



National Transport Commission Act 2003

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Prepared by the Office of Parliamentary Counsel, Canberra

About this compilation

This compilation

This is a compilation of the *National Transport Commission Act 2003* as in force on 1 July 2014. It includes any commenced amendment affecting the legislation to that date.

This compilation was prepared on 4 August 2014.

The notes at the end of this compilation (the *endnotes*) include information about amending laws and the amendment history of each amended provision.

Uncommenced amendments

The effect of uncommenced amendments is not reflected in the text of the compiled law but the text of the amendments is included in the endnotes.

Application, saving and transitional provisions for provisions and amendments

If the operation of a provision or amendment is affected by an application, saving or transitional provision that is not included in this compilation, details are included in the endnotes.

Modifications

If a provision of the compiled law is affected by a modification that is in force, details are included in the endnotes.

Provisions ceasing to have effect

If a provision of the compiled law has expired or otherwise ceased to have effect in accordance with a provision of the law, details are included in the endnotes.

Contents

Part 1—Preliminary	1
1 Short title	1
2 Commencement	1
3 Purpose of Act	2
4 Definitions	2
Part 2—Establishment, functions and powers of Commission	4
5 Establishment of National Transport Commission	4
6 Functions and powers of Commission	4
7 Regulations setting out model legislation and road transport legislation	5
8 Reports and advice to be provided to the Australian Transport Council	6
9 Consultation	6
10 Noise and emission standards—consultation with the National Environment Protection Council	7
Part 3—Constitution of Commission	8
Division 1—General membership provisions	8
11 Membership of Commission	8
12 Appointment of ordinary members	8
13 Chair and Deputy Chair of Commission	8
Division 2—Provisions relating to members	9
14 Ordinary members hold office on part-time basis	9
15 Term of appointment not to exceed 3 years	9
16 Remuneration and allowances of ordinary members	9
17 Ordinary members may receive other benefits	9
18 Resignation	10
19 Termination of appointment	10
20 Leave of absence	11
21 Terms and conditions not provided for by Act	11
22 Acting appointments	11
Part 4—Operations of Commission	13
Division 1—Corporate plans	13
23 Draft corporate plan	13
25 Approval of draft corporate plan	13
Division 2—Meetings and committees	15
26 Convening of meetings	15

27	Procedure at meetings.....	15
28	Resolutions without meetings.....	15
29	Quorum.....	16
30	Voting at meetings.....	16
32	Committees.....	16
Part 5—Finance		18
33	Payments to Commission by Commonwealth	18
34	Payments to Commission by States or Territories	18
35	Money of Commission	18
36	Application of money of Commission.....	18
37	Estimates	19
38	Annual report.....	19
Part 6—Chief Executive Officer, staff and consultants		20
Division 1—Chief Executive Officer		20
39	Chief Executive Officer.....	20
40	Remuneration and allowances	20
41	Chief Executive Officer may receive other benefits	21
42	Leave of absence	21
43	Terms and conditions not provided for by Act	22
Division 2—Staff and consultants		23
44	Non-Public Service staff.....	23
45	Public Service staff of Commission.....	23
46	Staff seconded to the Commission	23
47	Consultants	24
Part 7—Miscellaneous		25
48	Delegation by Commission	25
49	Delegation by Australian Transport Council	25
50	Acts done by Australian Transport Council.....	26
51	Review of operation of Act and Agreement	27
52	Regulations.....	27

Endnotes	29
Endnote 1—About the endnotes	29
Endnote 2—Abbreviation key	31
Endnote 3—Legislation history	32
Endnote 4—Amendment history	33
Endnote 5—Uncommenced amendments [none]	34
Endnote 6—Modifications [none]	34
Endnote 7—Misdescribed amendments [none]	34
Endnote 8—Miscellaneous [none]	34

An Act to establish the National Transport Commission, and for related purposes

Part 1—Preliminary

1 Short title

This Act may be cited as the *National Transport Commission Act 2003*.

2 Commencement

- (1) Each provision of this Act specified in column 1 of the table commences, or is taken to have commenced, on the day or at the time specified in column 2 of the table.

Commencement information		
Column 1	Column 2	Column 3
Provision(s)	Commencement	Date/Details
1. Sections 1 and 2 and anything in this Act not elsewhere covered by this table	The day on which this Act receives the Royal Assent	6 September 2003
2. Sections 3 to 52	A single day to be fixed by Proclamation, subject to subsection (3)	15 January 2004 (s 2(1); <i>Gazette</i> 2003, GN47)

Note: This table relates only to the provisions of this Act as originally passed by the Parliament and assented to. It will not be expanded to deal with provisions inserted in this Act after assent.

- (2) Column 3 of the table is for additional information that is not part of this Act. This information may be included in any published version of this Act.
- (3) If a provision covered by item 2 of the table does not commence within the period of 9 months beginning on the day on which this

Act receives the Royal Assent, it commences on the first day after the end of that period.

3 Purpose of Act

The purpose of this Act is to:

- (a) establish a National Transport Commission with an ongoing responsibility to develop, monitor and maintain uniform or nationally consistent regulatory and operational reforms relating to road transport, rail transport and intermodal transport; and
- (b) provide a mechanism for the making of regulations, in accordance with the Agreement, that set out:
 - (i) model legislation developed by the National Transport Commission and agreed by the Australian Transport Council relating to road transport, rail transport and intermodal transport; and
 - (ii) road transport legislation, regulations and other legislative instruments (whether enacted or in model form) that were developed by its predecessor, the National Road Transport Commission, and agreed by the Australian Transport Council.

4 Definitions

In this Act, unless the contrary intention appears:

Agreement means the Agreement between the Commonwealth, the States, the Australian Capital Territory and the Northern Territory entered into in relation to this Act, and includes that Agreement as amended from time to time.

Australian Transport Council means the council of Commonwealth, New Zealand, State, Australian Capital Territory and Northern Territory Ministers established on 11 June 1993 and known as the Australian Transport Council, but constituted so that it consists of only one Minister representing each of the Commonwealth, the States, the Australian Capital Territory and the Northern Territory, when dealing with matters with which this Act or the Agreement is concerned.

Chair means the Chair of the Commission.

Chief Executive Officer means the Chief Executive Officer of the Commission.

Commission means the National Transport Commission established by section 5.

Deputy Chair means the Deputy Chair of the Commission.

intermodal transport means the interaction of operations between transport modes.

member means a member of the Commission.

member of staff means:

- (a) the Chief Executive Officer; or
- (b) a person employed under section 44; or
- (c) a member of the staff referred to in section 45; or
- (d) any of the officers, employees and persons who, under section 46, are to assist the Commission.

model legislation means legislation, regulations and other legislative instruments developed by the Commission in accordance with the Agreement.

ordinary member means a member of the Commission other than the Chief Executive Officer.

road transport legislation means legislation, regulations and other legislative instruments (whether enacted or in model form) that were developed by the National Road Transport Commission established by section 4 of the *National Road Transport Commission Act 1991* and agreed by the Australian Transport Council.

Part 2—Establishment, functions and powers of Commission

5 Establishment of National Transport Commission

- (1) A National Transport Commission is established.
- (2) The Commission:
 - (a) is a body corporate with perpetual succession; and
 - (b) is to have a common seal; and
 - (c) may acquire, hold and dispose of real and personal property; and
 - (d) may sue and be sued.

Note: The *Public Governance, Performance and Accountability Act 2013* applies to the Commission. That Act deals with matters relating to corporate Commonwealth entities, including reporting and the use and management of public resources.

- (3) The common seal of the Commission is to be kept in such custody as the Commission directs, and is not to be used except as authorised by the Commission.
- (4) All courts, judges and persons acting judicially must:
 - (a) take judicial notice of the imprint of the common seal of the Commission appearing on a document; and
 - (b) presume the imprint was duly made.

6 Functions and powers of Commission

- (1) The Commission has the following functions and powers:
 - (a) the functions and powers that the Agreement provides for it to have;
 - (b) functions and powers conferred on it by or under this Act (other than this section);
 - (c) such other functions that are, with the consent of the Australian Transport Council, conferred on the Commission in writing by the Minister;

- (d) functions and powers expressed to be conferred on it by or under a law of a State or Territory;
 - (e) functions and powers conferred on it by or under another law of the Commonwealth.
- (2) The Commission has power to do whatever is necessary for or in connection with, or reasonably incidental to, the performance of its functions.
- (3) The Commission:
 - (a) is to perform its functions and exercise its powers in accordance with the Agreement (so far as applicable); and
 - (b) in the performance of its functions and the exercise of its powers, is to have regard to the principles and objectives set out in the Agreement; and
 - (c) is to comply in all respects with the provisions of the Agreement that are applicable to it.
- (4) Paragraph (3)(b) does not limit the matters to which the Commission may have regard.

7 Regulations setting out model legislation and road transport legislation

- (1) The regulations may set out model legislation and road transport legislation.
- (2) Any model legislation or road transport legislation set out in regulations made for the purposes of this section:
 - (a) does not have the force of law; and
 - (b) may make provision for or in relation to a matter by applying, adopting or incorporating (with or without modification) any matter contained in an instrument or other writing as in force or existing at a particular time or as in force or existing from time to time.
- (3) Paragraph (2)(b) does not limit what may, under section 49A of the *Acts Interpretation Act 1901*, be included in model legislation or road transport legislation set out in regulations made for the purposes of this section.

Section 8

- (4) Subsections 48(3) to (7) and sections 48A to 49 of the *Acts Interpretation Act 1901* do not apply to regulations made for the purposes of this section.

8 Reports and advice to be provided to the Australian Transport Council

- (1) The Commission is to provide to the Australian Transport Council such reports relating to the Commission's performance of its functions, or exercise of its powers, as the Australian Transport Council directs.
- (2) The Australian Transport Council may direct the Commission to provide advice about any matter relating to:
- (a) the functions or powers of the Commission; or
 - (b) the functions or powers of the Australian Transport Council as they relate to the Commission.
- (3) A direction under subsection (1) or (2) is to be given by resolution of the Australian Transport Council carried in accordance with the Agreement.

9 Consultation

In the performance of its functions and the exercise of its powers, the Commission must, where it is appropriate and practicable to do so, consult with:

- (a) governments and government bodies; and
- (b) representatives of industries, including the road transport industry, the rail industry and the related logistics industry; and
- (c) representatives of people who live in regional or remote areas of Australia; and
- (d) other interested people, bodies and organisations.

10 Noise and emission standards—consultation with the National Environment Protection Council

If the Commission is involved in the development of a noise or emission standard relating to the design, construction or technical characteristics of new or in-service motor vehicles, the standard may only be developed in conjunction with the National Environment Protection Council.

Part 3—Constitution of Commission

Division 1—General membership provisions

11 Membership of Commission

- (1) The Commission consists of the following members:
 - (a) the Chief Executive Officer;
 - (b) 5 ordinary members.
- (2) The Commission may perform its functions and exercise its powers unless there are more than 2 vacancies in the Commission's membership of ordinary members.

12 Appointment of ordinary members

- (1) Ordinary members of the Commission are to be appointed by the Minister, by instrument in writing, on the nomination of the Australian Transport Council in accordance with the Agreement.
- (2) A nomination of a person for appointment as an ordinary member is to be made by resolution of the Australian Transport Council carried in accordance with the Agreement.

13 Chair and Deputy Chair of Commission

- (1) The Minister is to appoint, on the nomination of the Australian Transport Council, a Chair and a Deputy Chair of the Commission from among the ordinary members in accordance with the Agreement. An appointment is to be by instrument in writing.
- (2) A nomination of an ordinary member for appointment as the Chair or Deputy Chair is to be made by resolution of the Australian Transport Council carried in accordance with the Agreement.
- (3) The ordinary member who is the Chair or Deputy Chair ceases to be the Chair, or the Deputy Chair, as the case may be, if he or she ceases to be an ordinary member.

Division 2—Provisions relating to members

14 Ordinary members hold office on part-time basis

Ordinary members hold office on a part-time basis.

15 Term of appointment not to exceed 3 years

An ordinary member holds office for such period, not exceeding 3 years, as is specified in the instrument appointing the member.

16 Remuneration and allowances of ordinary members

- (1) Ordinary members are to be paid such remuneration as is determined by the Remuneration Tribunal but, if no determination of that remuneration is in force, are to be paid such remuneration as is determined by resolution of the Australian Transport Council, carried in accordance with the Agreement.
- (2) An ordinary member is to be paid such allowances as are determined by resolution of the Australian Transport Council, carried in accordance with the Agreement.
- (3) A determination by the Australian Transport Council under subsection (1) or (2) must be made in writing.
- (4) Remuneration and allowances payable to an ordinary member under this section are to be paid out of the money of the Commission.
- (5) This section, other than subsection (4), has effect subject to the *Remuneration Tribunal Act 1973*, but subsection (4) has effect despite that Act.

17 Ordinary members may receive other benefits

- (1) In addition to remuneration and allowances under section 16, an ordinary member is to be provided with such other benefits (if any) as are determined by resolution of the Australian Transport Council, carried in accordance with the Agreement.

Section 18

- (2) A determination under subsection (1) must be made in writing.
- (3) The benefits in respect of which the Australian Transport Council may make a determination under subsection (1) are such benefits as the Australian Transport Council considers are necessary or desirable:
 - (a) to assist an ordinary member in; or
 - (b) place the ordinary member in a position that may facilitate; the performance of his or her functions.
- (4) Benefits provided to an ordinary member under this section are to be provided, or paid for, out of the money of the Commission.

18 Resignation

An ordinary member may resign in writing signed by the member and delivered to the Minister.

19 Termination of appointment

- (1) The Minister may terminate the appointment of an ordinary member for misbehaviour or physical or mental incapacity.
- (2) If an ordinary member is absent from 3 consecutive meetings of the Commission, except on leave granted under section 20, the Minister may terminate the appointment of the member.

Note: The appointment of an ordinary member may also be terminated under section 30 of the *Public Governance, Performance and Accountability Act 2013* (which deals with terminating the appointment of an accountable authority, or a member of an accountable authority, for contravening general duties of officials).

- (3) The Minister must not terminate the appointment of a member under subsection (1) or (2) unless the termination has been recommended by resolution of the Australian Transport Council, carried in accordance with the Agreement.

Termination under Public Governance, Performance and Accountability Act 2013

- (4) Subsection (3) is taken to apply in relation to the termination of the appointment of an ordinary member under section 30 of the *Public Governance, Performance and Accountability Act 2013* in the same way as that subsection applies to a termination under this section.

20 Leave of absence

The Australian Transport Council may, by resolution carried in accordance with the Agreement, grant an ordinary member leave of absence from a meeting of the Commission.

21 Terms and conditions not provided for by Act

An ordinary member holds office on such terms and conditions (if any) in relation to matters not provided for by this Act as are determined, from time to time, by resolution of the Australian Transport Council, carried in accordance with the Agreement.

22 Acting appointments

- (1) The Deputy Chair is to act as the Chair:
- (a) during a vacancy in the office of Chair, whether or not an appointment has previously been made to that office; or
 - (b) during any period, or during all periods, when the Chair is absent from duty or from Australia or is, for any reason, unable to perform the duties of that office.

Note: For rules that apply to persons acting as the Chair, see section 33A of the *Acts Interpretation Act 1901*.

- (2) If there is no Deputy Chair, the Minister may, on the nomination of the Australian Transport Council, appoint an ordinary member to act as the Chair:
- (a) during a vacancy in the office of Chair, whether or not an appointment has previously been made to that office; or

Section 22

- (b) during any period, or during all periods, when the Chair is absent from duty or from Australia or is, for any reason, unable to perform the duties of that office.

Note: For rules that apply to acting appointments, see section 33A of the *Acts Interpretation Act 1901*.

- (3) If there is no Deputy Chair, or the Deputy Chair is acting as the Chair, the Minister may, on the nomination of the Australian Transport Council, appoint an ordinary member to act as the Deputy Chair:
 - (a) during a vacancy in the office of Deputy Chair, whether or not an appointment has previously been made to that office; or
 - (b) during any period, or during all periods, when the Deputy Chair is absent from duty or from Australia or is, for any reason, unable to perform the duties of that office.

Note: For rules that apply to acting appointments, see section 33A of the *Acts Interpretation Act 1901*.

- (4) The Minister may, on the nomination of the Australian Transport Council, appoint a person to act in the office of an ordinary member:
 - (a) during a vacancy in that office, whether or not an appointment has previously been made to the office; or
 - (b) during any period, or during all periods, when the member is absent from Australia or is, for any reason, unable to perform the duties of that office.

Note: For rules that apply to acting appointments, see section 33A of the *Acts Interpretation Act 1901*.

- (5) An appointment under subsection (2), (3) or (4) is to be in writing.
- (6) A nomination for the purposes of subsection (2), (3) or (4) is to be made by resolution of the Australian Transport Council carried in accordance with the Agreement.
- (7) A person acting under this section during a vacancy is not to continue to act for more than 12 months.

Part 4—Operations of Commission

Division 1—Corporate plans

23 Draft corporate plan

- (1) Before giving a corporate plan to the Minister under section 35 of the *Public Governance, Performance and Accountability Act 2013*, the members must prepare a draft corporate plan and give it to the Australian Transport Council.
- (2) The members must consult the National Environment Protection Council in relation to the preparation of the draft corporate plan. This subsection has effect in addition to, and not instead of, section 9.
- (3) Subsection 35(3) of the *Public Governance, Performance and Accountability Act 2013* (which deals with the Australian Government's key priorities and objectives) does not apply to a corporate plan prepared by the members.

25 Approval of draft corporate plan

- (1) If the draft corporate plan is given to the Australian Transport Council, the Council must:
 - (a) approve the draft corporate plan; or
 - (b) refuse to approve the draft corporate plan.
- (2) If the Australian Transport Council refuses to approve the draft corporate plan, the Council must direct the members to:
 - (a) make such alterations to the draft corporate plan as are specified in the direction; and
 - (b) give the altered draft corporate plan to the Council within the period specified in the direction.
- (3) The members must comply with a direction under subsection (2).
- (4) If:

Section 25

- (a) the altered draft corporate plan is given to the Australian Transport Council; and
 - (b) the alterations are in accordance with a direction under subsection (2);the Council must approve the altered draft corporate plan.
- (5) The draft corporate plan or altered draft corporate plan, as the case may be, that is approved by the Australian Transport Council is to be given to the Minister under section 35 of the *Public Governance, Performance and Accountability Act 2013*.
- (7) An approval or direction under this section is to be given by resolution of the Australian Transport Council carried in accordance with the Agreement.

Division 2—Meetings and committees

26 Convening of meetings

- (1) The Commission is to hold such meetings as are necessary for the efficient performance of its functions.
- (2) The Chair:
 - (a) may, at any time, convene a meeting of the Commission; and
 - (b) must convene a meeting of the Commission if requested to do so in writing signed by at least 2 other ordinary members.

27 Procedure at meetings

- (1) The Chair is to preside at all meetings at which he or she is present.
- (2) If the Chair is not present at a meeting but the Deputy Chair is present, the Deputy Chair is to preside.
- (3) If the Chair and the Deputy Chair are not present at a meeting, the Chair may nominate an ordinary member to preside.
- (4) If:
 - (a) the Chair and the Deputy Chair are not present at a meeting; and
 - (b) the Chair does not nominate an ordinary member to preside;the Deputy Chair may nominate an ordinary member to preside.
- (5) Subject to this Division, the Commission:
 - (a) may regulate the conduct of proceedings at its meetings as it thinks fit; and
 - (b) is to keep minutes of those meetings.

28 Resolutions without meetings

- (1) A resolution is taken to have been passed at a meeting of the Commission if, without meeting, a sufficient number of ordinary members indicate agreement with a resolution in accordance with a method determined by the Commission under subsection (2).

Section 29

Note: *Sufficient number of ordinary members* is defined by subsection (3).

- (2) Subsection (1) does not apply unless the Commission:
 - (a) determines that it applies; and
 - (b) determines the method by which ordinary members are to indicate agreement with the resolution.
- (3) In this section:

sufficient number of ordinary members, in relation to a resolution, means a majority of the number of ordinary members who would have been entitled to vote on the resolution at a meeting of the Commission if they had been present at the meeting.

29 Quorum

At a meeting, 3 ordinary members constitute a quorum.

30 Voting at meetings

At a meeting, all questions are to be decided by a majority of votes of the ordinary members present and voting.

32 Committees

- (1) The Commission may constitute committees for the purpose of assisting the Commission in the performance of its functions and the exercise of its powers.
- (2) A committee may be constituted:
 - (a) wholly by members; or
 - (b) wholly by persons who are not members; or
 - (c) partly by members and partly by other persons.
- (3) The terms and conditions of appointment of members of a committee, and the procedures under which a committee is to operate, are to be as determined by the Commission from time to time.

- (4) Remuneration and allowances (if any) to which a member of a committee is entitled as such a member are to be paid out of the money of the Commission.

Part 5—Finance

33 Payments to Commission by Commonwealth

- (1) There is payable to the Commission such money as is appropriated by the Parliament for the purposes of the Commission.
- (2) The Finance Minister may give directions about the amounts in which, and the times at which, money payable under subsection (1) is to be paid to the Commission.
- (3) In this section:

Finance Minister means the Minister administering the *Public Governance, Performance and Accountability Act 2013*.

34 Payments to Commission by States or Territories

The Commission may receive money paid to it by a State or Territory.

35 Money of Commission

The money of the Commission consists of:

- (a) money paid to the Commission under section 33; and
- (b) money received by the Commission under section 34; and
- (c) any other money paid to the Commission.

36 Application of money of Commission

The money of the Commission is to be applied only:

- (a) in payment or discharge of the costs, expenses and other obligations incurred by the Commission in the performance of its functions and the exercise of its powers; and
- (b) in payment of any remuneration or allowances payable under this Act; and
- (c) in providing, or paying for, any other benefits that are to be provided under this Act.

37 Estimates

- (1) If the Australian Transport Council so directs, the Commission is to prepare estimates, in accordance with Council directions, of the Commission's receipts and expenditure for a period specified by the Council.

Note: Budget estimates must also be prepared under section 36 of the *Public Governance, Performance and Accountability Act 2013*.

- (2) The Commission must submit estimates so prepared to the Australian Transport Council not later than such date as the Australian Transport Council directs.
- (3) Except with the consent of the Australian Transport Council, the money of the Commission must not be spent otherwise than in accordance with:
 - (a) the applicable corporate plan under section 35 of the *Public Governance, Performance and Accountability Act 2013*; and
 - (b) any applicable work program provided for in the Agreement.
- (4) A direction, consent or approval for the purposes of this section is to be given by resolution of the Australian Transport Council carried in accordance with the Agreement.

38 Annual report

- (1) The annual report prepared by the members and given to the Minister under section 46 of the *Public Governance, Performance and Accountability Act 2013* must also contain any other information required by the Agreement to be included in the report.
- (2) A copy of each annual report given to the Minister must be given to each member of the Australian Transport Council as soon as practicable.

Part 6—Chief Executive Officer, staff and consultants

Division 1—Chief Executive Officer

39 Chief Executive Officer

- (1) There is to be a Chief Executive Officer of the Commission, who is to be appointed for a period specified in the instrument of appointment by the Chair.
- (2) The Chair is to make the appointment on the recommendation of the Commission. However, the Chief Executive Officer is not to participate in the making of the recommendation by the Commission.
- (3) The Chief Executive Officer is to manage the affairs of the Commission subject to the directions of, and in accordance with policies determined by, the Commission.
- (4) All acts and things done, for the purposes of this Act, in the name of, or on behalf of, the Commission by the Chief Executive Officer are to be taken to have been done by the Commission.

40 Remuneration and allowances

- (1) The Chief Executive Officer is to be paid such remuneration as is determined by the Remuneration Tribunal but, if no determination of that remuneration is in force, is to be paid such remuneration as is determined in writing by the Commission.
- (2) The Chief Executive Officer is to be paid such allowances as are determined in writing by the Commission.
- (3) A determination by the Commission under subsection (1) does not have effect unless it has been approved by resolution of the Australian Transport Council carried in accordance with the Agreement.

- (4) Remuneration and allowances payable to the Chief Executive Officer under this section are to be paid out of the money of the Commission.
- (5) This section, other than subsection (4), has effect subject to the *Remuneration Tribunal Act 1973*, but subsection (4) has effect despite that Act.

41 Chief Executive Officer may receive other benefits

- (1) In addition to remuneration and allowances payable under section 40, the Chief Executive Officer is to be provided with such other benefits (if any) as the Commission determines in writing.
- (2) A determination under subsection (1) does not have effect unless it has been approved by resolution of the Australian Transport Council carried in accordance with the Agreement.
- (3) The benefits in respect of which the Commission may make a determination under subsection (1) are such benefits as the Commission considers are necessary or desirable:
 - (a) to assist the Chief Executive Officer in; or
 - (b) to place the Chief Executive Officer in a position that may facilitate;the performance of his or her functions.
- (4) Benefits provided to the Chief Executive Officer under this section are to be provided, or paid for, out of the money of the Commission.

42 Leave of absence

- (1) The Chief Executive Officer has such recreation leave entitlements as are determined by the Remuneration Tribunal.
- (2) The Commission may grant the Chief Executive Officer leave of absence, other than recreation leave, on such terms and conditions as to remuneration or otherwise as the Commission determines.

43 Terms and conditions not provided for by Act

The Chief Executive Officer holds office on such terms and conditions (if any) in relation to matters not provided for by this Act as are determined by the Commission from time to time.

Division 2—Staff and consultants

44 Non-Public Service staff

- (1) The Commission may employ under written agreements such persons as the Commission thinks necessary for the performance or exercise of any of its functions or powers.
- (2) The terms and conditions of employment of persons employed under subsection (1) are such as the Commission determines from time to time.

45 Public Service staff of Commission

- (1) In addition to the staff referred to in subsection 44(1), the Commission's staff may be persons engaged under the *Public Service Act 1999*.
- (2) For the purposes of the *Public Service Act 1999*:
 - (a) the Chief Executive Officer and the APS employees assisting the Chief Executive Officer together constitute a Statutory Agency; and
 - (b) the Chief Executive Officer is the Head of that Statutory Agency.

46 Staff seconded to the Commission

- (1) The Commission may be assisted by:
 - (a) persons engaged under the *Public Service Act 1999*, and officers and employees of authorities of the Commonwealth, whose services are made available to the Commission in connection with the performance of its functions or the exercise of its powers; and
 - (b) persons whose services are so made available under arrangements made under subsection (2).
- (2) The Commission may make with the appropriate authority or officer of a State or Territory an arrangement under which the State or Territory may make officers or employees available to the

Commission to perform services in connection with the performance of its functions or the exercise of its powers.

47 Consultants

- (1) The Commission may engage persons with suitable qualifications and experience as consultants to the Commission.
- (2) The terms and conditions of engagement of a consultant are such as the Commission determines from time to time.

Part 7—Miscellaneous

48 Delegation by Commission

- (1) Subject to subsection (2), the Commission may, by resolution in writing, delegate all or any of its functions and powers to a person who is:
 - (a) a member; or
 - (b) a member of staff; or
 - (c) an officer or employee of the Commonwealth; or
 - (d) an authority of the Commonwealth or an officer or employee of such an authority; or
 - (e) an officer or employee of a State or Territory; or
 - (f) an authority of a State or Territory or an officer or employee of such an authority.
- (2) The Commission must not delegate a function or power to a person, other than a member or a member of staff, unless the Australian Transport Council has consented to the delegation, by resolution carried in accordance with the Agreement.

49 Delegation by Australian Transport Council

- (1) The Australian Transport Council may delegate to a member of the Australian Transport Council all or any of the Australian Transport Council's functions and powers under this Act.
- (2) A delegation is to be made by a resolution of the Australian Transport Council carried in accordance with the Agreement.
- (3) A delegation may be varied or revoked by a resolution of the Australian Transport Council carried in accordance with the Agreement.
- (4) If the Australian Transport Council delegates a function or power that is to be performed or exercised by resolution, the delegate is to perform or exercise the function or power by writing signed by the delegate.

50 Acts done by Australian Transport Council

(1) A certificate that:

- (a) purports to be signed by a member of the Australian Transport Council, or by a person authorised by the Australian Transport Council, by resolution carried in accordance with the Agreement, to sign certificates for the purposes of this subsection; and
- (b) states that the Australian Transport Council or the Ministerial Council has done any act or thing (for example, carried a particular resolution) or formed any opinion;

is, upon mere production, receivable as prima facie evidence that the Australian Transport Council or the Ministerial Council, as the case requires, has done the act or thing or formed the opinion.

(2) A certificate that:

- (a) purports to be signed by a member of the Australian Transport Council; and
- (b) states that a specified person is authorised by the Australian Transport Council, by resolution carried in accordance with the Agreement, to sign certificates for the purposes of subsection (1);

is, upon mere production, receivable as prima facie evidence that the person is so authorised.

(3) An act or thing done by the Australian Transport Council (whether by resolution, instrument or otherwise) does not cease to have effect merely because of a change in the Council's membership.

(4) A reference in paragraph (1)(b) or subsection (3) to an act or thing done by the Australian Transport Council is a reference to an act or thing done by the Australian Transport Council under or in connection with:

- (a) this Act, an instrument under this Act, or the Agreement; or
- (b) the *National Road Transport Commission Act 1991*, an instrument under that Act, or the agreements scheduled to that Act.

- (5) A reference in paragraph (1)(b) to an opinion formed by the Australian Transport Council is a reference to an opinion formed by the Australian Transport Council under or in connection with:
- (a) this Act, an instrument under this Act, or the Agreement; or
 - (b) the *National Road Transport Commission Act 1991*, an instrument under that Act, or the agreements scheduled to that Act.
- (6) In this section:

Ministerial Council means the Ministerial Council for Road Transport that was established by the Heavy Vehicles Agreement (within the meaning of the *National Road Transport Commission Act 1991*, as that Agreement was in force before the commencement of subsection 44(6) of that Act).

51 Review of operation of Act and Agreement

- (1) The Australian Transport Council must:
- (a) no later than the sixth anniversary of the commencement of this Act; and
 - (b) no later than the end of each succeeding period of 6 years after that anniversary;
- review the operation of this Act and the Agreement, and on each occasion give a written report of the review to the Prime Minister, the Premier of each State, the Chief Minister for the Australian Capital Territory and the Chief Minister of the Northern Territory.
- (2) The report of each review must include:
- (a) a recommendation as to whether the National Transport Commission should continue; and
 - (b) a recommendation as to whether this Act should be repealed or amended; and
 - (c) the reasons for the recommendations.

52 Regulations

The Governor-General may make regulations, not inconsistent with this Act, prescribing all matters:

Section 52

- (a) required or permitted by this Act to be prescribed; or
- (b) necessary or convenient to be prescribed for carrying out or giving effect to this Act.

Endnotes

Endnote 1—About the endnotes

The endnotes provide details of the history of this legislation and its provisions. The following endnotes are included in each compilation:

Endnote 1—About the endnotes
Endnote 2—Abbreviation key
Endnote 3—Legislation history
Endnote 4—Amendment history
Endnote 5—Uncommenced amendments
Endnote 6—Modifications
Endnote 7—Misdescribed amendments
Endnote 8—Miscellaneous

If there is no information under a particular endnote, the word “none” will appear in square brackets after the endnote heading.

Abbreviation key—Endnote 2

The abbreviation key in this endnote sets out abbreviations that may be used in the endnotes.

Legislation history and amendment history—Endnotes 3 and 4

Amending laws are annotated in the legislation history and amendment history.

The legislation history in endnote 3 provides information about each law that has amended the compiled law. The information includes commencement information for amending laws and details of application, saving or transitional provisions that are not included in this compilation.

The amendment history in endnote 4 provides information about amendments at the provision level. It also includes information about any provisions that have expired or otherwise ceased to have effect in accordance with a provision of the compiled law.

Uncommenced amendments—Endnote 5

The effect of uncommenced amendments is not reflected in the text of the compiled law but the text of the amendments is included in endnote 5.

Endnotes

Endnote 1—About the endnotes

Modifications—Endnote 6

If the compiled law is affected by a modification that is in force, details of the modification are included in endnote 6.

Misdescribed amendments—Endnote 7

An amendment is a misdescribed amendment if the effect of the amendment cannot be incorporated into the text of the compilation. Any misdescribed amendment is included in endnote 7.

Miscellaneous—Endnote 8

Endnote 8 includes any additional information that may be helpful for a reader of the compilation.

Endnote 2—Abbreviation key

ad = added or inserted	pres = present
am = amended	prev = previous
c = clause(s)	(prev) = previously
Ch = Chapter(s)	Pt = Part(s)
def = definition(s)	r = regulation(s)/rule(s)
Dict = Dictionary	Reg = Regulation/Regulations
disallowed = disallowed by Parliament	reloc = relocated
Div = Division(s)	renum = renumbered
exp = expired or ceased to have effect	rep = repealed
hdg = heading(s)	rs = repealed and substituted
LI = Legislative Instrument	s = section(s)
LIA = <i>Legislative Instruments Act 2003</i>	Sch = Schedule(s)
mod = modified/modification	Sdiv = Subdivision(s)
No = Number(s)	SLI = Select Legislative Instrument
o = order(s)	SR = Statutory Rules
Ord = Ordinance	Sub-Ch = Sub-Chapter(s)
orig = original	SubPt = Subpart(s)
par = paragraph(s)/subparagraph(s) /sub-subparagraph(s)	

Endnotes

Endnote 3—Legislation history

Endnote 3—Legislation history

Act	Number and year	Assent	Commencement	Application, saving and transitional provisions
National Transport Commission Act 2003	81, 2003	6 Sept 2003	ss. 3–52: 15 Jan 2004 (see <i>Gazette</i> 2003, No. GN47) Remainder: Royal Assent	
Financial Framework Legislation Amendment Act 2010	148, 2010	17 Dec 2010	Schedule 9: 1 July 2011	—
Acts Interpretation Amendment Act 2011	46, 2011	27 June 2011	Schedule 2 (items 833–835) and Schedule 3 (items 10, 11): 27 Dec 2011	Sch. 3 (items 10, 11)
Public Governance, Performance and Accountability (Consequential and Transitional Provisions) Act 2014	62, 2014	30 June 2014	Sch 10 (items 190–204) and Sch 14 (items 1–4): 1 July 2014 (s 2(1) items 6, 14)	Sch 14 (items 1–4)

Endnote 4—Amendment history

Endnote 4—Amendment history

Provision affected	How affected
Pt 2	
Note to s. 5(2)	ad. No. 148, 2010 rs No 62, 2014
Pt 3	
Div 2	
s. 19	am. No. 148, 2010; No 62, 2014
s. 22	am. No. 46, 2011
Notes to s. 22(1)–(4)	ad. No. 46, 2011
Pt 4	
Div 1	
hdg to Div 1	rs No 62, 2014
s 23	rs No 62, 2014
s 24	rep No 62, 2014
hdg to s 25.....	rs No 62, 2014
s 25	am No 62, 2014
Div 2	
s. 31	rep. No. 148, 2010
Pt 5	
s 33	am No 62, 2014
s 37	am No 62, 2014
s. 38	rs. No. 148, 2010 am No 62, 2014

Endnotes

Endnote 5—Uncommenced amendments [none]

Endnote 5—Uncommenced amendments [none]

Endnote 6—Modifications [none]

Endnote 7—Misdescribed amendments [none]

Endnote 8—Miscellaneous [none]