

AUSTRALIAN NATIONAL RAILWAYS ACT 1975

No. 26 of 1975

An Act to amend the *Commonwealth Railways Act 1917-1973*.

BE IT ENACTED by the Queen, the Senate and the House of Representatives of Australia, as follows:—

1. (1) This Act may be cited as the *Australian National Railways Act 1975*.¹ Short title and citation.

(2) The *Commonwealth Railways Act 1917-1973*² is in this Act referred to as the Principal Act.

(3) The Principal Act, as amended by this Act, may be cited as the *Australian National Railways Act 1917-1975*.

2. This Act shall come into operation on a date to be fixed by Proclamation. Commencement.

3. The title to the Principal Act is amended by omitting the words “Commonwealth Railways” and substituting the words “Australian National Railways”. Title.

4. Section 4 of the Principal Act is amended— Definitions.

(a) by inserting before the definition of “Carriage” the following definition:—

“ ‘Approved bank’ means a bank approved by the Treasurer for the purposes of the provision in which the expression occurs; ”;

(b) by inserting after the definition of “Carriage” the following definition:—

“ ‘Commission’ means the Commission established by this Act; ”;

(c) by inserting after the definition of “Employee” the following definition:—

“ ‘General Manager’ means the General Manager of the Commission appointed under section 46A; ”; and

(d) by omitting the definition of “The Commissioner”.

5. The heading to Part II of the Principal Act is repealed and the following heading substituted:— Heading to Part II.

**“PART II—THE AUSTRALIAN NATIONAL RAILWAYS
COMMISSION”.**

Division I of
Part II.

6. Division I of Part II of the Principal Act is repealed and the following Division substituted:—

“Division I—Establishment, Constitution and Meetings of the Australian National Railways Commission

Australian
National
Railways
Commission.

“5. There is established by this Act a Commission by the name of the Australian National Railways Commission.

Nature of
Commission.

“6. (1) The Commission—

- (a) is a body corporate with perpetual succession;
- (b) shall have a common seal;
- (c) may acquire, hold or dispose of real and personal property; and
- (d) may sue and be sued in its corporate name.

“(2) All courts, judges and persons acting judicially shall take judicial notice of the common seal of the Commission affixed to a document and shall presume that it was duly affixed.

Constitution
of
Commission.

“7. (1) The Commission shall consist of—

- (a) a Chairman; and
- (b) 6 other Commissioners.

“(2) The Commissioners shall be appointed by the Governor-General, the Chairman being appointed as a full-time Commissioner and the other Commissioners being appointed as part-time Commissioners.

“(3) A person may be, at the same time, the General Manager and the Chairman or another Commissioner.

“(4) The performance of the functions or the exercise of the powers of the Commission is not affected by reason of there being a vacancy or vacancies in the membership of the Commission.

Period of
appoint-
ment.

“8. (1) Subject to sub-section (2), the Chairman and each of the other Commissioners shall be appointed for such period, not exceeding 5 years, as is specified in the instrument of appointment, but is eligible for re-appointment.

“(2) A person who has attained the age of 65 years shall not be appointed or re-appointed as a Commissioner and a person shall not be appointed or re-appointed as a Commissioner for a period that extends beyond the date on which he will attain the age of 65 years.

“9. (1) The Chairman and the Commissioners shall be paid such remuneration as is determined by the Remuneration Tribunal, but, if no determination of that remuneration by the Tribunal is in operation, they shall be paid such remuneration as is prescribed. Remuneration and allowances.

“(2) The Chairman and the Commissioners shall be paid such allowances as are prescribed.

“(3) This section has effect subject to the *Remuneration Tribunals Act 1973-1974*.

“10. The Minister may grant leave of absence to the Chairman on such terms and conditions as to remuneration or otherwise as the Minister determines. Leave of absence.

“11. A Commissioner may resign his office by writing signed by him and delivered to the Governor-General. Resignations of Commissioners.

“12. (1) The Minister may appoint a person, including another Commissioner, to act as Chairman— Acting Chairman and Commissioners.

(a) during a vacancy in the office of Chairman, whether or not an appointment has previously been made to the office; or

(b) during any period, or during all periods, when the Chairman is absent from duty or from Australia or, for any other reason, is unable to perform the duties of his office,

but a person appointed to act during a vacancy shall not continue so to act for more than 12 months.

“(2) Where a person is acting as Chairman in accordance with paragraph (1) (b) and the office of the Chairman becomes vacant while that person is so acting, that person may continue so to act until the Minister otherwise directs, the vacancy is filled or a period of 12 months from the date on which the vacancy occurred expires, whichever first happens.

“(3) The Minister may appoint a person to act as Commissioner (otherwise than as Chairman)—

(a) during a vacancy in an office of Commissioner, whether or not an appointment has previously been made to the office; or

(b) during any period, or during all periods, when a Commissioner is Acting Chairman, is absent from duty or from Australia or, for any other reason, is unable to perform the duties of his office,

but a person appointed to act during a vacancy shall not continue so to act for more than 12 months.

“(4) The Minister may—

(a) determine the terms and conditions of appointment, including remuneration and allowances, of an Acting Chairman or an Acting Commissioner; and

(b) at any time, terminate an appointment under this section.

“(5) The appointment of an Acting Chairman or Acting Commissioner ceases to have effect if he resigns the appointment by writing signed by him and delivered to the Minister.

“(6) While the appointment of a person to act as Chairman or as a Commissioner remains in force he has, and may exercise, all the powers and shall perform all the functions of the Chairman or a Commissioner, as the case may be.

“(7) The validity of anything done by a person appointed under this section shall not be called in question on the ground that the occasion for his appointment had not arisen or had ceased.

Termination
of appoint-
ment of
Com-
missioner.

“13. (1) The Governor-General may terminate the appointment of a Commissioner by reason of misbehaviour, inefficiency or physical or mental incapacity.

“(2) If a Commissioner—

- (a) being the Chairman, engages in paid employment outside the duties of his office, otherwise than as General Manager, without the approval of the Minister;
- (b) being the Chairman, is absent from duty, except on leave granted by the Minister, for 14 consecutive days or for 28 days in any 12 months;
- (c) is absent, except on leave granted by the Minister or otherwise with the permission of the Minister, from 3 consecutive meetings of the Commission;
- (d) becomes bankrupt or applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his creditors or makes an assignment of his remuneration for their benefit; or
- (e) fails to comply with his obligations under section 14,

the Governor-General shall terminate the appointment of the Commissioner.

Disclosure of
interest by
Com-
missioner.

“14. (1) A Commissioner who is directly or indirectly interested in a contract made or proposed to be made by the Commission, otherwise than as a member of, and in common with the other members of, an incorporated company consisting of not less than 25 persons shall, as soon as possible after the relevant facts have come to his knowledge, disclose the nature of his interest at a meeting of the Commission.

“(2) A disclosure under sub-section (1) shall be recorded in the minutes of the Commission and the Commissioner—

- (a) shall not take part after the disclosure in any deliberation or decision of the Commission with respect to the contract; and
- (b) shall be disregarded for the purpose of constituting a quorum of the Commission for any such deliberation or decision.

“(3) This section applies to and in relation to a person appointed under section 12 to act as Chairman or as another Commissioner in like manner as it applies to and in relation to a Commissioner.

“15. (1) The Chairman shall convene such meetings as he considers necessary for the performance of the functions of the Commission. Meetings of Commission.

“(2) The Minister may at any time convene a meeting of the Commission.

“(3) The Chairman shall, on receipt of a request in writing signed by 2 other Commissioners, convene a meeting of the Commission.

“(4) At a meeting of the Commission, a majority of the persons who are Commissioners constitute a quorum.

“(5) The Chairman shall preside at all meetings of the Commission at which he is present.

“(6) If the Chairman is not present at a meeting of the Commission, the Commissioners present shall elect one of their number to preside at the meeting.

“(7) Questions arising at a meeting of the Commission shall be determined by a majority of the votes of the Commissioners present and voting.

“(8) The Chairman or the Commissioner presiding at a meeting of the Commission has a deliberative vote, and, in the event of an equality of votes, also has a casting vote.

“(9) The General Manager shall, as far as practicable, attend all meetings of the Commission.

“(10) Where the General Manager is not a Commissioner, he shall, if the Commission so directs, retire from a meeting of the Commission.

“(11) In relation to a time when a person is acting as Chairman or as a Commissioner, references in this section to the Chairman or a Commissioner, as the case may be, shall be read as including references to that person.”

7. Before section 16 of the Principal Act the following section is inserted in Division 2:—

“16A. All the rights, property and assets, including moneys, that, immediately before the commencement of the *Australian National Railways Act 1975*, were vested in the Commonwealth Railways Commissioner are, by force of this section, vested in the Commission.” Assets of Commissioner vested in Commission.

8. Section 16 of the Principal Act is amended—

(a) by omitting the word “Commissioner” and substituting the word “Commission”; and Railways &c., vested in Commission.

- (b) by omitting from paragraph (a) the words “this Act” and substituting the words “the *Australian National Railways Act 1975*”.

Repeal. 9. Sections 17, 18 and 19 of the Principal Act are repealed.

10. Section 20 of the Principal Act is repealed and the following section substituted:—

Delegation
by Com-
mission.

“20. (1) The Commission may, by writing under its common seal, delegate any of its powers under this Act (except this power of delegation) to a Commissioner, the General Manager or another officer or an employee of the Commission.

“(2) A power so delegated may be exercised by the delegate in accordance with the instrument of delegation.

“(3) A delegation under this section is revocable by resolution of the Commission and does not prevent the exercise of a power by the Commission.”.

Lease of
railway
property.

11. Section 21 of the Principal Act is amended—

- (a) by omitting sub-sections (1) and (2) and substituting the following sub-section:—

“(1) Subject to section 23, the Commission may let on lease, for any purpose approved by the Minister, any land or buildings vested in the Commission (including land, or buildings on land, in a Territory reserved for the purposes of the Commission) the use of which is not for the time being required by the Commission.”; and

- (b) by omitting from sub-section (3) the words “refreshment room” and substituting the words “premises set aside under sub-section (2) of section 33A”.

12. Section 23 of the Principal Act is repealed and the following section substituted:—

Contracts
and leases.

“23. The Commission shall not, without the approval of the Minister—

- (a) enter into a contract under which the Commission is to pay or receive an amount exceeding \$100,000 or, if a higher amount is prescribed, that higher amount; or
- (b) enter into a lease of land for a period exceeding 10 years.”.

Dangerous
goods.

13. Section 27 of the Principal Act is amended by inserting in sub-section (1), after the word “railway”, the words “or on a vehicle of the Commission”.

14. Section 28 of the Principal Act is amended by inserting after the word “railways” the words “or on a vehicle of the Commission”.

Com-
mission not
bound to
convey
goods of
excessive
weight.

15. After section 31 of the Principal Act the following sections are inserted:—

“31A. The Commission may provide to Australia and authorities of Australia, for reward, land transport and engineering services and such other services as can conveniently be provided by the use of the resources of the Commission.

Services for
Australia.

“31B. (1) Without limiting the powers of the Commission to transport passengers and goods on the railways, the Commission may (as incidental or supplementary to, or in association with, the transport of passengers or goods on the railways) transport passengers and goods for reward by land, otherwise than on the railways, between—

Land
transport
other than
rail.

- (a) a place in a Territory and another place in that Territory;
- (b) a place in a State and a place in another State;
- (c) a place in a Territory and a place outside that Territory;
- (d) to the extent necessary to carry out an arrangement under section 31C, places in the one State; or
- (e) to the extent provided by sub-section (2), places in the one State.

“(2) The powers of the Commission by virtue of paragraph (1) (e) may be exercised only for the purposes of the efficient, competitive and profitable exercise of the other powers of the Commission under this Act or any other Act or otherwise as incidental to the exercise of those powers.

“(3) The Commission may do all things necessary or convenient for the purpose of the exercise of its powers under this section.

“31C. The Commission may make and carry out an arrangement with any person, including the Australian Shipping Commission or the Australian National Airlines Commission, under which—

Joint
services.

- (a) passengers or goods are to be transported between—
 - (i) a place in a State and a place in another State;
 - (ii) a place in a Territory and a place in Australia outside that Territory; or
 - (iii) a place in Australia and a place outside Australia; and
- (b) the passengers or goods are to be transported partly by rail or road transport provided by the Commission and partly by transport provided by the other party.

Functions of
Commission
conferred by
State Acts or
Ordinances
of
Territories.

“31D. (1) It is the intention of the Parliament that, subject to sub-section (2), the Commission may have and perform, in addition to functions and powers under this Act, functions and powers conferred on it specifically by a State Act or an Ordinance of a Territory, being functions and powers relating to land transport in that State or Territory.

“(2) The Regulations may provide that sub-section (1) does not extend to all or any of the functions and powers expressed to be conferred on the Commission by a State Act.”.

16. (1) Section 33A of the Principal Act is repealed and the following section substituted:—

Supply of
travellers’
requisites.

“33A. (1) The Commission may supply travellers’ requisites on passenger trains.

“(2) The Commission may set aside premises vested in the Commission (including premises in a Territory on land reserved for the purposes of the Commission) for the provision of travellers’ requisites to persons travelling on the railways.

“(3) The Commission may, on premises set aside under sub-section (2), supply travellers’ requisites to persons travelling on the railways and other persons.

“(4) Where the Commission leases to a person premises set aside under sub-section (2), the Commission may, in writing, grant to the person an authority, for such term, and subject to such conditions, as the Commission determines, to supply, at those premises, travellers’ requisites to persons travelling on the railways and other persons.

“(5) The Commission shall—

- (a) in supplying travellers’ requisites in accordance with sub-section (3), ensure, as far as is practicable; and
- (b) in granting an authority under sub-section (4), include in the authority conditions for the purpose of ensuring, as far as is practicable,

that goods that are travellers’ requisites are not supplied on premises set aside under sub-section (2) to persons resorting to the premises solely or principally for the purpose of obtaining those goods at times outside the days and hours of trading or business that would be applicable, under the law of the State or Territory in which the premises are situated, in relation to like transactions in the part of that State or Territory in which the premises are situated.

“(6) The Commission may supply refreshments of any kind to officers and employees of the Commission at any place that is further than 20 kilometres from the nearest place at which refreshments of the same kind are supplied otherwise than by the Commission.

“(7) The Commission, and the servants and agents of the Commission, may act in accordance with the powers of the Commission under this section, and the holder of an authority under sub-section (4), and the servants and agents of such a holder, may, subject to the conditions of the authority, act in accordance with the authority, without obtaining or having any other authority, licence, permit or registration.

“(8) Notwithstanding any law of a State or Territory—

- (a) the Commission may permit the consumption, on premises set aside under sub-section (2), of refreshments supplied in accordance with this section;
- (b) the holder of an authority under sub-section (4) to supply refreshments on premises may permit the consumption of refreshments on those premises;
- (c) any person may purchase or consume on a passenger train any refreshments supplied in accordance with this section; and
- (d) any person may purchase or consume refreshments on premises set aside under sub-section (2) for the supply of refreshments.

“(9) Except as provided in this section, this section does not exempt a person from compliance with the law of a State or Territory.

“(10) In this section—

‘passenger train’ means a train conveying passengers on the railways and includes a train waiting to convey passengers;

‘refreshments’ includes meals and alcoholic liquor;

‘supply’ includes sell;

‘travellers’ requisites’ means—

- (a) refreshments;
- (b) tobacco, cigars, cigarettes, pipes and other smokers’ requisites; and
- (c) other goods approved by the Commission, being goods required, or likely to be required, by persons travelling upon the railways while so travelling.”.

(2) An authority held by a person immediately before the commencement of this section under sub-section (2) of section 33A of the Principal Act has effect after the commencement of this section as if it were an authority under sub-section (4) of section 33A of the Principal Act as amended by this Act.

17. Section 38 of the Principal Act is repealed.

Com-
missioner to
prepare
annual
estimates.

18. Section 41 of the Principal Act is repealed and the following section substituted:—

Annual reports.

“41. (1) The Commission shall, as soon as practicable after each 30 June, prepare and furnish to the Minister a report of the operations of the Commission during that year, together with financial statements in respect of that year in such form as the Treasurer approves.

“(2) Before furnishing financial statements to the Minister, the Commission shall submit them to the Auditor-General, who shall report to the Minister—

- (a) whether the statements are based on proper accounts and records;
- (b) whether the statements are in agreement with the accounts and records and show fairly the financial operations and the state of affairs of the Commission;
- (c) whether the receipt, expenditure and investment of moneys, and the acquisition and disposal of assets, by the Commission during the year have been in accordance with this Act; and
- (d) as to such other matters arising out of the statements as the Auditor-General considers should be reported to the Minister.

“(3) The Minister shall cause the report and financial statements of the Commission, together with the report of the Auditor-General, to be laid before each House of the Parliament within 15 sitting days of that House after their receipt by the Minister.”.

Carrying out of matter of policy.

19. Section 43 of the Principal Act is repealed.

20. Section 46 of the Principal Act is repealed and the following sections substituted:—

Staff of Commission.

“46. (1) The Commission may appoint such officers and engage such employees as it thinks necessary for the purposes of this Act.

“(2) Subject to sub-section (3), the terms and conditions of service or employment (in respect of matters not provided for by this Act) of persons so appointed or engaged are such as are determined by the Commission with the approval of the Public Service Board.

“(3) The Commission shall not, except with the approval of the Minister, determine the salary of a position in the service of the Commission at a rate exceeding \$16,292 per annum or—

- (a) if the regulations provide for a higher rate—that higher rate; or
- (b) if the regulations provide for a method of ascertaining a rate and the rate so ascertained is a higher rate—that rate so ascertained.

“(4) This section has effect subject to the *Remuneration Tribunals Act 1973-1974*.

General Manager.

“46A. (1) The Commission, in accordance with section 46, may appoint a person to be the General Manager of the Commission.

“(2) The General Manager shall be the chief executive officer of the Commission.

“(3) An appointment under this section is subject to the approval of the Minister.”.

21. Sections 50, 51 and 52 of the Principal Act are repealed and the following sections substituted:—

“50. The Commission shall, as soon as practicable after the end of each financial year, prepare and furnish to the Minister a report showing the number of permanent offices in the Railway Service on the last day of that year. Report of permanent offices.

“51. (1) The Commission is an approved authority for the purposes of the *Superannuation Act 1922-1974*. Super-annuation.

“(2) For the purposes of sub-sections 4 (3A) and (4) of that Act, the Chairman shall be deemed to be required, by the terms of his appointment, to give the whole of his time to the duties of his office.

“(3) For the purposes of sections 145 and 146 of that Act, the Chairman shall be deemed to be employed by the Commission.

“(4) For the purposes of that Act, the termination under this Act of the appointment of the Chairman by reason of physical or mental incapacity shall be deemed to be retirement on the ground of invalidity.

“(5) Nothing in this Act authorizes the provision of superannuation benefits otherwise than under the *Superannuation Act 1922-1974* for a person appointed or employed under this Act.”.

22. Part IV of the Principal Act is repealed and the following Part substituted:—

“PART IV—FINANCE

“55. (1) The capital of the Commission at any time is the sum of— Capital of Commission.

- (a) the value, at the date of commencement of this section, of the rights, property and assets (including the amount of any moneys) referred to in section 16A as determined by the Treasurer, or so much of that value as is determined by the Treasurer;
- (b) the value, at the date of becoming vested in the Commission, of the rights, property and assets that become vested in the Commission under section 16 after the commencement of this section as determined by the Treasurer, or so much of that value as is determined by the Treasurer; and

- (c) the amounts paid to the Commission by the Treasurer out of moneys appropriated by the Parliament for the purposes of providing further capital for the Commission,

less—

- (d) the sum of any amounts paid by the Commission for assets referred to in paragraph (b); and
 (e) the sum of any amounts of capital repaid to Australia by the Commission.

“(2) If, by virtue of a determination referred to in paragraph (1) (a) or (b), part of the value of the rights, property and assets referred to in those paragraphs does not constitute capital of the Commission, that part of the value shall be deemed to be a loan by Australia to the Commission on such terms and conditions as to interest and otherwise as is determined by the Treasurer.

Payment to
Australia.

“56. (1) Interest is not payable to Australia on the capital of the Commission but the Commission shall pay to Australia, out of the profits of the Commission for a financial year commencing after the commencement of this section, such amount as the Minister determines.

“(2) The capital of the Commission is repayable to Australia at such times and in such amounts as the Minister determines.

“(3) In the making of a determination under sub-section (1) or sub-section (2), regard shall be made to any advice that the Commission has furnished to the Minister in relation to the financial affairs of the Commission.

Estimates.

“57. The Commission shall prepare estimates, in such form as the Minister directs, of its receipts and expenditure for each financial year and, if so directed by the Minister, for any other period, and shall submit those estimates to the Minister not later than such date as the Minister directs.

Expenditure
of moneys of
Commission.

“57A. (1) Subject to this section, the moneys of the Commission shall be applied only—

- (a) in payment or discharge of the expenses, charges, obligations and liabilities incurred or undertaken by the Commission in or in connexion with the performance of its functions, or the exercise of its powers, under this Act or any other Act;
 (b) in payment of any remuneration and allowances payable under this Act; and
 (c) in making payments to Australia as provided by this Act.

“(2) Moneys of the Commission not immediately required for the purposes of the Commission may be invested—

- (a) on fixed deposit with an approved bank;
- (b) in securities of Australia; or
- (c) in any other manner approved by the Treasurer.

“57B. (1) The Commission may, with the approval of the Treasurer, borrow moneys that are from time to time necessary for the performance of its functions. Borrowing
by
Commission.

“(2) The Treasurer may, on behalf of Australia, out of moneys appropriated by the Parliament for the purpose, lend to the Commission, at such rate of interest and on such other terms and conditions as he determines, moneys that the Commission is authorized to borrow under sub-section (1).

“(3) The Commission may give security over the whole or any part of its assets for the repayment of amounts borrowed under this section and the payment of interest on amounts so borrowed.

“(4) The Treasurer may, on behalf of Australia, guarantee the repayment by the Commission of amounts borrowed under this section otherwise than from Australia and the payment of interest on amounts so borrowed.

“(5) Subject to sub-section 55 (2), the Commission shall not borrow moneys except in accordance with this section.

“57C. (1) The Minister, after consultation with the Commission— Financial
policy.

- (a) shall, before the commencement of each financial year, determine the percentage of the capital of the Commission that would represent a reasonable return to Australia from the operations of the Commission in that financial year, and give notice in writing to the Commission of the percentage so determined; and
- (b) may, at any time during a financial year, by reason of a change in circumstances, by notice in writing to the Commission, amend a determination under paragraph (a).

“(2) The Commission shall pursue a policy directed towards making, in each financial year, profits sufficient to enable the Commission to pay to Australia, out of those profits, an amount equal to the percentage of its capital determined under sub-section (1) in respect of that financial year.

“57D. (1) The Commission may open and maintain an account or accounts with an approved bank or approved banks and shall maintain at all times at least one such account. Bank
accounts.

“(2) The Commission shall pay all moneys received by it into an account referred to in this section.

Profits of
Commission.

“57E. (1) For the purposes of this Act, the profits of the Commission for a financial year are the amount (if any) remaining after deducting from the revenue received or receivable in respect of that financial year the expenditure and provision for expenditure properly chargeable against that revenue.

“(2) The profits of the Commission for a financial year shall be applied in the first place in payment of the amount determined under subsection 56 (1) and the balance (if any) shall be applied in such manner as the Minister determines.

“(3) In the making of a determination under sub-section (2) regard shall be had to any advice that the Commission has furnished to the Minister in relation to the financial affairs of the Commission.

Proper
accounts to
be kept.

“57F. The Commission shall cause to be kept proper accounts and records of the transactions and affairs of the Commission in accordance with the accounting principles generally applied in commercial practice and shall do all things necessary to ensure that all payments out of its moneys are correctly made and properly authorized and that adequate control is maintained over the assets of, or in the custody of, the Commission and over the incurring of liabilities by the Commission.

Audit.

“57G. (1) The Auditor-General shall inspect and audit the accounts and records of financial transactions of the Commission and records relating to assets of, or in the custody of, the Commission and shall forthwith draw the attention of the Minister to any irregularity disclosed by the inspection and audit that is, in the opinion of the Auditor-General, of sufficient importance to justify his so doing.

“(2) The Auditor-General may, at his discretion, dispense with all or any part of the detailed inspection and audit of any accounts or records referred to in sub-section (1).

“(3) The Auditor-General shall, at least once in each financial year report to the Minister the results of the inspection and audit carried out under sub-section (1).

“(4) The Auditor-General or a person authorized by him is entitled at all reasonable times to full and free access to all accounts, records, documents and papers of the Commission relating directly or indirectly to the receipt or payment of moneys by the Commission or to the acquisition, receipt, custody or disposal of assets by the Commission.

“(5) The Auditor-General or a person authorized by him may make copies of, or take extracts from, any such accounts, records, documents or papers.

“(6) The Auditor-General or a person authorized by him may require any person to furnish him with such information in the possession of the person or to which the person has access as the

Auditor-General or authorized person considers necessary for the purposes of the functions of the Auditor-General under this Act, and the person shall comply with the requirement.

“(7) A person who contravenes sub-section (6) is guilty of an offence punishable, upon conviction, by a fine not exceeding \$200.

“57H. (1) Subject to sub-section (2), the Commission is not subject to taxation under the laws of Australia or of a State or Territory. Liability to taxation.

“(2) The regulations may provide that sub-section (1) does not apply in relation to a specified law or specified laws.

“(3) If the regulations under sub-section (2) provide that sub-section (1) does not apply to Acts imposing income tax, the Commission shall be deemed not to be a public authority for the purposes of paragraph (d) of section 23 of the *Income Tax Assessment Act 1936-1974*.

“(4) If the regulations under sub-section (2) provide that sub-section (1) does not apply to Acts imposing sales tax, the Commission shall be deemed not to be a public transport authority for the purposes of item 77 in the First Schedule to the *Sales Tax (Exemptions and Classifications) Act 1935-1973*.”

23. Section 70 of the Principal Act is amended by inserting after the word “railway” the words “or vehicle of the Commission”. Carriage of goods of dangerous nature.

24. After section 87 of the Principal Act the following sections are inserted in Part VII:—

“87A. Where the Chairman or an officer or employee of the Commission was, immediately before his appointment or engagement, an officer of the Australian Public Service or a person to whom the *Officers' Rights Declaration Act 1928-1973* applied— Rights of public servants.

- (a) he retains his existing and accruing rights;
- (b) for the purpose of determining those rights, his service under this Act shall be taken into account as if it were service in the Australian Public Service; and
- (c) that Act applies as if this Act and this section had been specified in the Schedule to that Act.

“87B. The Governor-General may make regulations, not inconsistent with this Act, prescribing all matters that are required or permitted by this Act to be prescribed or are necessary or convenient to be prescribed for carrying out or giving effect to this Act.” Regulations.

25. (1) Section 88 of the Principal Act is amended by omitting paragraph (1) (a). By-laws.

(2) Notwithstanding the amendments of the Principal Act made by this Act, the by-laws made by the Commonwealth Railways Commissioner in force immediately before the commencement of this Act, other than by-laws relating to a matter referred to in the paragraph specified in sub-section (1), continue in force as if made by the Commission under the Principal Act as amended by this Act and as if a reference in the by-laws to the Commonwealth Railways Commissioner, in respect of any time after the commencement of this Act, were a reference to the Commission.

Further amendments.

26. The Principal Act is amended as set out in the Schedule.

Transitional—
Commonwealth
Railways
Commissioner.

27. (1) Upon the date of commencement of this Act the Commission becomes, by force of this section, liable to pay and discharge all the debts, liabilities and obligations of the Commonwealth Railways Commissioner that existed immediately before that date.

(2) Unless the contrary intention appears, a reference to the Commonwealth Railways Commissioner in any other Act, in any Ordinance of a Territory or in any regulations made under an Act or Ordinance of a Territory shall, in respect of any time after the commencement of this section, be read as a reference to the Commission.

(3) Any agreement or instrument subsisting immediately before the date of commencement of this Act to which Australia, the Australian Government or the Commonwealth Railways Commissioner was a party has effect on and after that date as if—

- (a) in a case where the Commonwealth Railways Commissioner was a party—the Commission were substituted for the Commonwealth Railways Commissioner as a party to the agreement or instrument; and
- (b) any reference in the agreement or instrument to the Commonwealth Railways Commissioner were (except in relation to matters that occurred before that date) a reference to the Commission.

(4) Where, immediately before the commencement of this section proceedings to which the Commonwealth Railways Commissioner was a party were pending in any court, the Commission is, by force of this section, substituted for the Commissioner as a party to the proceedings.

Transitional—
staff of
Commissioner.

28. (1) A person who, immediately before the date of commencement of this Act, held a permanent office, or was employed, under the Principal Act (other than the Commonwealth Railways Commissioner) shall, by virtue of this sub-section, be deemed to have been, on that date, appointed an officer or engaged as an employee, of the Commission, as the case may be, under section 46 of the Principal Act as amended by this Act.

(2) The terms and conditions of service or employment (in respect of matters not provided for by the Principal Act as amended by this Act) of persons deemed to have been appointed or employed under sub-section (1) shall, until those terms and conditions are determined under sub-section 46 (2) of the Principal Act as amended by this Act, be the terms and conditions of their employment on the date immediately preceding the date of commencement of this Act.

29. Notwithstanding section 62A of the *Audit Act* 1901-1973—

Transitional—
Trust
Accounts.

- (a) any Trust Accounts established under that Act for the purposes of the Commonwealth Railways Commissioner that were in existence immediately before the commencement of this Act, including the Trust Accounts referred to in section 55 and 56 of the Principal Act, shall be closed;
- (b) all moneys that, at that time, stood to the credit of those accounts and any plant or stores in respect of which, at that time, there had been a debit but no credit to the Trust Account referred to in section 55 of the Principal Act are deemed, for the purposes of section 16A of the Principal Act as amended by this Act, to have been, at that time, vested in the Commonwealth Railways Commissioner; and
- (c) any liabilities of those accounts are deemed, for the purposes of section 27 of this Act, to have been, at that time, liabilities of the Commonwealth Railways Commissioner.

30. (1) The report and financial statements of the Commission under section 41 of the Principal Act as amended by this Act relating to the financial year ending 30 June 1975 shall include particulars of the operations of the Commonwealth Railways Commissioner during that year.

Transitional
report.

(2) For the purposes of sub-section (1), the Auditor-General may modify the form of his report under the section referred to in that sub-section relating to the report and financial statement referred to in that sub-section in such manner as he considers appropriate.

SCHEDULE

Section 26

FURTHER AMENDMENTS

1. The following provisions of the Principal Act are amended by omitting the word "Commissioner" (wherever occurring) and substituting the word "Commission":—

Sections 4 (definitions of "employee", "Railway" and "Railway Service"), 21 (3), 22 (1) and (3), 24 to 30 (inclusive), 30A, 31, 32, 33, 34, 35, 36, 37, 39, 40, 42, 44, 45, 53 (1) and (3), 54, 58, 59, 63, 64, 65, 66, 68, 68B (2), 68C, 69 (2), 70, 71 (2), 72, 74, 75, 77, 80, 82, 83, 84 (3), 86, 87 and 88.

SCHEDULE—continued

2. The Principal Act is further amended as set out in the following table:—

Provision	Amendment
Section 16	Omit “the Commonwealth” (wherever occurring), substitute “Australia”.
Heading to Division 3 of Part II	Omit “Commissioner”, substitute “Commission”.
Section 21 (3)	Omit “he” (wherever occurring), substitute “it”.
Section 22 (1)	(a) Omit “in his corporate name”.
	(b) Omit “him” (wherever occurring), substitute “it”.
Section 24	(a) Omit “in his corporate name” (wherever occurring).
	(b) Omit “his” (wherever occurring), substitute “its”.
Section 25	Omit “him” (second occurring), substitute “it”.
Section 27 (1)	Omit “his”, substitute “its”.
Section 27 (2)	Omit “he”, substitute “it”.
Section 28	Omit “he” (wherever occurring), substitute “it”.
Section 32 (1) (c)	Omit “the Commonwealth”, substitute “Australia”.
Section 32 (2)	Omit “one mile”, substitute “1.609 kilometres”.
Heading to Division 4 of Part II	Omit “Commissioner”, substitute “Commission”.
Section 37	Omit “he”, substitute “it”.
Section 39	Omit “he”, substitute “it”.
Section 44	(a) Omit “, or any direction or proposition given or transmitted in pursuance of the last preceding section,”.
	(b) Omit “or proposition”.
Section 47	Omit “Commonwealth Railways Commissioner”, substitute “Commission”.
Section 58 (4)	Omit “his”, substitute “its”.
Section 59 (1)	Omit “his”, substitute “its”.
Section 62	(a) Omit “Commissioner and other employees”, substitute “Commission and officers and employees of the Commission”.
	(b) Omit “Commissioner” (second occurring), substitute “Commission”.
Section 63 (2A)	Omit “the Commonwealth” (wherever occurring), substitute “Australia”.
Section 65 (1)	Omit “him”, substitute “it”.
Section 65 (1) (g)	Omit “fifty yards”, substitute “50 metres”.
Section 66 (1) and (2)	Omit “he”, substitute “it”.
Section 68C (1)	Omit “he”, substitute “it”.
Section 68C (1) (b)	Omit “him”, substitute “it”.
Section 70	Omit “his”, substitute “its”.
Section 84 (3)	Omit “his”, substitute “its”.
Section 87	Omit “he” (wherever occurring), substitute “it”.

NOTES

- Act No. 26, 1975; assented to 18 April 1975.
- Act No. 31, 1917, as amended by No. 11, 1925; No. 87, 1936; Nos. 51 and 77, 1950; No. 64, 1954; Nos. 18 and 69, 1955; No. 99, 1956; No. 39, 1957; No. 17, 1960; No. 75, 1964; No. 93, 1966; Nos. 27 and 120, 1968; and No. 216, 1973 (as amended by No. 20, 1974).