commissioners for New South Wales, the Metropolitan Transport Trust, the Newcastle and District Transport Trust, the Main Roads Board, the Commissioner of Road Transport, or the State Transport (Co-ordination) Board shall be moneys and liquidated or unliquidated claims payable to or recoverable by the Board of Commissioners.

(5) All contracts, agreements, and undertakings entered into with and all securities lawfully given to or by the Railway Commissioners for New South Wales, the Metropolitan Transport Trust, the Newcastle and District Transport Trust, the Main Roads Board, the Commissioner of Road Transport, or the State Transport (Co-ordination) Board and in force immediately before the commencement of this Act shall be deemed to be contracts, agreements, and undertakings entered into with and securities given to or by the Board of Commissioners.

(6) The Board of Commissioners may pursue the same remedies for the recovery of any such moneys and claims, and for the prosecution of such suits, actions, and proceedings as the Railway Commissioners for New South Wales, the Metropolitan Transport Trust, the Newcastle and District Transport Trust, the Main Roads Board, the Commissioner of Road Transport, or the State Transport (Co-ordination) Board might have done but for this Act.

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(7) The Board of Commissioners may enforce and realise any security or charge existing immediately before the commencement of this Act in favour of the Railway Commissioners for New South Wales, the Metropolitan Transport Trust, the Newcastle and District Transport Trust, the Main Roads Board, the Commissioner of Road Transport, or the State Transport (Co-ordination) Board in respect of any such moneys and claims as if such security or charge were existing in favour of the Board of Commissioners.

(8) All debts due and moneys payable by and all claims, liquidated or unliquidated, recoverable against the Railway Commissioners for New South Wales, the Metropolitan Transport Trust, the Newcastle and District Transport Trust, the Main Roads Board, the Commissioner of Road Transport, or the State Transport (Co-ordination) Board shall be debts due and moneys payable by and claims recoverable against the Board of Commissioners.

(9) Where the provisions of this Act are inconsistent with the provisions of the Metropolitan Traffic Act, 1900, the Motor Traffic Act, 1909-1930, the Government Railways Act, 1912-1931, the Motor Tax Management Act, 1914, the Local Government Act, 1919, the Motor Vehicles (Taxation) Act, 1924, the Main Roads Act, 1924-1929, the Transport Act, 1930, or the State Transport (Co-ordination) Act, 1931, with regard to any matter to which this Act applies, the provisions of this Act shall prevail.

(10) (a) All by-laws, regulations, and ordinances made under or by virtue of the Government Railways Act, 1912-1931, the Main Roads Act, 1924-1929, the Motor Tax Management Act, 1914, the Metropolitan Traffic Act, 1900, the Motor Traffic Act, 1909-1930, the Transport Act, 1930, or the State Transport (Co-ordination) Act, 1931, as amended by subsequent Acts, in force at the commencement of this Act, shall, so far as they are not inconsistent with this Act, continue in force until repealed or replaced by subsequent by-laws, regulations, or ordinances, as the case may be.

(b) Any regulation, by-law, or ordinance made under any Act, the administration of which has been

been transferred to the Department of Transport in force at the date of such transfer shall, so far as it is not inconsistent with this Act, continue in force until repealed or replaced by subsequent by-laws, regulations, or ordinances, as the case may be.

(c) Any repeal of the by-laws, regulations or ordinances continued by this section shall not affect any proceedings pending for the breach of any such by-laws, regulations or ordinances, and such by-laws, regulations or ordinances shall for the purposes of any prosecution in respect of any breach occurring before the date of such repeal be deemed to continue and to have full force and effect.

14. (1) The funds vested in and administered by the Railway Commissioners for New South Wales and the State Transport (Co-ordination) Board under any Act, shall be vested in and administered by the Board of Commissioners constituted under this Act.

(2) The funds administered by the Metropolitan Transport Trust, the Newcastle and District Transport Trust, the Commissioner of Road Transport, and the Main Roads Board of New South Wales, shall be administered by the Board of Commissioners constituted under this Act.

(3) The funds administered by any Government department, sub-department thereof, or part of any such department or sub-department transferred to the Department of Transport, shall, as from the date of such transfer be administered by the Board of Commissioners constituted under this Act.

15. (1) All lands, leases, licenses, rights, easements, user facilities, and all other property of whatever description held or possessed immediately prior to the commencement of this Act by the Railway Commissioners for New South Wales, the Metropolitan Transport Trust, the Newcastle and District Transport Trust, and the Main Roads Board of New South Wales, shall be transferred to and vested in the Board of Commissioners.

(2) The Board of Commissioners shall assume all liabilities and obligations of the Railway Commissioners for New South Wales, the Metropolitan Transport Trust, the Newcastle and District Transport Trust

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Trust, and the Main Roads Board of New South Wales, and shall also assume the capital indebtedness to the State of the Railway Commissioners for New South Wales, the Metropolitan Transport Trust, and the Newcastle and District Transport Trust.

(3) Where any Government department, sub-department thereof, or any part of such department or sub-department is transferred to the Department of Transport, all lands, leases, licenses, rights, easements, user facilities, and all other property of whatever description held or possessed immediately before the date of such transfer by any person or authority for or on behalf of such department or sub-department, or of any such part of a department or sub-department in connection with the function the administration of which is so transferred, may be transferred to and vested in the Board of Commissioners by the proclamation by which the transfer is effected or by another proclamation.

(4) The Board of Commissioners shall assume all liabilities and obligations of any such department, sub-department, or part so transferred.

(5) No attornment by a lessee of any land transferred to the Board of Commissioners shall be necessary.

Limitation
of actions.

16. All actions against the Board of Commissioners or against any person for anything done or purporting to have been done under this Act shall be commenced within one year after the act complained of was committed.

Notice of
action.

17. (1) No action shall be commenced against the Board of Commissioners or any person for anything done or purporting to have been done by it or him under this Act until one month at least after a notice in writing of such intended action has been delivered to it or him or left at its or his usual place of business or at the office of the solicitor for the Board of Commissioners by the party intending to commence such action, or by his attorney or agent.

(2) Such notice shall clearly and explicitly state the cause of action and the court in which the same is intended to be brought, and upon the back thereof shall be endorsed the name and place of abode of the party

so intending to sue and also the name and place of abode or of business of the attorney or agent, if such notice was served by such attorney or agent.

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(3) A notice under this section shall not be deemed invalid by reason of any defect or inaccuracy therein unless the court before which the action is tried is of opinion that the defendant in the action has been prejudiced in his defence by such defect or inaccuracy.

(4) The defendant in every such action may plead the general issue and at the trial thereof give this Act and the special matter in evidence.

18. In any action, either under the Compensation to Relatives Act, 1897, or otherwise, against the Board of Commissioners in respect of injuries sustained by any person, no larger sum than two thousand pounds shall be recoverable.

Limit of amount which may be recovered against Board of Commissioners.

19. (1) If any person has committed any irregularity, trespass, or other wrongful proceeding in the execution of this Act, or in the exercise of any power or authority hereby given, and if before action brought in respect thereof such person makes tender of sufficient amends to the person injured, such last-mentioned person shall not recover in any such action.

Tender of amends.

(2) If no such tender has been made, the defendant may by leave of the court where such action is pending at any time before issue joined, pay into court such sum of money as he thinks fit, and thereupon such proceedings shall be had as in other cases where defendants are allowed to pay money into court.

20. The provisions of the Schedule to this Act shall be deemed and taken to have the same force and effect as if contained herein.

Incorporation of Schedule.

21. (1) The Government Railways Act, 1912-1931, is amended—

Amendment of Act No. 30, 1912.

- (a) by omitting section nine;
- (b) by omitting section 10D;

Sec. 9. (Salaries of Commissioners.)

Sec. 10D. (Area Commissioners.)

- (c) by omitting from subsection one of section 41J the words "the Chief Commissioner for Railways" and by inserting in lieu thereof the words "the Chief Transport Commissioner";

Sec. 41J. (Capital debt Committee of Review.)

B

(d)

Ministry of Transport Act.

No. 3, 1932.

Sec. 110.
(Railways
Superannua-
tion Board.)

- (d) (i) by omitting from section one hundred and ten the words "Chief Commissioner" where firstly occurring and by inserting in lieu thereof the words "Transport Commissioner appointed to the charge of the Staff Branch of the Department of Transport";
- (ii) by omitting from the same section the words "Chief Commissioner" where secondly occurring and by inserting in lieu thereof the words "Transport Commissioner";
- (iii) by omitting from the same section the words "an officer of the Railway Commissioners for New South Wales" and by inserting in lieu thereof the words "an officer of the Staff Branch of the Department of Transport."

Citation.

(2) The Government Railways Act, 1912-1931, as amended by this Act, may be cited as the "Government Railways Act, 1912-1932."

Repeal of
Act No. 61,
1931.

(3) The Government Railways and Main Roads (Amendment) Act, 1931, is repealed.

Amendment of
Act No. 18, 1930.
Sec. 18 (7).
(Employment of
officers of Public
Service.)

22. (1) The Transport Act, 1930, is amended—

- (a) by omitting from subsection seven of section eighteen the words "and may with the like approval retransfer any such officer";
- (b) by inserting next after subsection five of section thirty-nine the following new subsection:—

(5A) Where an officer so transferred had been injured in the performance of his duties whilst in the service of the Railway Commissioners, and was at the commencement of this Act in receipt of a salary in respect of such injury pursuant to the provisions of section 100B of the Government Railways Act, 1912-1931, payment of such salary shall be continued by the Trust to such officer under the same conditions as it would have been paid by the Railway Commissioners if such officer had not retired or had not been retired from the service
of

Sec. 39.
(Transfer of
officers.)

of the Railway Commissioners and had not been transferred to the service of the Trust unless and until such officer is retired or retires from the service of the Trust.

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(2) The amendment made by paragraph (b) of subsection one of this section shall be deemed to have commenced upon the fifth day of August, one thousand nine hundred and thirty.

SCHEDULE.

BUSINESS AND RULES.

1. (1) The following shall form a quorum of the Board of Commissioners:—

- (a) The Chief Transport Commissioner and two Transport Commissioners; or
- (b) Four Transport Commissioners; or
- (c) Three Transport Commissioners and the Commissioner of Police, or the person acting in that office.

Any meeting of the Board of Commissioners at which a quorum is present shall have and may exercise and perform the powers, authorities, functions and duties, which by any Act or means whatsoever are vested in or imposed upon the Board of Commissioners.

(2) No proceeding or act of the Board of Commissioners shall be invalidated or illegal in consequence only of there being any vacancy in the number of Commissioners at the time of such proceeding or act.

2. (1) At any meeting of the Board of Commissioners the Chief Transport Commissioner, if present, shall preside.

(2) When the Chief Transport Commissioner is not present at any meeting, the Transport Commissioner who is the senior by virtue of his appointment shall preside at such meeting.

(3) The Commissioner presiding at a meeting shall in the event of an equal division of votes thereat have a second or casting vote.

(4) At any meeting of the Board of Commissioners the decision of a majority of the Commissioners present at the meeting shall, subject to paragraph six of this clause, be the decision of the Board of Commissioners, and if the Commissioners present are equally divided, the Chief Transport Commissioner or the Commissioner presiding at the meeting shall have a casting vote as aforesaid and the matter shall, subject to paragraph 6 of this clause, be determined accordingly.

(5)

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(5) The Commissioner of Police, or the person acting in that office, when attending a meeting of the Board of Commissioners, may vote thereat as and in the same manner as any one of the seven Transport Commissioners who may be present thereat.

(6) (a) If the Chief Transport Commissioner disapproves of the decision of the other Commissioners with respect to any matter before the Board of Commissioners for their decision and determination (whether the Chief Transport Commissioner was or was not present when such decision was given) such matter shall be deferred for not less than twenty-four hours after the decision, or if the Chief Transport Commissioner was not present when the decision was given, for not less than twenty-four hours after it has been brought to his knowledge by communication in writing or by electric telegraph, when it shall again be brought forward before the Board of Commissioners; and if the Chief Transport Commissioner again disapproves of the decision of the other Commissioners, the matter shall be determined according to the deliberate judgment of the Chief Transport Commissioner, irrespective of the decision of the other Commissioners.

In such case the Chief Transport Commissioner shall enter or cause to be entered upon the minutes of the proceedings of the Board of Commissioners his reasons at length for determining such matter in opposition to the decision of the other Commissioners and shall forward to the Minister for Transport a copy of such minute, certified under his hand.

The other Commissioners or any of them may also enter upon such minutes their reasons in support of the decision of such Commissioners and against the disapproval of the Chief Transport Commissioner and may forward to the Minister for Transport a copy of such minute certified under their hands.

(b) In the event of the Chief Transport Commissioner being absent from his office on leave of absence or absent from the Commonwealth of Australia, the above provisions of this clause shall apply in respect of the deputy of the Chief Transport Commissioner appointed as hereinbefore in this Act provided; and in that case the words "Deputy of the Chief Transport Commissioner" shall in subparagraph (a) of this paragraph be read for the words "Chief Transport Commissioner."

3. The Board of Commissioners shall keep minutes of all their proceedings in such manner and form as the Governor directs.

4. The Board of Commissioners shall furnish the Minister for Transport with—

(a) all such reports, documents, papers, and minutes as are required by Parliament pursuant to any Act or pursuant to any order of either House of Parliament; and

(b) full information on all business of the Board of Commissioners which the Minister for Transport may require.

5. The Board of Commissioners shall prepare an annual report of their proceedings.

Such

Such annual report shall be laid before both Houses of Parliament in the month of January in each year if Parliament is then sitting, otherwise within one month after the commencement of the next ensuing session.

LEGAL PROCEEDINGS.

6. (a) Any document, notice, summons, writ, process or other proceeding, required to be served upon the Board of Commissioners pursuant to any Act, by-law or regulation, may be served upon the solicitor for the Board of Commissioners.

(b) All courts, judges and persons acting judicially shall take judicial notice of the Common Seal of the Board of Commissioners affixed to any document or notice and shall presume that such Seal was duly affixed.

7. Every notice, order, summons, or other document requiring authentication by the Board of Commissioners may be sufficiently authenticated without the Seal of the Board of Commissioners, if signed by the Secretary.

8. In all proceedings before any court of petty sessions any officer of the Board of Commissioners appointed under the Seal of the Board of Commissioners or by the Chief Transport Commissioner in writing under his hand for that purpose may represent the Board of Commissioners in all respects as though such officer was the party concerned.

9. (1) In any prosecution or legal proceeding by or under the direction or authority of the Board of Commissioners or by an officer duly authorised in that respect by the Board of Commissioners no proof shall be required (until evidence is given to the contrary) of—

- (a) the constitution of the Board of Commissioners;
- (b) any order of the Board of Commissioners;
- (c) the particular or general appointment of the secretary or any other officer of the Board of Commissioners to take proceedings against any person;
- (d) the powers of the said secretary or other officer to prosecute or take proceedings;
- (e) the appointment of the Chief Transport Commissioner or of any Commissioner or of the secretary or other officer of the Board of Commissioners or of an authorised officer of the Board of Commissioners; or
- (f) the presence of a quorum at any meeting at which an order is made or any act is done by the Board of Commissioners.

(2) The production of—

- (a) a copy of the Gazette containing any proclamation purporting to have been made under any of the provisions of this Act; or
- (b) a copy purporting to be a true copy of any such proclamation certified as such under the hand of the secretary of the Board of Commissioners;

shall be evidence until the contrary is proved of the due making, existence, confirmation, approval, and giving of such proclamation, and of all preliminary steps necessary to give full force and effect to the same.

Gas and Electricity Act.

No. 3, 1932.

10. All documents whatever purporting to be issued or written by or under the direction of the Board of Commissioners and purporting to be signed by the secretary, shall be received as evidence in all courts and before all persons acting judicially within New South Wales, and shall without proof be deemed to have been issued or written by or under the direction of the Board of Commissioners until the contrary is shown.

11. No matter or thing done by any Commissioner or by any officer or other person appointed or employed by the Board of Commissioners or by an authorised officer of such Board of Commissioners if done bona fide in the exercise of his powers or in the performance of his duties under this or any other Act shall subject such Commissioner, officer, or other person to any personal liability in respect thereof.

12. The Board of Commissioners for the purposes of any appeal or proceedings for the settlement of questions, differences, or disputes under this or any other Act or of conducting any investigation or inquiry authorised to be made by or under this or any other Act shall have all the powers and immunities of a Commissioner, and the Chief Transport Commissioner or the Commissioner presiding at the meeting of the Board of Commissioners shall have the powers of a chairman within the meaning of Division 1 of Part II of the Royal Commissions Act, 1923, and the provisions of that Act, with the exception of section thirteen and of Division 2 of Part II shall, *mutatis mutandis*, apply to any witness or person summoned by or appearing before the Board of Commissioners.
