



National Transport Commission Act 2003

No. 81, 2003

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

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**An Act to establish the National Transport
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[Assented to 6 September 2003]

The Parliament of Australia enacts:

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 (GN 47)

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.

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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.
- (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;

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- (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.

- (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.

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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.

Part 3 Constitution of Commission

Division 1 General membership provisions

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- (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)

Part 3 Constitution of Commission

Division 2 Provisions relating to members

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as are determined by resolution of the Australian Transport Council, carried in accordance with the Agreement.

- (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:
 - (a) is absent from 3 consecutive meetings of the Commission, except on leave granted under section 20; or
 - (b) contravenes section 31 without reasonable excuse;the Minister may terminate the appointment of the member.
- (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.

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.
- (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
 - (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.
- (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

Part 3 Constitution of Commission

Division 2 Provisions relating to members

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- (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.
- (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.
- (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.
- (8) Nothing done by or in relation to a person purporting to act under this section is invalid on the ground that:
 - (a) the occasion for the person's appointment to act had not arisen; or
 - (b) there is a technical defect or irregularity in connection with the person's appointment; or
 - (c) the person's appointment had ceased to have effect; or
 - (d) the occasion for the person to act had not arisen or had ceased.

Part 4—Operations of Commission

Division 1—Strategic plans

23 Commission to prepare draft strategic plan

- (1) The Commission must prepare a draft strategic plan at least once a financial year and give it to the Australian Transport Council.
- (2) The draft strategic plan must cover a period of 3 financial years.

24 Consultation on preparation of draft strategic plan

The Commission must consult the National Environment Protection Council in relation to the preparation of the draft strategic plan. This section has effect in addition to, and not instead of, section 9.

25 Approval of draft strategic plan

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

Part 4 Operations of Commission

Division 1 Strategic plans

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- (a) the altered draft strategic 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 strategic plan.
- (5) When the draft strategic plan or altered draft strategic plan, as the case may be, is approved by the Australian Transport Council, the draft strategic plan or altered draft strategic plan becomes a final strategic plan.
 - (6) A final strategic plan is to be published by the Commission in such manner as the Commission determines.
 - (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

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members indicate agreement with a resolution in accordance with a method determined by the Commission under subsection (2).

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.

31 Disclosure of interests

- (1) A member who has a direct or indirect pecuniary interest in a matter being considered, or about to be considered, by the Commission must, as soon as possible after the relevant facts come to the member's knowledge, disclose the nature of the interest at a meeting of the Commission.
- (2) A disclosure by a member who is not the Chair is to be recorded in the minutes of the meeting and, unless the Chair determines otherwise, the member must not:
- (a) be present during any deliberation of the Commission in relation to the matter; or

- (b) take part in any decision of the Commission in relation to the matter.
- (3) A disclosure by the Chair is to be recorded in the minutes of the meeting and, unless the Australian Transport Council determines otherwise by resolution carried in accordance with the Agreement, the Chair must not:
 - (a) be present during any deliberation of the Commission in relation to the matter; or
 - (b) take part in any decision of the Commission in relation to the matter.

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 *Financial Management and Accountability Act 1997*.

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) The Commission is to prepare estimates, in accordance with Australian Transport Council directions, of the Commission's receipts and expenditure for each financial year and, if the Australian Transport Council so directs, for any other period specified by the Australian Transport Council.
- (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 strategic plan under section 23; 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 Application of the *Commonwealth Authorities and Companies Act 1997*

- (1) The Commission is not a Commonwealth authority for the purposes of the *Commonwealth Authorities and Companies Act 1997*.
- (2) Sections 9, 18 and 20 of that Act, and Schedule 1 to that Act, apply in relation to the Commission as if it were a Commonwealth authority for the purposes of that Act.
- (3) However, if the Australian Transport Council passes a resolution, carried in accordance with the Agreement, that imposes on the Commission requirements that replace the requirements of the Finance Minister's Orders referred to in that Schedule, references

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in that Schedule to the Finance Minister's Orders are taken, in the Schedule's application to the Commission, to be references to that resolution.

- (4) An annual report prepared by members under section 9 of that Act must also contain any other information required by the Agreement to be included in the report.
- (5) 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

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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

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- (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:

- (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.

*[Minister's second reading speech made in—
House of Representatives on 4 June 2003
Senate on 14 August 2003]*