
METROPOLITAN (PERTH) PASSENGER TRANSPORT TRUST.

6° Elizabeth II., No. LXXI.

No. 71 of 1957.¹

[As amended by Acts:

- No. 11 of 1960, assented to 6th October, 1960;
- No. 9 of 1961, assented to 10th October, 1961;
- No. 113 of 1965,² assented to 21st December, 1965;
- No. 52 of 1966, assented to 5th December, 1966;
- No. 93 of 1973,³ assented to 27th December, 1973;

and reprinted pursuant to the Amendments Incorporation Act, 1938.]

AN ACT for the Purposes of Constituting a Body Corporate with the Functions of Providing, Maintaining, Protecting, and Managing, Efficient Passenger Transport Facilities by Vehicular Services along Routes over Streets, and by Ferry Services on Ferry-Service Routes, and of Providing Efficient Suburban Railway Passenger Services, in the Metropolitan Area of Perth, and for Incidental and Other Purposes.

Long title.
Amended by
No. 93 of
1973, s. 3.

[Assented to 10th December, 1957.]

BE it enacted—

1. This Act may be cited as the *Metropolitan (Perth) Passenger Transport Trust Act, 1957-1973*.
2. This Act shall come into operation on a day to be fixed by proclamation.¹

Short title
and citation.
Amended by
No. 93 of
1973, s. 1.
Commence-
ment.

¹ Came into operation 15th January, 1958. See *Gazette* 3/1/58, p. 1.

² Decimal Currency Act, 1965, s. 4 (1). Came into operation 14/2/66.

³ Came into operation 22nd March, 1974. See *Gazette* 22/3/74, p. 902.

*Metropolitan (Perth) Passenger
Transport Trust*

Arrangement.

3. The arrangement of this Act is as follows:—

PART I.—PRELIMINARY PROVISIONS.

PART II.—METROPOLITAN (PERTH) PASSENGER
TRANSPORT TRUST.

PART III.—FUNCTIONS AND POWERS OF THE
TRUST.

Division 1.—General Provisions.

Division 2.—Power of Acquisition Generally.

*Division 3.—Compulsory Acquisition of Passen-
ger Transport Undertakings.*

Division 4.—Assessment of Compensation.

*Division 5.—Payment of Compensation for
Property Acquired by Agreement.*

*Division 6.—Mortgages and Bills of Sale by Way
of Security.*

Division 7.—Leases and Bailments.

*Division 8.—Miscellaneous Provisions Relating
to Property.*

Division 9.—Staff of the Trust.

PART IV.—FINANCE AND ACCOUNTS.

PART V.—MISCELLANEOUS.

*Division 1.—Legal Proceedings by and against
the Trust.*

Subdivision A.—General Provisions.

Subdivision B.—Evidence.

Division 2.—Supplementary Provisions.

Division 3.—Penalties.

Division 4.—Exemptions.

Division 5.—Regulations.

SCHEDULE.

4. In this Act unless the context requires otherwise—

Interpre-
tation.
Amended by
No. 93 of
1973, s. 4.

“Commission” means the body corporate by the name of The Western Australian Government Railways Commission, constituted under the Government Railways Act, 1904;

“Commissioner” means the Commissioner of the Western Australian Government Railways for the time being in office under the Government Railways Act, 1904;

“functions” means functions of the Trust under this Act; Cf. s. 23 post.

“land” includes estates in land; Cf. No. 30 of
1918, s. 4 as
to “land”
and “estates
and interests
in land.”

“member” means a person occupying any of the offices of member of the Trust, including that of Chairman; Cf. s. 7 post.

“metropolitan area” means the area defined from time to time by proclamation made under this Act; Cf. s. 24 post.

“property”

(a) where used in relation to power of acquisition generally, means land and estates and interests in land, and personal property and interests in personal property; and

(b) where used in relation to power of compulsory acquisition of passenger transport service undertakings, means any property which is mentioned in paragraph (a) of this interpretation, and which comprises the whole or part of an undertaking of a proprietor of a passenger transport service conducted over streets in the metropolitan area; Cf. s. 26 post.

Cf. s. 25 (2).

*Metropolitan (Perth) Passenger
Transport Trust*

“railway” has the same meaning as it has in and for the purposes of the Government Railways Act, 1904;

“suburban railway passenger services” means passenger services on railways within the metropolitan area by means of rail conveyances travelling only between places in that area;

cf. s. 15. “Trust” means the body corporate constituted under this Act as the Metropolitan (Perth) Passenger Transport Trust.

PART II.—METROPOLITAN (PERTH) PASSENGER
TRANSPORT TRUST.

*The Trust.
Amended by
No. 52 of
1966, s. 2.*

5. A body constituted in accordance with the provisions of this Part has the functions and immunity prescribed by this Act, but is, for the purposes of the State Transport Co-ordination Act, 1966, subject to the Minister.

Name.

6. The name of the body is Metropolitan (Perth) Passenger Transport Trust.

*Offices of
the Trust.
Amended by
No. 93 of
1973, s. 5.*

7. The offices of members of the Trust are those of Chairman, and two other members, as the three appointed members, and the Commissioner by virtue of his office under the Government Railways Act, 1904.

*Appoint-
ments to
offices.
Amended by
No. 11 of
1960, s. 2;
No. 93 of
1973, s. 6.*

8. (1) Power to make the first appointments of persons to fill the offices of appointed members of the Trust including that of Chairman, and to make subsequent appointment of persons to fill vacancies as they occur in those offices is conferred on the Governor, and is exercisable in accordance with the provisions of this Part.

*Metropolitan (Perth) Passenger
Transport Trust*

(2) The provisions of section eleven of the Interpretation Act, 1918, except those of the proviso to that section, apply in respect of any exercise of the power of appointment conferred by this section.

Cf. No. 30 of
1918, s. 11.

(3) A person is not eligible for appointment and shall not be appointed to or hold office as an appointed member—

Ineligibility
for appoint-
ment.

- (a) if he is bankrupt;
- (b) if within six years he has, as a bankrupt debtor, taken advantage of protection or relief under any law for the protection of bankrupt debtors;
- (c) if through mental or physical infirmity, or sickness he would, if appointed, be unable satisfactorily to carry out the duties and perform the functions of office;
- (d) if he has been convicted of an indictable offence, or other offence which, in the opinion of the Governor, was of so serious a nature as to render him unsuitable for appointment; or
- (e) if he has not had wide experience and has not shown capacity in transport, industrial, commercial, or financial, matters, or in the conduct of public affairs.

(4) A person is eligible for appointment to the office of member notwithstanding that he has previously occupied office as such.

(5) (a) The term of tenure of office of a person appointed to an office of member expires, subject to paragraph (b) of this subsection and to subsection (7) of this section; by effluxion of time on the expiration of a period of five years commencing on the day specified in the notice of the appointment published in the *Gazette* as the commencing day of that term.

Cf. s. 15 (1)
(a) post as to
publication
of notice of
appoint-
ments.

*Metropolitan (Perth) Passenger
Transport Trust*

(b) The respective terms of tenure of office of the persons first appointed to office on the Trust expire by effluxion of time—

- (i) in the case of Chairman—at the expiration of seven years;
- (ii) in the case of second member—at the expiration of six years; and
- (iii) in the case of third member—at the expiration of five years;

commencing on the day specified in the notice of the appointment published in *Gazette* as the commencing day of the term.

(6) The term of tenure of office of a person appointed to office of member terminates if, during the term,

- (a) he in any way, otherwise than as a member, and in common with the other members, of an incorporated company consisting of not less than fifty-one persons—
 - (i) becomes concerned or interested, without the approval of the Governor, who is hereby authorised to grant the approval from time to time, in any contract or agreement entered into by or on behalf of the Trust;
 - (ii) participates or claims to participate, without the approval of the Governor, who is hereby authorised to grant the approval from time to time, in the profit of any such contract or agreement or in any benefit or emolument arising from any such contract or agreement;
- (b) he becomes bankrupt, or, as a debtor, takes advantage of protection or relief under any law for the protection or relief of bankrupt debtors, or assigns any remuneration or allowance to which he is entitled under this Act as member of the Trust for the benefit of his creditors;

- (c) he absents himself from three consecutive meetings of the Trust, except with permission granted by the Minister who is hereby authorised to grant the permission from time to time;
- (d) he tenders resignation from the office in writing signed by him and addressed to the Governor, and the Governor who is hereby authorised to do so, accepts the resignation;
- (da) he is, through mental or physical infirmity, or sickness unable satisfactorily to carry out the duties and perform the functions of his office;
- (e) he dies; or
- (f) he having been suspended from office on the Trust by the Governor, is not restored to office on the Trust by authority of a resolution of each House of Parliament pursuant to section fourteen of this Act. Cf. s. 14 post.

(7) Where a term of tenure of office terminates before the day on which it would have expired by effluxion of time, the Governor may appoint a person, or may appoint in succession such greater number of persons if more appointments than one are necessary, in order to fill the office until that day.

9. (1) Deputies to act in the respective offices of appointed members of the Trust in the absence of the occupants of the respective offices may be appointed in writing by the Governor. Deputies.
Amended by
No. 93 of
1973, s. 7.

(2) During the absence of an appointed member of the Trust, a deputy so appointed is authorised to exercise any power, and to carry out any duty, which the member if present could exercise, or would be required to carry out under this Act.

(3) The person appointed as deputy of the Commissioner under the Government Railways Act, 1904, is his deputy as a member of the Trust.

*Metropolitan (Perth) Passenger
Transport Trust*

(4) During the absence of the Commissioner as a member of the Trust his deputy is authorised to exercise any power, and to carry out any duty, which the Commissioner if present could exercise, or would be required to carry out under this Act.

Salaries of
members of
the Trust.
Amended by
No. 11 of
1960, s. 3;
No. 93 of
1973, s. 8.

10. (1) The remuneration payable in respect of the respective offices of members of the Trust, is such as the Governor determines and is hereby authorised to determine from time to time as the Governor may think fit.

(2) The first determination of the remuneration payable under this section which the Governor makes after the coming into operation of the Metropolitan (Perth) Passenger Transport Trust Act Amendment Act, 1960, shall be deemed to have been made on the first day of February, one thousand nine hundred and sixty, and notwithstanding the provisions of subsection (1) of this section the remuneration so determined to be payable in respect of the respective offices of members of the Trust shall be payable on and from that day.

Conditions
of service
of members
of the Trust.
Amended by
No. 11 of
1960, s. 4;
No. 93 of
1973, s. 9.

11. Conditions of service applicable to the respective offices of members of the Trust, including travelling allowances, are, subject to the provisions of this Act, such as the Governor determines and is hereby authorised to determine from time to time as the Governor may think fit.

Remunera-
tion and
conditions
of service
of deputies.
Amended by
No. 93 of
1973, s. 10.

12. Remuneration payable, and conditions of service applicable in respect of deputies acting in the respective offices of members of the Trust, including leave of absence and travelling allowances, are such as the Governor determines and is hereby authorised to determine from time to time.

Preservation
of existing
rights.
Amended by
No. 11 of
1960, s. 5;
No. 93 of
1973, s. 11.

13. An appointed member or a deputy for such a member, in his capacity as member or deputy, is not a public servant under the provisions of the

*Metropolitan (Perth) Passenger
Transport Trust*

9

Public Service Act, 1904, but if at the time of his appointment to office of member or as deputy he is a public servant under the provisions of that Act, or the provisions of any other Act apply to him as a public servant, his appointment to and service in the office of member or as deputy shall be deemed to be without prejudice to his rights under that Act, or any other Act applying to him as a public servant.

14. (1) An appointed member may be suspended from office on the Trust by the Governor, but shall not be removed from the office except in accordance with the provisions of subsections (2) and (3) of this section.

Suspension
and removal
of members
of the Trust
Amended by
No. 93 of
1973, s. 12.

(2) Where a member has been so suspended the Minister having the administration of this Act shall cause a full statement of the grounds on which the member was suspended to be laid before each House of Parliament within six sitting days of the House after the day of the suspension.

(3) If within fourteen sitting days after the statement has been laid before the House, each House of Parliament does not by resolution declare that the member should be restored to office on the Trust, the member shall not be restored to the office, but if within that period each House by resolution declares that the member should be restored to office on the Trust, the Governor shall cause the member to be restored to the office.

(4) On and from the day of the suspension, the person suspended from office on the Trust is not entitled to salary unless each House of Parliament declares otherwise.

15. (1) (a) The Minister shall cause notice of appointments to the respective offices of appointed members of the Trust to be published in the *Gazette*.

Gazetted of
appoint-
ments of
members.
Amended by
No. 93 of
1973, s. 13.

(b) By the publication of the first appointments, the Trust is constituted a body corporate with perpetual succession, and an official seal in the form

Trust
constituted
a body
corporate
with
perpetual
succession
and an
official seal.

*Metropolitan (Perth) Passenger
Transport Trust*

prescribed by the regulations, and has and may exercise the functions prescribed by this Act.

Trust is
a Crown
agency.

(c) When constituted the Trust is an agency of the Crown in right of the State.

Official
seal to be
judicially
noticed.

(2) Courts, Judges, and other persons acting judicially shall take judicial notice of the official seal of the Trust affixed to any document, and shall presume that it was regularly affixed, if the seal purports to have been so affixed, in the presence of the Chairman or his deputy and another member of the Trust or his deputy.

Convening
of meetings.

16. (1) The Chairman shall convene the first meeting of the Trust to be held at a time and place appointed by him, and the Trust shall meet accordingly, and shall hold subsequent meetings at times and places appointed by the Trust.

(2) The Chairman or his deputy in the absence of the former shall preside at meetings of the Trust.

Quorum.
Amended by
No. 93 of
1973, s. 14.

17. A quorum present at any meeting of the Trust at, or within half an hour after, the time appointed for the commencement of the meeting may exercise any function of the Trust as effectively as if all members were present, and is constituted by three, whether members or deputies, but so that a deputy is not included unless the member, for whom he is deputy, is absent or that member's office is vacant.

Determina-
tion of
questions
by the
Trust.

18. (1) Where at a meeting of the Trust any question arises for determination by the Trust, each member or deputy present is entitled to, and shall exercise, one vote only.

Motions—
how carried.

(2) If a majority of those present vote in favour of a motion for the determination of a question, the question shall be deemed to be determined in accordance with their votes, but if votes in favour equal votes against the motion, the motion shall be deemed lost.

19. An act or determination of the Trust is not invalid or defective on the ground that when the act was done or the determination was made, a vacancy existed in office of a member or deputy, or on the ground of a defect in the appointment of a member or deputy.

Vacancy in, or defect in appointment to office, no ground for invalidity.

20. (1) Where this Act, or any other Act, or any regulation, prescribes how the Trust shall conduct proceedings in relation to any matter, the Trust shall conduct the proceedings as so prescribed, but in relation to any other matter, the Trust shall conduct proceedings as the members or deputies present determine and are hereby authorised to determine from time to time.

Conduct of Trust's proceedings.

(2) The Trust shall cause proper minutes of the Trust's proceedings to be recorded, and to be preserved until the Governor authorises, as he is hereby empowered to do, destruction of them.

Minutes of Trust's meetings to be kept.

21. (1) The Trust may, in relation to any particular matter or class of matters, by written authorisation sealed with the official seal of the Trust, delegate to any member or employee of the Trust, power to exercise any of the powers conferred or to carry out any of the duties imposed on the Trust by this Act, except this power of delegation.

Delegation.

(2) A delegation of power conferred by this section has the effect and may be exercised according to its tenor, but is revocable at the will of the Trust and does not preclude the Trust from exercising the power.

22. A person who is or has been a member, deputy for a member, delegate, or employee, of the Trust is not personally liable for anything done or omitted in good faith, in, or in connection with, the exercise or purported exercise of any power conferred, or the carrying out of any duty imposed, on the Trust by this Act.

Exemption from personal liability.

*Metropolitan (Perth) Passenger
Transport Trust*

PART III.—FUNCTIONS AND POWERS OF THE TRUST.

Division 1.—General Provisions.

Functions
of the Trust.
Substituted
by No. 93 of
1973, s. 15.

23. (1) The functions of the Trust are—

- (a) to provide, maintain, protect, and manage, in accordance with, and subject to, the provisions of this Act, efficient passenger transport facilities by vehicular service along routes over streets in the metropolitan area, and if necessary by ferry services on ferry service routes in that area, and to carry out works, and carry on undertakings, necessary and incidental thereto;
- (b) to provide through the Commission, in accordance with, and subject to, the provisions of this Act, efficient suburban railway passenger services, and to carry on undertakings necessary and incidental thereto; and
- (c) to give effect to the purposes of this Act generally.

(2) The Trust shall not acquire any railway.

(3) The Commission shall operate suburban railway passenger services on behalf of and at the direction of the Trust in accordance with, and subject to, the provisions of this Act, and the powers of the Commission under the Government Railways Act, 1904, in respect of those services are modified accordingly.

(4) The Trust shall pay to the Commission such amounts of money as are the total expenses, including debt charges, incurred by the Commission in operating, maintaining, managing, and protecting suburban railway passenger services, which amounts if there is no agreement thereon by the Trust and the Commission shall be determined by the Treasurer.

(5) All revenue from the operation of suburban railway passenger services shall be received on behalf of the Trust and shall be paid or credited to it accordingly.

24. The Governor may, by proclamation, define the boundaries of the metropolitan area and may, from time to time, by proclamation, alter the boundaries of the area so defined.¹

Metropolitan
area.

Division 2.—Power of Acquisition Generally.

25. (1) For the purposes of carrying out its functions the Trust has, and may exercise, in accordance with, and subject to, the provisions of this Act,

Powers
generally of
the Trust.

(a) power to acquire, hold, maintain, protect, manage, and dispose of, property;

Cf. s. 4 as to
"property."

(b) power to borrow money;

(c) power to issue debentures or inscribed stock or both;

Cf. ss. 46
and 49 post
and the
Schedule.

(d) power to employ and engage personnel;

(e) power to enter into and execute and carry out agreements, contracts, and arrangements, including, without prejudice to the generality of the power conferred by this subsection,

(i) power to enter into agreements, contracts, or arrangements, for the conduct by any person or authority on behalf of the Trust of any passenger vehicular transport service on any route over any streets in the metropolitan area; and

(ii) power to enter into any agreements, contracts, or arrangements, for co-ordinating any passenger transport service conducted by or on behalf of

¹ See *Gazettes* 9/5/58, p. 846 and 15/6/73, p. 2217.

*Metropolitan (Perth) Passenger
Transport Trust*

the Trust with any other passenger transport service conducted by any other person or authority, whether by provision for inclusive fares, through tickets, or otherwise;

- (f) power to sue and be sued, to compromise claims made by or against the Trust, and to submit questions and disputes to arbitration; and
- (g) power to do or cause to be done any other thing which the Trust deems necessary, desirable, or expedient, for, or as incidental to, the carrying out of those functions, and the giving of effect to the purposes of this Act generally.

Powers relating to acquisition of undertakings of passenger transport services.

(2) The powers conferred on the Trust by paragraph (a) of subsection (1) of this section include, without prejudice to the generality of the provisions of that subsection, but subject to the provisions of subsection (3) of this section,

- (a) power to acquire property being the whole or part of the undertaking of the proprietor of any passenger transport service conducted over streets if the whole or the part of the undertaking is provided in the metropolitan area, including any such service so provided whether under the Western Australian Government Tramways and Ferries Act, 1948¹; or under the Fremantle Municipal Tramways and Electric Lighting Act, 1903², which power extends to the acquisition of property which at any time during the period of three years next preceding the publication in the *Gazette* of the notice in exercise of the power was part of the undertaking, and which during that period was disposed of for the purpose of avoiding acquisition under this Act, and any dispute as to whether the property was

As to *Gazette*.
Of Public Works Act, 1902, as amended, s. 17, and this Act, s. 27.

¹ Repealed by State Transport Co-ordination Act, 1966.

² Repealed by City of Fremantle and Town of East Fremantle Trust Funds Act, 1961.

disposed of for that purpose shall be settled by arbitration under the Arbitration Act, 1895;

- (b) power to acquire Government ferries provided, maintained and worked under the Western Australian Government Tramways and Ferries Act, 1948¹; and
- (c) power, where any such proprietor is a limited liability company, to purchase stock or shares in the company, but the express inclusion of this reference to stock or shares does not limit or otherwise affect the meaning given to the expression "property" by section four of this Act.

Cf. s. 4 ante.

(3) The Trust may exercise any power mentioned in subsection (2) of this section—

- (a) by agreement with the proprietor of the service, or, as the case may be, the owners of the stock or shares; or
- (b) by compulsory acquisition except to acquire part only of an undertaking mentioned in paragraph (a) of subsection (2) of this section, but this exception does not preclude the Trust from acquiring by compulsory acquisition the whole of an undertaking mentioned in that paragraph;

but in either case only if the Trust first obtains approval to the exercise of the power from the Governor, who may refuse approval for compulsory acquisition if it appears to him that acquisition by agreement is likely and preferable.

(4) (a) The proprietor of any undertaking which is mentioned in paragraph (a) of subsection (2) of this section, and which is being operated by him when this Act comes into operation, may serve on the Trust written notice to acquire the whole of the undertaking from him within a period of three years from the day of service of the notice.

¹ Repealed by State Transport Co-ordination Act, 1966.

*Metropolitan (Perth) Passenger
Transport Trust*

(b) The Trust on being served with the notice shall acquire the whole of the undertaking within that period, and for the purposes of this Act, the undertaking when acquired by the Trust shall be deemed to have been acquired by agreement, but if any question arises relating to the acquisition, including any question as to what constitutes the undertaking, as to consideration payable for the undertaking, or otherwise, the question shall be settled by arbitration under the Arbitration Act, 1895.

(5) (a) In this subsection, unless the context requires otherwise—

“proprietor company” means a limited liability company which is proprietor of an undertaking mentioned in paragraph (a) of subsection (2) of this section; and

“shares” means all of the shares in the subscribed share capital of the proprietor and includes stock.

(b) Where a contract for the transfer of the shares in a proprietor company to the Trust within three years after service of notice on the Trust to acquire the shares, is approved by the holders of not less than four-fifths in value of the shares,

- (i) the proprietor shall serve on the Trust written notice to acquire the shares within three years after service of the notice;
- (ii) the Trust shall by written notice served on the proprietor company, acquire the shares within three years after the service of the notice;
- (iii) the shares when acquired by the Trust shall for the purposes of this Act be deemed to have been acquired by agreement, but if any question arises relating to the acquisition, including any question as to the consideration payable for the shares, the question shall, subject to subparagraph (iv) of this paragraph, be settled by arbitration; and

(iv) the provisions of section one hundred and sixty of the Companies Act, 1943¹ apply *mutatis mutandis* in respect of the acquisition for which purposes, the proprietor company shall be deemed to be "the transferor company" mentioned in that section; the Trust shall be deemed to be "the transferee company" mentioned in that section; and the Trust may give to any dissenting shareholder notice under that section that it desires to acquire his shares at any time within two months after the expiration of the day on which the Trust serves on the proprietor company the written notice referred to in subparagraph (ii) of this paragraph; but the provisions of this subparagraph do not prejudice the power of the Trust to acquire the shares of a dissenting shareholder by compulsory acquisition under this Act.

(6) (a) Where the Trust requires land for the purpose of carrying out any of its functions, but is not authorised to, or being authorised does not for any reason desire to, acquire the land pursuant to authority conferred on the Trust by any provision of this Act other than those of this subsection, the Trust may, if it first obtains the approval of the Governor to do so, acquire the land under the provisions of the Public Works Act, 1902.

(b) The Governor is hereby authorised to grant the approval, but may refuse it if it appears to him that acquisition under any other provision of this Act is authorised and preferable.

(c) If the Governor grants approval to acquisition under the Public Works Act, 1902,

(i) the purpose for which the Trust requires the land shall be deemed a public work under that Act; and

(ii) the Trust shall be deemed a local authority under that Act.

¹ Now Companies Act, 1961.

*Metropolitan (Perth) Passenger
Transport Trust*

*Division 3.—Power of Compulsory Acquisition of
Passenger Transport Undertakings.*

26. In this Division, unless the context requires otherwise—

Interpre-
tation.

Cf. s. 4 ante
as to
"property."

Cf. s. 25 (2)
ante.

"property" means property comprising an undertaking, or, as the case may be, comprising stock or shares, mentioned in subsection (2) of section twenty-five of this Act.

Procedure.

Cf. s. 25 (2)
ante.

27. (1) Where the Governor approves compulsory acquisition of an undertaking, or stock or shares mentioned in subsection (2) of section twenty-five of this Act, the Trust by notice published in the *Gazette* shall declare that the undertaking, or stock, or shares, as the case may be, is by the notice acquired under, and for the purposes of, this Act, and in the notice shall describe the undertaking and the property comprising the undertaking or, as the case may be, the stock or shares.

(2) Upon the publication of the notice in the *Gazette*,

- (a) the property described in the notice, is by virtue of this subsection and of the publication of the notice acquired by and vested in the Trust freed and discharged from all trusts, obligations, estates, interests, contracts, licenses, charges, rates, and easements, so that the legal estate and interest in the property together with the rights and powers incident to the legal estate or conferred by this Act, is vested in the Trust; and
- (b) the estate and interest of every person in the property described in the notice is, by virtue of this subsection, converted into a claim for compensation under this Part.

(3) As soon as is practicable after the publication of the notice in the *Gazette*, the Trust shall cause a copy of the notice to be served on the persons appearing to have estates or interests in the property, or such of them as can with reasonable diligence be found, but if the property is that of a company the requirements of this section are sufficiently complied with in respect of shareholders in the company if the Trust causes the copy of the notice to be served at the registered office of the company, or if the company is in liquidation, on the liquidator.

(4) A person claiming to be entitled to payment of compensation under this Act may make a claim for payment of the compensation.

(5) A valid claim for payment of compensation—

- (a) shall be made in writing;
- (b) shall specify the total amount claimed;
- (c) shall, where that total comprises amounts of more items than one, specify particulars and the amount claimed in respect of each of the items;
- (d) shall specify the name, address, and occupation or status, of the person by whom, or on whose behalf the claim is made, and where the claim is made by a person on behalf of another, the name, address, and occupation or status, of each of them;
- (e) shall be signed and dated by the claimant or person claiming on his behalf; and
- (f) shall be served on the Trust within one hundred and twenty days of the day of publication of the *Gazette* in which the notice appears, or within such further time as the Trust allows, and is hereby authorised to allow if satisfied that the claim is *bona fide*, and if, having regard to the circumstances of the case is satisfied that further time should be allowed.

*Metropolitan (Perth) Passenger
Transport Trust*

(6) A claim for payment of compensation shall be deemed to be made on the day on which the claim is served on the Trust.

(7) Within one hundred and twenty days after a claim for payment of compensation has been made, the Trust shall cause the claim to be examined by, and a report made to the Trust by, such valuers as the Trust thinks competent, as to the value of the property acquired from the claimant, and, having regard to Division 4 of this Part, as to the amount of payment of compensation to which the claimant appears to be entitled.

(8) As soon after receiving the report as is practicable, the Trust shall cause to be served on the claimant notification in writing that the Trust—

- (a) admits the claim for payment of compensation; or
- (b) admits the claim in respect of certain items specified in the notification, and does not admit the claim in respect of other items so specified, as the case may be, but offers such amount as is specified in settlement of the claim in respect of the latter; or
- (c) disputes the claim for payment of compensation;

as the case may be.

(9) Within sixty days of service of the notification of an offer made by the Trust pursuant to paragraph (b) of subsection (8) of this section, the claimant may, by written notice served on the Trust, accept or reject the offer.

(10) Where the Trust notifies the claimant—

- (a) in accordance with the provisions of paragraph (a) of subsection (8) of this section, the Trust shall make payment of the compensation claimed to the claimant on compliance with the requirements of this Part; or

- (b) in accordance with paragraph (b) of subsection (8) of this section, the Trust shall, if the claimant accepts the offer made by the Trust in respect of the claim for the items not admitted, make payment of compensation claimed for the items admitted and payment of compensation offered and accepted for the items not admitted, on compliance with the requirements of this Act.

(11) If—

- (a) the Trust serves on the claimant written notice, as it is hereby authorised to do, of an offer to make payment of compensation to the claimant in satisfaction of the claim for compensation, and the claimant does not within sixty days of service of the notice, accept the offer; or
- (b) the Trust serves written notice on the claimant that the Trust disputes the offer;

the claim shall be deemed a disputed claim for payment of compensation.

(12) Where there is a disputed claim for payment of compensation, the Trust may settle the claim by agreement with the claimant, but if agreement is not reached, the disputed claim may be settled only on reference to arbitration under the Arbitration Act, 1895 and in accordance with the provisions of Division 4 of this Part.

28. (1) Compensation for compulsory acquisition of property under this Act shall bear interest which shall be calculated at the long term bond rate referred to in subsection (3) of this section plus one per centum, on the amount of the compensation from the day of the compulsory acquisition until, subject to subsection (2) of this section, the compensation is paid to the claimant, or is paid into the Treasury, and shall be added to, and, for the purpose of payment be deemed part of, the payment of compensation.

Interest on
compensation.

*Metropolitan (Perth) Passenger
Transport Trust*

(2) Where, in the case of a disputed claim for payment of compensation, the amount of compensation awarded on reference to arbitration is not more than the amount offered by the Trust in satisfaction of the claim for compensation, the compensation shall bear interest at the long term bond rate referred to in subsection (3) of this section, but only from the day of the acquisition until the day of service of written notice of the offer on the claimant.

Cf. Cl. 9 of
Schedule
to No. 6 of
1956.

(3) The long term bond rate referred to in this section is the rate of interest payable in respect of any Commonwealth Public Loan which has a currency exceeding five years and which is being raised, if such is the case, in Australia at the day when the interest payable under this Act is paid; or, if none is being raised at that day, in respect of the Commonwealth Public Loan which has a currency exceeding five years and which was last raised in Australia prior to that day, under the Commonwealth Inscribed Stock Act, 1911 or any Act passed by the Parliament of the Commonwealth in amendment of, or substitution for, that Act.

Payment of
compensation to
claimant.

29. (1) Where a claimant or person who is entitled to payment of compensation for compulsory acquisition of property under this Act,

- (a) makes application to the Trust for payment of the compensation;
- (b) makes out to the satisfaction of the Trust a title to the property in respect of which the compensation is payable; and
- (c) executes such, if any, transfers, conveyances, assignments, or assurances, of the property as the Trust directs;

the Trust shall make payment of the whole of the compensation to the person entitled; but at its election, may make payment of the whole of the compensation wholly in money, or wholly in inscribed stock created by the Trust under this Act at face value, or wholly in debentures issued by the Trust

under this Act at face value, or partly in each of all three or any two of those methods of payment, and the Trust is hereby authorised to pay the money, create and register the inscribed stock, and issue the debentures, according to the method of payment which the Trust elects.

(2) Inscribed stock so created or debentures so issued shall bear interest at the long term bond rate, referred to in subsection (3) of section twenty-eight of this Act, plus an additional amount of interest at the rate of one per centum per annum on the face value of the stock or debentures.

30. (1) If at the expiration of three months after the determination of the amount of compensation—

Deposit of compensation in the Treasury.

- (a) no application has been made for payment of the compensation; or
- (b) an application has been made for payment of the compensation, but the applicant has, by reason of default or delay on his part, or by reason of failure on his part to make title, not received payment of the compensation;

the Trust may deposit the amount of compensation in the Treasury.

(2) At the time of the depositing of the amount of compensation, the Trust shall also deposit in the Treasury a statement of the material facts relating to the matter.

31. The Treasurer may, if he thinks fit, and at the risk of the person entitled to the compensation, invest the compensation deposited with him in the purchase of Government securities of the Commonwealth or of a State of the Commonwealth, and any interest received in respect of the investment, less a fair charge to reimburse the Treasurer for the costs of investment and management, shall be deemed to be part of the compensation.

Investment of compensation deposited in Treasury.

*Metropolitan (Perth) Passenger
Transport Trust*

Payment of
compensa-
tion out of
Treasury.

32. (1) Payment of any compensation so deposited in the Treasury may be made to any claimant—

- (a) upon the direction of the Trust; or
- (b) upon an order of the Supreme Court made pursuant to authority conferred by subsection (3) of this section, and upon the certificate of the Trust that the claimant has complied with this Act to its satisfaction.

(2) A direction or certificate shall be not given by the Trust under this section until the claimant has produced to the Trust evidence satisfactory to the Trust of the claimant's title to the property and his entitlement to payment of the compensation, and has executed such, if any, transfers, conveyances, assignments, or assurances, of the property, as the Trust directs.

Authority
of Supreme
Court to
order that
claimant is
entitled to
compen-
sation
deposited
in Treasury.

(3) The Supreme Court may, upon the application of any person claiming to be entitled to payment of any compensation so deposited in the Treasury and on proof of his title to its satisfaction, make an order that the person claiming is entitled to payment of the compensation, and make such other order in the premises as it thinks fit.

Payments to
be a good
discharge.

(4) All payments and deposits made on behalf of the Trust are, by virtue of this section, good and valid discharges to the Trust, which is not bound to see to the application of any money so paid or deposited, or to see to the performance of any trusts.

(5) In this section "compensation deposited in the Treasury" means compensation so deposited or the securities in which it has been invested or the proceeds of those securities together with any interest thereon which is deemed part of the compensation.

Division 4.—Assessment of Compensation.

33. (1) Compensation for property compulsorily acquired under this Act shall be assessed on the market value of the property at the time of the acquisition; but

Assessment
of compen-
sation.

- (a) no allowance shall be included in the assessment for enhancement of, or for diminution of, the value of property resulting or likely to result because of the acquisition;
- (b) no regard shall be had in assessing the value of any stock or shares in a company to any provision in the articles or memorandum of the company by which the value of the stock or shares is to be determined;
- (c) the value of any stock or shares in any company shall be assessed on the assumption, if necessary to be made, that the memorandum and articles or rules of the company, at the date of acquisition satisfied the requirements prescribed by the Committee or governing authority of the Stock Exchange at the place where the stock or share register is situate for the purpose of enabling the company to be placed on the official list of that Stock Exchange; and
- (d) in the assessment of the compensation an allowance for loss of good will, resulting or likely to result because of the compulsory acquisition, may be included.

(3) The limitations imposed by this section on assessment of compensation for property compulsorily acquired do not apply in respect of the consideration which the Trust may pay or agree to pay for the acquisition of property by agreement.

*Metropolitan (Perth) Passenger
Transport Trust*

*Division 5.—Payment of Compensation for Property
Acquired by Agreement.*

Trust may agree to satisfy compensation by money, debentures or inscribed stock.

34. (1) Where the Trust enters into an agreement with any person for the acquisition by the Trust of property from the person, the Trust is hereby authorised to agree with the person to pay for the property wholly in money, or wholly in inscribed stock created by the Trust under this Act at face value, or wholly in debentures issued by the Trust under this Act at face value, or partly in each of all three or any two of those methods of payment, and the Trust is hereby authorised to pay the money, create and register the inscribed stock, or issue the debentures, according to the agreement.

(2) Inscribed stock so created or debentures so issued shall bear interest at the long term bond rate, referred to in subsection (3) of section twenty-eight of this Act, plus an additional amount of interest at the rate of one per centum per annum on the face value of the stock or debentures.

*Division 6.—Mortgages and Bill of Sale by
Way of Security.*

Interpretation.

35. In this Division—

“mortgage” includes bill of sale by way of security;

“mortgagee” includes grantee of a bill of sale by way of security;

“mortgagor” includes grantor of a bill of sale by way of security.

Power to redeem mortgages.

36. (1) If any property acquired by the Trust under this Act by agreement is subject to a mortgage, the Trust may pay off the mortgage.

(2) In order to do so the Trust shall give notice to the mortgagee that the Trust intends at or before the expiration of six months from the date of the notice to pay off the mortgage and to pay to the mortgagee the amount in money to which he is entitled under this section.

(3) The amount to which a mortgagee is entitled under this section is—

- (a) the principal secured by the mortgage; and
- (b) the interest due at the date of the notice and six months' additional interest; and
- (c) the costs and charges, if any, due to the mortgagee under the mortgage; and
- (d) the mortgagee's costs of discharging the mortgage and conveying his interest in the property to the Trust; and
- (e) in case the mortgage is paid off prematurely, a sum to meet the costs of reinvestment of the principal; and
- (f) in case the mortgage is paid off prematurely and the rate of interest secured by the mortgage is higher than the interest which can reasonably be expected to be obtained on the re-investment, regard being had to the then current rate of interest, a sum to meet the loss sustained by the mortgagee by reason of the premature repayment of the principal.

(4) The mortgagee shall thereupon, and upon payment or tender to him, within the time specified in the notice, of the amount of money to which he is entitled under this section, execute a discharge or satisfaction of the mortgage and such, if any, transfer, conveyance, assignment, or assurance, necessary to vest his estate or interest in the property in the Trust.

(5) If the mortgagee does not execute such discharge or satisfaction, or such transfer, conveyance, assignment, or assurance, as required by this section, the Trust may assess the amount to which the mortgagee is entitled and may deposit the amount in the Treasury with a statement of the circumstances relating to the deposit.

*Metropolitan (Perth) Passenger
Transport Trust*

(6) After the deposit has been made the Trust may cause to be published in the *Gazette* a notice containing a description of the property in respect of which, and describing the circumstances under which, the deposit was made, and the names of the parties concerned, and may cause a copy of the notice to be lodged with authorities authorised by Act to record transactions relating to property who shall make the appropriate recordings without requiring payment of any registration, application, or other fees, or stamp duty, and thereupon the property shall be freed and discharged from the mortgage and the property shall vest in the Trust.

Rights of mortgagee on compulsory acquisition of property.

37. Where any property acquired by compulsory acquisition is at the time of acquisition subject to a mortgage,

(a) the mortgagee may—

- (i) join with the mortgagor in making a claim for compensation;
- (ii) make an independent claim for compensation; or
- (iii) by notice to the Trust, waive his rights to compensation;

Determination of amount of compensation.

(b) the amount of compensation shall be such as is determined by agreement between the Trust and the mortgagor and the mortgagee, or if agreement is not reached, shall be determined in the same manner as disputed claims for payment of compensation;

Compensation to mortgagee

(c) the compensation to the mortgagee shall be estimated in accordance with the following principles—

- (i) the mortgage shall be taken to be discharged or satisfied as from the date of the compulsory acquisition of the property, to the extent to which the compensation payable in respect of the property is sufficient to satisfy the mortgage;

- (ii) the mortgagee shall be entitled to interest at the rate secured by the mortgage for six months after the date of the acquisition of the property on so much of the principal as the compensation payable in respect of the property would, after payment of back interest and charges, be sufficient to satisfy;
- (iii) the mortgagee shall also be entitled to the costs of discharging or satisfying the mortgage, and of transferring, conveying, assigning, or assuring, his estate or interest in the property to the Trust; and
- (iv) the mortgagee shall also be entitled, if principal was not repayable, with or without notice, at the date of the acquisition of the property, to the costs of re-investing any principal paid off, and, should a loss of interest reasonably be expected, regard being had to the rate of interest secured by the mortgage and the rate of interest likely to be obtained on the re-investment, to compensation for loss of interest;
- (d) the compensation in respect of the property shall be charged with the mortgage unless the mortgagee has waived his rights to compensation; Mortgagee has charge on compensation.
- (e) upon payment or tender of the compensation or any part of it to the mortgagee, he shall execute a discharge or satisfaction of the mortgage to the extent to which the amount paid or tendered is sufficient to satisfy it;
- (f) the rights and remedies of the mortgagee shall not be affected as regards the remainder, if any, of the mortgage or debt, or as regards any other property subject to the mortgage; and

*Metropolitan (Perth) Passenger
Transport Trust*

Rights of mortgagee not affected in certain cases.

- (g) where the mortgagee has waived his rights to compensation the acquisition of the property acquired shall not affect the mortgage as regards any other property subject thereto, or as regards his rights and remedies against the mortgagor.

Division 7.—Leases and Bailments.

Apportionment of rent.

38. (1) In this Division—

“lease” includes bailment;

“lessee” includes bailee;

“lessor” includes bailor; and

“rent” includes hire.

(2) If any part of property comprised in a lease for a term unexpired is acquired under this Act, the rent payable in respect of the property comprised in the lease, shall be apportioned between the part so acquired and the part not acquired.

(3) The apportionment shall be such as is settled by agreement between the lessor, the lessee, and the Trust, or, if agreement is not reached, on reference to arbitration under the Arbitration Act, 1895.

- (4) After the apportionment has been settled—

(a) the lessee shall as to all future accruing rent be liable only to the rent apportioned in respect of the part not acquired;

(b) the lessor shall, as against the part not acquired, and as against the lessee, have the same rights and remedies for the rent so apportioned as he had, previously to the apportionment, for the whole rent; and

(c) all covenants, conditions, and agreements in the lease, except as to the amount of rent, shall remain in force with regard to the part not acquired.

*Metropolitan (Perth) Passenger
Transport Trust*

*Division 8.—Miscellaneous Provisions Relating
to Property.*

39. (1) If—

Warrant
to enforce
possession
of property.

- (a) any person in possession of property acquired, whether by compulsory acquisition or by agreement, by the Trust under this Act or under the Public Works Act, 1902, refuses to give up possession of the property, or hinders the Trust or any person authorised by the Trust from taking possession of the property; or
- (b) any person in occupation of land refuses to permit the Trust or any person authorised by the Trust to enter the land;

a Judge on application by or on behalf of the Trust may grant a warrant authorising the Sheriff to deliver possession of the property or enforce entry to the land.

(2) A person seised or possessed of, or entitled to, property, or having the management of property on behalf of a person under a legal disability, particularly—

Powers of
persons
under
disability
and certain
limited
owners.

- (a) a corporation which has no power, or limited power only, to dispose of property;
- (b) a tenant in tail or for life;
- (c) a guardian;
- (d) a committee of a lunatic or idiot;
- (e) a trustee;
- (f) an executor or administrator;
- (g) a person for the time being entitled to the receipt of the rents and profits of land in possession; or
- (h) a lessee, or bailee;

*Metropolitan (Perth) Passenger
Transport Trust*

may, by force of this Act and notwithstanding anything to the contrary in law, deed of settlement or other deed, will, memorandum or articles of association or instrument—

- (i) lease, hire, sell, transfer, assign, convey, or assure, to the Trust the property or an interest in the property;
- (j) if the property is acquired by the Trust by compulsory process—
 - (i) subject to this Act, make or join with another person in making a claim for compensation;
 - (ii) accept or not accept an offer of compensation by the Trust; and
 - (iii) take any action authorised by this Act to be taken by a claimant to determine a disputed claim for compensation; and
- (k) enter into an agreement incidental to the exercise of a power conferred by this section.

Extent of powers under subs (2).

(3) The powers conferred by subsection (2) of this section may be exercised—

- (a) by a person other than a lessee or bailee— not only on behalf of himself and his heirs, executors, administrators and successors, but also on behalf of every person entitled in reversion, remainder or expectancy after him, and in defeasance of the estate of every person so entitled;
- (b) by a guardian—on behalf of his ward, and to the extent to which the ward could exercise those powers if he were not under a disability;
- (c) by the committee of a lunatic or idiot—on behalf of the lunatic or idiot, and to the extent to which the lunatic or idiot could exercise those powers if he were not under a disability; and

(d) by a trustee, executor or administrator—on behalf of his *cestui que* trusts, whether infants, issue unborn, lunatics, idiots or other persons, to the same extent as the *cestui que* trusts could exercise those powers if they were not under a disability.

(4) The provisions of any law making provision for the sale of settled land or authorising a person specified in subsection (2) of this section to sell property of which he is not the beneficial owner apply, by force of this Act, in relation to property that has been acquired by compulsory process under this Act as if an agreement to accept an amount of compensation in respect of the acquisition were a sale of the property to the Trust at a price equal to that amount.

(5) Where a person specified in subsection (2) of this section leases or hires or sells property of which he is not the beneficial owner, or agrees to accept compensation in respect of the acquisition under this Act of any such property and that person was not empowered to grant the lease or bailment, or to make the sale or agreement by law, including such a law as applied by subsection (4) of this section, the lease, bailment, sale or agreement has no force or effect unless approved by the Supreme Court.

(6) (a) Where a lease, bailment, sale or agreement to which subsection (5) of this section applies is made, the rent, purchase money or compensation, in this subsection referred to as "the moneys" shall be dealt with as provided by this subsection.

Application
of purchase
money.

(b) With the consent of all parties interested the moneys may be paid to a trustee subject to such trusts as are declared by a deed of trust approved by the Attorney General.

Cf. No. 36
of 1935,
s. 154.

(c) Where an infant, lunatic or idiot is interested in or entitled to receive the moneys, his consent to an application or disposition of the moneys may be given by a guardian, trustee or committee on his behalf.

*Metropolitan (Perth) Passenger
Transport Trust*

(d) The moneys may be paid to the Master of the Supreme Court, to be applied in accordance with an order of the Court.

(e) The Supreme Court may, on the application of a person interested, including a trustee, executor, or administrator, order the moneys to be applied as follows—

- (i) in the discharge of a debt or encumbrance affecting the property, or affecting other property settled to the same or the like uses, trusts and purposes;
- (ii) in the purchase of other property, or of securities of or guaranteed by the Government of the Commonwealth or of a State, to be conveyed, limited and settled upon and for the like uses, trusts and purposes, and in the same manner, as the property in respect of which the moneys were paid;
- (iii) if the moneys have been paid in respect of any buildings acquired under the authority of this Act, in replacing the buildings or substituting others in their stead;
- (iv) in payment to a person becoming absolutely entitled to the moneys, or to such person, and on such conditions, as the Court directs; or
- (v) in such other manner as the Court directs.

(f) If the owner of the property was a corporation, the moneys may be paid to the corporation.

(g) If the property was vested in a trustee, the moneys may be paid to the trustee to be dealt with by him as nearly as may be in accordance with the trusts upon which the property was held.

(h) If the property was vested in an executor or administrator, the moneys may be paid to the executor or administrator to be dealt with by him in accordance with his duties as executor or administrator.

(i) If the property was vested in or managed by the guardian of an infant or the committee of a lunatic or idiot, the moneys may be paid to the guardian or committee.

(j) In this section, "compensation" includes interest payable on compensation.

40. Persons claiming any purchase money or compensation shall, at their own expense, when required, produce to the Trust all deeds and documents relating to or evidencing their title to the property in respect of which such purchase money or compensation is payable, and particulars of any compensation claimed by them.

Claimants
to produce
title.

41. (1) In the case of property acquired under this Act, the Trust shall, unless the acquisition is by agreement which provides otherwise, bear all costs, charges and expenses of all transfers, conveyances, assignments, or assurances of the property and of any outstanding estates or interests therein, but is by this section exempted from the payment of registration, application, and other fees, and stamp duty, which but for this section would be payable by the Trust under any other Act in respect of any such transfers, conveyances, assignments, or assurances.

Costs of
transfers,
etc.

(2) If the costs are payable by the Trust but the Trust and the party entitled do not agree on the amount of the costs,

- (a) the costs shall be taxed by the Taxing Master or other appropriate officer of the Supreme Court upon the application of either party;
- (b) the expense of taxing the costs shall be borne by the Trust, unless on the taxation one-sixth part or more of the costs claimed is disallowed in which case the expense

*Metropolitan (Perth) Passenger
Transport Trust*

shall be borne by the party whose costs are taxed, and be deducted from the amount of costs allowed against the Trust; and

- (c) the Trust shall forthwith pay to the party entitled, the amount which the Taxing Master or other appropriate officer certifies to be due in respect of the costs.

Division 9.—Staff of Trust.

Power of
Trust to
engage
staff.

42. (1) The Trust may, from time to time, appoint, subject to subsection (2) of this section, such employees as the Trust considers necessary in order to enable the Trust to carry out its functions, at such respective rates of remuneration and conditions of service as, subject to any award or agreement in force under the Industrial Arbitration Act, 1912, the Trust determines and is hereby authorised to determine.

- (2) Where the Trust acquires
an undertaking or part of an undertaking of a proprietor of a passenger transport service,

the Trust shall,

as far as is practicable having regard to the functions of the Trust,

before appointing any other persons
as employees,

appoint as employees

of the Trust persons who were employed for at least twelve months by the proprietor in the undertaking or part so acquired next preceding the acquisition, and who are willing to be employed by the Trust,

to carry out, for or on behalf of the Trust,

such duties as the Trust directs, being duties which are, as far as practicable, similar to those carried out for or on behalf of the proprietor before the acquisition.

(3) (a) The Trust having regard to the desire of its employees may—

(i) enter into and carry out an agreement for the purpose of providing pension, superannuation, sickness, or family, benefits, or long service leave benefits, or other benefits of a similar nature, for any of its employees; and

(ii) request that the inclusion of the Trust as a department for the purposes of the Superannuation and Family Benefits Act, 1938 be recommended by the Minister having the administration of that Act and approved by the Treasurer; or

(iii) enter into an agreement under subparagraph (i) in respect of some of its employees, and make a request under subparagraph (ii), of this paragraph, in respect of others of its employees.

(b) If a request is made pursuant to subparagraph (ii) of paragraph (a) of this subsection,

(i) then notwithstanding the interpretation of the term, "department" in subsection (1) of section six of the Superannuation and Family Benefits Act, 1938, the Treasurer, on the recommendation of the Minister mentioned in that interpretation, may, if the Trust enters into the agreement and makes the arrangements required by the proviso to that interpretation, approve the inclusion of the Trust as a department for the purposes of that Act; and

(ii) authority is hereby conferred on the Trust to enter into and carry out the agreement and the arrangements.

(c) If the Treasurer so approves the inclusion of the Trust as a department, the Trust shall be deemed a department for the purposes of that Act, but no

*Metropolitan (Perth) Passenger
Transport Trust*

such approval and no provision of this subsection constitutes the Trust a department for any other purpose.

(d) No employee of the Trust is compelled to become a contributor for pension, superannuation, or benefits, under an agreement entered into by the Trust under this section.

(4) Where any employee who was employed by the proprietor in an undertaking or part of an undertaking acquired under this Act, would, had he continued in the service of the proprietor, become entitled to benefits under any scheme as in operation on the first day of July, one thousand nine hundred and fifty-seven, for pension, superannuation, sickness, or family, benefits, or long service leave benefits, or other benefits of a similar nature, the Trust may with the approval of the Minister, who is hereby authorised to give the approval, take over the assets and liabilities of, and administer the scheme and in doing so the Trust shall, but without limiting the scope of the approval in any other respect, give full credit for any qualifying period served by the employee in the service of the proprietor as qualification for long service leave or annual leave, and give full credit for any right to sick leave accumulated in the service of the proprietor.

PART IV.—FINANCE AND ACCOUNTS.

Interpre-
tation.

43. In this Part, unless the context requires otherwise—

“Account” means the “Metropolitan (Perth) Passenger Transport Trust’s General Fund Account”;

“General Loan Fund” means The General Loan Fund mentioned in section fifty-six of the Audit Act, 1904;

“Public Account” means the Public Account mentioned in section four of the Audit Act, 1904.

44. (1) The funds available for the purpose of enabling the Trust to carry out its functions consist of— ^{Funds.}

- (a) money appropriated from time to time by Parliament to the purpose;
- (b) money derived from time to time as income by the Trust from business carried on by it under authority conferred by this Act;
- (c) money borrowed from time to time by the Trust under authority conferred by this Act.

(2) The Treasurer shall cause to be opened and kept at the Treasury an account called the Metropolitan (Perth) Passenger Transport Trust's General Fund Account.

(3) The Treasurer shall cause money mentioned in paragraph (a) of subsection (1), and the Trust shall cause money mentioned in paragraphs (b) and (c) of that subsection, to be placed to the credit of the Account for the purpose of enabling the Trust to carry out its functions.

(4) The Account may be operated upon for that purpose in such manner as from time to time the Treasurer approves and is hereby authorised to approve.

(5) The Trust shall keep such records relating to operations on the Account, in such manner, as the Treasurer approves and is hereby authorised to approve, but in any event shall cause to be shown in the records, separate recordings—

- (a) of amounts of money placed to the credit of the Account as capital, and of operations on the Account relating to capital; and

*Metropolitan (Perth) Passenger
Transport Trust*

- (b) of amounts of money placed to the credit of the Account as income, and operations on the Account relating to income.

(6) The Trust is authorised to apply money represented in the Account to payment of all expenditure lawfully incurred by the Trust for the purpose of carrying out its functions, including without limiting the generality of that authorisation—

- (a) payment of capital expenditure, costs and other expenses, incurred by the Trust in, and in connection with, the acquisition of any property, whether the property is land or an estate or interest in land, or the undertaking or part of the undertaking of the proprietor of a passenger transport service, or other property, and whether the acquisition is by agreement or compulsory;
- (b) payment of expenditure incurred by the Trust in, and in connection with, and as incidental to, the provision, maintenance, protection, and management, of property of the Trust, and any passenger transport service carried on by, or on behalf of, the Trust;
- (c) payment of the salaries and allowances of the members, and deputies for members, of the Trust;
- (d) payment of the salaries and wages of persons appointed by and employed by the Trust;
- (e) payment of any contributions payable by the Trust under any agreement entered into pursuant to authority conferred by this Act on the Trust, for the purpose of providing pension, superannuation, sickness, or family, benefits, or long service leave benefits, or other benefits of a similar nature, for employees of the Trust; and

*Cf. s. 47 (3)
ante.*

- (f) payment of brokerage for the making, procuring, negotiating, underwriting, or obtaining, any loan borrowed pursuant to authority conferred on the Trust by this Act.

45. (1) If the money represented in the Account is insufficient at any time to meet expenditure incurred or proposed to be incurred by the Trust, the Treasurer, with the approval of the Governor who is hereby authorised to grant the approval, may make, and the Trust may borrow, from the Public Account advances of such amounts as the Governor approves, on such conditions as to repayment and payment of interest as the Governor imposes, and is hereby authorised to approve and impose.

Treasury
advances.

(2) Where an advance is made under this section—

- (a) the Trust shall repay the amount of the advance; and
- (b) shall pay interest;

in accordance with the conditions imposed under subsection (1) of this section, and shall comply with any other conditions so imposed.

(3) By virtue of this subsection the assets of the Trust are charged with the performance by the Trust of conditions imposed under this section in respect of an advance so made.

46. (1) The Trust, with the approval of the Governor which, subject to subsection (2) of this section, he is hereby authorised to grant, may, in addition to borrowing money under section forty-five of this Act, from time to time—

Power of
Trust to
borrow
money on
issue of
debentures
or inscribed
stock.

- (a) borrow and reborrow moneys by the issue of debentures and the creation and registration of inscribed stock, or either, for the

Cf. s. 25 ante,
s. 49 post
and the
Schedule.

*Metropolitan (Perth) Passenger
Transport Trust*

purpose of raising the funds of the Trust for the effectual exercise by the Trust of its functions;

- (b) issue debentures and create and register inscribed stock or either in exchange for any debentures and inscribed stock or either respectively issued or created and registered in respect of moneys previously borrowed by the Trust, and not repaid;
- (c) issue and sell debentures, and create and register inscribed stock, for the purpose of borrowing money for redeeming any loans owing by the Trust and for paying the expenses incurred in the issue of the debentures and creation and registration of the inscribed stock, and of otherwise carrying out its functions; and
- (d) effect any conversion authorised by this section either by arrangement with the holders of the existing debentures or registered owners of inscribed stock, or by the redemption of the debentures or inscribed stock out of the moneys raised by the sale of debentures and inscribed stock or either, or partly in the one way and partly in the other;

but the Trust shall not issue any debentures, or create any inscribed stock, unless on condition that the principal money thereby secured shall be repayable not later than twenty-one years from the date of issue of the debentures, or, as the case may be, the creation of the inscribed stock.

(2) Where the Trust seeks approval of the Governor for the borrowing by the Trust of money under the provisions of this section, the Trust shall submit to the Minister for presentation to the Governor a proposal in writing showing—

- (a) the term and particulars of the proposed loan;

- (b) the rate of interest to be paid on the loan;
- (c) the purposes to which the money proposed to be borrowed is to be applied; and
- (d) the manner in which the loan is to be repaid.

(3) The Trust may, under the provisions of this section,

- (a) borrow money as one loan or as several loans; and
- (b) borrow money—
 - (i) by the issue of debentures with or without interest coupons attached;
 - (ii) by the creation and registration of inscribed stock to be called “Metropolitan (Perth) Passenger Transport Trust’s Incribed Stock”;
 - (iii) partly as provided by subparagraph (i) and partly as provided by subparagraph (ii) of this paragraph; or
 - (iv) in such other manner as is prescribed by the regulations, or as the Governor approves and is hereby authorised to approve.

47. For the purpose of making provision to redeem the whole or any part of any loan raised by the Trust under the provisions of this Act, the Trust may with the consent of the Governor, who is hereby authorised to grant the consent, and subject to subsection (2) of section forty-six of this Act, borrow the necessary moneys before the due date of redemption.

Power to borrow to pay off loan.

Cf. s. 46 ante.

*Metropolitan (Perth) Passenger
Transport Trust*

Moneys
borrowed
to be a
charge on
Trust's
revenues and
guaranteed
by the State.

48. (1) (a) The due redemption of the principal sum secured by debentures issued, and inscribed stock created, under the provisions of this Act, and due payment of all interest thereon, are, by this Act, charged on and secured upon the income of the Trust.

(b) For the purposes of this section, "income of the Trust" means all charges, fees, rents, interest, and profits, given to, or vested in, or authorised to be demanded or received by, the Trust.

Redemption
guaranteed
by the
Government.

(2) (a) The due redemption of the principal moneys and the due payment of all interest secured by debentures issued or inscribed stock created and registered by the Trust under the provisions of this Act are, by this Act, guaranteed by the Government of the State on behalf of the Crown in right of the State.

(b) The Treasurer of the State shall cause any money required for fulfilling any guarantee given by this Act to be paid out of the Public Account, which Account is hereby to the necessary extent appropriated accordingly, and shall cause any sums received or recovered by the Treasurer from the Trust or otherwise in respect of a sum so paid by the Treasurer to be paid into the Public Account.

Application
of provisions
of the
Schedule to
debentures
and
inscribed
stock.

49. (1) The provisions of Part I. of the Schedule to this Act apply with respect to debentures issued and inscribed stock created under this Act.

(2) The provisions of Part II. of the Schedule to this Act apply with respect to debentures issued under this Act.

(3) The provisions of Part III. of the Schedule to this Act apply with respect to inscribed stock created under the provisions of this Act.

50. (1) Debentures issued and inscribed stock created by the Trust under the provisions of this Act—

Power for trustees to invest in Trust's debentures or inscribed stock.

- (a) are securities authorised by the laws relating to the investment of trust moneys; and
- (b) have the status of Government securities within the meaning of any Act relating to investment of moneys of friendly societies or other bodies.

(2) A trustee of a trust, unless expressly forbidden by the instrument, if any, creating the trust, may invest trust funds in his hands in the debentures and inscribed stock, or either.

(3) The debentures and inscribed stock or either are a lawful investment for money which a body corporate is authorised or directed to invest, in addition to any other investments expressly authorised for the investment of the money.

(4) A trustee or body corporate may, pursuant to this Act, convert debentures issued under this Act and held by the trustee or body into inscribed stock created under this Act.

51. (1) Where any portion of The General Loan Fund is, in any year, applied so as to enable the Trust to carry out any of its functions, the Treasurer—

Contributions by Trust of interest and instalments to sinking fund towards General Loan Fund commitments.

- (a) shall determine the amount of contribution to be made by the Trust towards interest payable for the year on account of the Public Debt in respect of that portion of The General Loan Fund; and
- (b) shall determine the amount of contribution to be made for the year by the Trust towards the sinking fund established on account of the Public Debt in respect of that portion of The General Loan Fund; and
- (c) shall cause the respective amounts to be recorded in the Account.

*Metropolitan (Perth) Passenger
Transport Trust*

(2) The Trust shall pay to the Treasurer the amount of the contributions so recorded in the year in which they are so recorded, but if the amount is not so paid, the amount is recoverable at the suit of the Treasurer in any court of competent jurisdiction as a debt due by the Trust to the Crown in right of the State.

Cf. s. 63 post.

(3) In making up the accounts of the Trust for presentation to both Houses of Parliament as required by this Act, the Trust shall obtain from the Under Treasurer who shall supply it on request, a certificate of the amounts so recorded, and the Trust shall show those amounts in those accounts.

*Payment of
interest by
Trust on
loans made
out of the
Public
Account.*

52. (1) Where any portion of money represented in the Public Account, but not being portion of The General Loan Fund, is applied to enable the Trust to carry out its functions,

- (a) the money so applied if not repaid by the Trust in accordance with the conditions on which it is so applied is recoverable at the suit of the Treasurer in any court of competent jurisdiction as a debt due by the Trust to the Crown in right of the State;
- (b) the Treasurer shall fix the rate of interest payable by the Trust in respect of the daily balance of money so applied, and not repaid by the Trust, and shall appoint days at intervals of not less than six months on which payment of interest is due;
- (c) the Treasurer shall cause recordings to be made in the Account of money so applied and the amount of interest so payable and paid; and
- (d) the Trust shall pay the amount of interest on the days so appointed, but if the amount of interest is not so paid, the amount is recoverable at the suit of the Treasurer in any court of competent jurisdiction as a debt due by the Trust to the Crown in right of the State.

*Metropolitan (Perth) Passenger
Transport Trust*

(2) In making up the accounts of the Trust for presentation to both Houses of Parliament as required by this Act, the Trust shall obtain from the Under Treasurer who shall supply it on request, a certificate of the amounts so recorded, and shall show those amounts in those accounts. Cf. s. 63 post.

53. (1) The Treasurer shall cause to be recorded in the Account such sum as, in the opinion of the Treasurer, represents the value of the use by the Trust under this Act of Government buildings or other property or of part services of any Government officers not wholly employed by the Trust under this Act or of services rendered by any Government department. Charges for use of Government property and service.

(2) Any amount debited under this section shall be treated as revenue payable into the Consolidated Revenue Fund, and shall be paid accordingly by the Trust as and when the Treasurer directs and is hereby authorised to direct, but where a departmental vote has already been debited with the amount in the current financial year, the amount shall be credited to that vote or treated as a rebate of the departmental expenditure if the annual estimates of the department provide for a rebate of expenditure, and if the amount is not so paid, the amount is recoverable at the suit of the Treasurer in any court of competent jurisdiction as a debt due by the Trust to the Crown in right of the State.

54. All money recorded as standing to the credit of the Account may, until required by the Trust for carrying out its functions, be temporarily invested as the Treasurer directs, and is hereby authorised to direct, in any securities in which money represented in the Public Account may lawfully be invested, and the Treasurer shall cause all interest derived from such investment to be paid to the credit of the Account. Temporary investment of moneys.

*Metropolitan (Perth) Passenger
Transport Trust*

Profit and
loss.

55. The profit made or loss incurred by the Trust in each financial year, shall, when ascertained, be treated in such manner as the Trust determines and is hereby authorised to determine, but any profit which is made by the Trust under this Act and which is available in cash after making full allowance for interest, and sinking fund contributions; and depreciation, obsolescence, and maintenance, of vehicles and plant; and after providing for any accrued losses and after payment of all current liabilities due and payable by the Trust is not required by the Trust for carrying out its functions, shall be paid to the credit of the Trust into the Account.

Accounts.

56. The Trust shall, in respect of the carrying out of its functions provide and keep records of accounts and shall record therein true and regular accounts—

- (a) of all amounts of money received by and paid to the Trust, and of all amounts of money owing to and by the Trust, and of the several purposes for which those amounts are received, paid, and owing; and
- (b) of all the assets and liabilities of the Trust, and of all profits made, and losses incurred, by the Trust.

Depreciation.

57. The Trust shall determine the amount of the depreciation and obsolescence of its assets in relation to the carrying out of its functions; and that amount shall apply for the purposes of section fifty-five of this Act unless, in the opinion of the Auditor General, that amount should be increased, in which case the amount determined by the Auditor General shall apply for the purposes of that section.

Cf. s. 55 ante.

Reserve
accounts.

58. The Trust may in respect of its functions establish, and may record in its accounts, such reserve accounts for renewals or depreciation as it thinks fit, and may in every year credit to each reserve account so established such sums as the Treasurer approves, and is hereby authorised to approve.

*Metropolitan (Perth) Passenger
Transport Trust*

59. The Trust shall cause to be prepared and submitted to the Treasurer, under such headings and in such manner as the Treasurer directs and is hereby authorised to direct, annual estimates of the revenue and expenditure of the Trust in connection with the carrying out of its functions; and the Treasurer shall cause the estimates to be submitted to each House of Parliament.

Annual estimates.

60. The Trust shall cause the records of account kept by the Trust to be open to the inspection of the Auditor General and any person authorised by him to inspect them, and shall permit the Auditor General and any person so authorised to make and take copies of or extracts from them.

Books may be inspected.

61. The Trust shall cause its accounts in relation to the carrying out of its functions to be balanced every year on the thirtieth day of June.

Accounts to be balanced

62. (1) The Trust shall in every year cause a full and true balance sheet of its assets and liabilities together with a profit and loss account, and such other statements as the Auditor General directs and is hereby authorised to direct, to be compiled from the records of account, and to be submitted to the Auditor General for audit.

Accounts to be audited.

(2) The Trust shall cause the balance sheet and statements to be so prepared as to show fully and faithfully the financial position of the Trust, and the financial results of the Trust's operations for the year.

(3) The Auditor General shall certify whether in his opinion—

(a) the accounts are or are not in order;

*Metropolitan (Perth) Passenger
Transport Trust*

- (b) the accounts are or are not properly drawn up so as to present a true and correct view of the transactions for the period under review as shown by the records of the Trust's accounts;
- (c) all items of receipts and payments and all known liabilities and assets have or have not been brought into account; and
- (d) the value of all assets have or have not been fairly stated.

(4) The Auditor General has and shall exercise in respect of such accounts the powers conferred on him by the Audit Act, 1904, but shall arrange for a periodical or continuous audit of the accounts of the Trust.

Annual
Report.

63. The Trust shall cause to be prepared annually a written report of its proceedings and operations during the preceding year, and shall cause the report together with copies of the balance sheet and statements of account then last prepared and audited, and the Auditor General's report thereon, to be submitted to the Minister who shall cause them to be submitted to each House of Parliament as soon as practicable in each year.

PART V.—MISCELLANEOUS.

Division 1.—Legal Proceedings by and against the Trust.

Subdivision A.—General Provisions.

Interpre-
tation.

64. In this Part, "secretary" means the chief administrative officer of the Trust.

Service of
notice of
legal pro-
ceedings.

65. Service of any document on the Trust is validly effected if the document is given personally to the secretary, but the provisions of this section do not prejudice or otherwise affect those of section thirty-one of the Interpretation Act, 1918.

66. A writ, summons, notice, or other document, is sufficiently authenticated by the Trust without the official seal of the Trust, if signed by the Chairman or secretary of the Trust.

Authenti-
cation of
documents.

67. If a person, against whom the Trust has a claim or demand, takes the benefit of an Act for the relief of bankrupt debtors, the secretary, in proceedings in respect of the claim, may represent the Trust, and act on behalf of the Trust in all respects as if the claim or demand were that of the secretary.

Proceedings
in
bankruptcy.

68. Where money is due and payable to the Trust by a person who becomes bankrupt and there is in respect of the money a charge over the property of the person in favour of the Trust, the Trust shall not prove as an unsecured creditor against the person's estate, unless the Trust has by resolution, declared that it is of opinion that because of the insufficiency or inadequacy of the charge to secure payment of the money to the Trust, the Trust should prove as an unsecured creditor.

Trust not to
prove in
bankruptcy
unless
security
insufficient.

69. (1) The Trust may order, either generally or in a particular case, proceedings to be taken for the recovery of penalties, or for the punishment of a person offending against the provisions of this Act, and may order the expenses of the prosecution or other proceedings to be paid out of the funds of the Trust.

Trust may
direct
prosecutions.

(2) Proceedings in connection with the prosecution of an offence under this Act may be commenced within one year after the offence has been committed.

Cf. No. 11 of
1902, s. 51.

(3) The institution of proceedings against, or the conviction of, a person for an offence under this Act does not affect a remedy which the Trust or another person has in civil proceedings.

(4) In proceedings in a local court or court of petty sessions, or before a justice,

Proceedings.

(a) the secretary; or

*Metropolitan (Perth) Passenger
Transport Trust*

- (b) an employee of the Trust appointed for the purpose generally or in a particular case in writing signed by the Chairman;

may represent the Trust in all respects as if he were the party concerned.

(5) Notwithstanding the provisions of this section, and without prejudice to those of section forty-one of the Interpretation Act, 1918, any person may make and prosecute a complaint of a contravention of this Act.

Reimburse-
ment of
employee.

(6) The Trust shall, out of its funds, reimburse the secretary or other employee the amount of any damages, costs, charges, and expenses, to which he is put, or with which he is chargeable, by reason of anything done, performed, suffered, or incurred, by him under this section for and on behalf of the Trust.

Subdivision B.—Evidence.

Presumption
of proof of
certain
formalities.

70. In a prosecution or in other legal proceedings instituted by or under the direction of the Trust under the provisions of this Act, until proof is given to the contrary, proof is not required of—

- (a) the constitution of the Trust;
- (b) any order of the Trust to prosecute;
- (c) the particular or general appointment of the secretary or any other employee of the Trust to take proceedings against any person;
- (d) the powers of the secretary or other employee to prosecute;
- (e) the appointment of the Chairman or of the secretary or other employee of the Trust; or
- (f) the presence of a quorum at any meeting at which any order is made or any act is done by the Trust.

71. (1) The production in a prosecution or other legal proceedings of— Evidence of exercise of authority.

- (a) a copy of the *Gazette* containing a regulation, Order-in-Council, proclamation, notice or containing other evidence of the exercise of any power or authority in pursuance or purported pursuance of the provisions of this Act; or
- (b) a copy purporting to be certified as a copy of a regulation, Order-in-Council, proclamation, notice, or evidence of the exercise of any such power or authority, by a certificate purporting to have been signed by the Chairman or secretary of the Trust;

is evidence of the making, existence, and giving of the regulation, Order-in-Council, proclamation, or notice; or of the exercise of the power or authority; and of all preliminary steps having been regularly taken to give full force and effect to it and to its provisions.

(2) The provisions of this section—

- (a) are in addition to and not in derogation of those of the Evidence Act, 1906; and
- (b) do not render valid, a regulation, which has been disallowed under subsection (2) of section thirty-six of the Interpretation Act, 1918, or which has been invalidly made.

72. (1) Where a record is produced and identified as the minutes or an excerpt from the minutes of the Trust, the record is, until the contrary is proved, proof of the matters recorded having taken place, without proof— Evidence of minutes

that the meeting to which the record relates was duly convened;

that other requirements relating to the regularity of the meeting were complied with; and

that the minutes were confirmed, and that the signature purporting to be that of the person

*Metropolitan (Perth) Passenger
Transport Trust*

authorised to sign the confirmation of the minutes is in fact his signature and that he was so authorised.

(2) Where a document purporting to have been certified by the secretary as being a copy of the minutes, or of an excerpt of the minutes, of the Trust, is produced, the copy has the same probative force as if, instead of the copy so certified, the minutes or the excerpts of the minutes were produced.

Division 2.—Supplementary Provisions.

Power of
entry.

73. (1) The Trust has, and by any of its members or their deputies, employees, servants, and agents, may exercise power, to enter and re-enter at reasonable times between six o'clock in the forenoon and six o'clock in the afternoon, land and buildings and other property for the purpose of making an inspection, or valuation, or doing any other thing, which the Trust is authorised to do by this Act, or the Public Works Act, 1902, or any other Act, without being liable to legal proceedings on account of the exercise of the power.

(2) The Trust shall not so enter or re-enter occupied premises without the consent of the occupier, unless the Trust has itself or by any of its members or their deputies, employees, servants, or agents, given to the occupier notice of intention to do so.

Obstruction.

74. A person who obstructs or hinders the Trust, or any member or his deputy, or an employee, servant, or agent of the Trust in the performance of anything which the Trust, employee, servant, or agent, is authorised or required to do by this or any other Act, commits an offence.

Duty of
members
of Police
Force to
report
breaches
of the Act.

75. (1) It is the duty of the members of the Police Force of the State who find a person committing or attempting to commit an offence against the provisions of this Act, to demand from the person his name and place of abode, and immediately to

report the offence or attempt and the name and place of abode of the person to the secretary of the Trust.

(2) A member or his deputy, employee, or servant, of the Trust, or a member of the Police Force of the State who finds a person committing or attempting to commit, or who on reasonable grounds suspects a person of having committed or attempting to commit, an offence against the provisions of this Act, may demand from the person his name and place of abode.

Power to demand name and address of offender.

(3) A person who refuses to state his name and place of abode, or who states a false name or place of abode, on demand being so made, commits an offence against this Act.

(4) A person who gives or is suspected of giving a false name or place of abode to the person making the demand may without other warrant than this Act be apprehended by the person making the demand and taken before a justice to be dealt with according to law.

75A. (1) If any thing is left in or on any property of the Trust and the owner of the thing is not known, the Trust may give notice published in the *Government Gazette* that the thing will be sold on a day, being not less than twenty-one days from the publication of the notice, unless the owner before that day removes the thing and pays all charges payable in respect of it.

Goods left by unknown owner may be sold. Added by No. 9 of 1961, s. 2.

(2) If the owner of the thing does not so remove it and so pay those charges, the Trust may cause it to be sold.

(3) Where the thing so left is perishable the Trust may cause it to be sold or where the thing causes offence or creates a nuisance, the Trust may cause it to be destroyed at the expense of the owner, and may cause either to be done without notice to the owner.

*Metropolitan (Perth) Passenger
Transport Trust*

(4) The Trust shall apply the proceeds of a sale made pursuant to this section—

- (a) firstly, in paying the costs of and incidental to the sale, including all charges and expenses incidental to the storage and handling of the thing;
- (b) secondly, in paying the amount of the balance to the person entitled thereto upon his establishing his claim to that amount within thirty days after the sale.

(5) Where a claim referred to in paragraph (b) of subsection (4) of this section is not so established the amount of the balance so referred to shall be paid by the Trust to the credit of the Metropolitan (Perth) Passenger Transport Trust's General Fund Account.

(6) The amount expended in the exercise of the powers conferred upon the Trust by the provisions of subsection (3) of this section to the extent to which it is not recovered on sale pursuant to those provisions is recoverable by the Trust in a court of competent jurisdiction as a debt due by the owner of the thing destroyed or sold under those provisions.

Division 3.—Penalties.

Penalties
for offences.

76. A person who does not do a thing, which by or under this Act, he is required or directed to do, and a person who does or attempts to do a thing which by or under this Act he is prohibited from doing, commits an offence against the provisions of this Act.

General
Penalty.
Amended by
No. 113 of
1965, s. 4.

77. A person guilty of an offence against the provisions of this Act is liable to the penalty expressly mentioned as the punishment for the offence, or if a penalty is not so expressly mentioned, to a penalty not exceeding one hundred dollars.

Recovery of
penalties.

78. A penalty in respect of an offence against the provisions of this Act may be imposed summarily under the provisions of the Justices Act, 1902.

Division 4.—Exemption.

79. The Road and Air Transport Commission Act, 1966, does not apply to the Trust or affect its functions.

Exemption.
Repealed
and
re-enacted
by No. 52 of
1966, s. 3.

Division 5.—Regulations.

80. (1) The Governor may make such regulations as he considers necessary, convenient, or desirable, to enable the Trust to carry out its functions or for better carrying out the objects and purposes of this Act.

Power
to make
regulations.
Amended by
No. 113 of
1965, s. 4.

(2) Without prejudice to the generality of subsection (1) of this section,

- (a) regulations may be so made so as to apply generally, or in a particular class of case; at all times or at a specified time or specified times; to the whole of the Trust's functions or in respect of any part or parts of those functions;
- (b) regulations may be so made so as to require any matter to which a regulation relates, to be in accordance with a specified requirement, or as approved by, or to the satisfaction of, a specified person or body or specified class of person or body, or so as to delegate to, or confer on, a specified person or body or class of person or body, a discretionary authority;
- (c) regulations may be so made so as to impose for a breach of a regulation—
 - (i) a maximum penalty of one hundred dollars; with or without provision for
 - (ii) a maximum daily penalty during the breach, of ten dollars per day; with or without provision for
 - (iii) a minimum penalty not exceeding one-tenth of the maximum penalty and maximum daily penalty, if any, for the breach; and with or without provision for

*Metropolitan (Perth) Passenger
Transport Trust*

- (iv) the minimum penalty and minimum daily penalty, if any, increasing in severity by one-tenth of the maximum for each successive breach of the same regulation by the same offender; and
- (d) regulations may be so made prescribing or relating to—
 - (i) the conduct of proceedings at meetings of the Trust;
 - (ii) the form of the official seal of the Trust;
 - (iii) the manner in which time tables, routes, and fares, may be promulgated; and
 - (iv) the conditions under which persons may use the facilities of any service provided by, or for, or on behalf of, the Trust.

(3) If there is conflict or inconsistency between the provisions of a regulation so made, and the provisions of an award or industrial agreement in force under the Industrial Arbitration Act, 1912, the latter provisions shall to the extent of the conflict or inconsistency prevail.

Amended by
No. 113 of
1965, s. 4.

SCHEDULE.

S. 49 (1).

PART I.—DEBENTURES AND INSCRIBED STOCK.

The following provisions apply to debentures issued and inscribed stock created by the Trust under the provisions of this Act:—

Interest.
S 29 (2) and
Cf. s. 34 (2)
ante.

1. (a) All debentures issued and inscribed stock created and registered by the Trust shall bear interest, subject to subsection (2) of section twenty-nine, and to subsection (2) of section thirty-four of this Act, at such rate and be redeemable on such day, not being later than twenty-one years from the issue of the debentures or creation of the inscribed stock, and at such place, as the Trust, with the approval of the Governor who is hereby authorised to grant the approval, determines and is hereby authorised to determine.

*Metropolitan (Perth) Passenger
Transport Trust*

59

(b) The Trust may, with the consent of the holder of any debentures or of the registered owner of any inscribed stock, as the case may be, redeem the debentures or inscribed stock at any time before the due date for redemption, but at not more than the face value of the debenture or inscribed stock.

Debentures
and stock
payable
before due
date.

(c) The Trust may purchase any of the debentures or inscribed stock.

2. The Trust shall cause interest secured by any debentures so issued or inscribed stock so created, to be paid half-yearly on such days and at such places as the Trust determines, and is hereby authorised to determine.

When
interest
payable.

3. The Trust at the request of the holder of a debenture, or of the registered owner of inscribed stock, may in lieu thereof issue debentures to him, or register him as the owner of inscribed stock, as the case may be, in respect of the same loan, and of the same amount, and having the same due date for redemption, and bearing the same interest.

Debentures
and stock
inter-
changeable.

4. The Trust may pay moneys by way of brokerage for the making, procuring, negotiating, underwriting, or obtaining any loan borrowed by the Trust on the security of debentures or inscribed stock.

Brokerage.

5. (1) The Trust shall set aside half-yearly by way of a sinking fund for the purpose of redeeming any loan borrowed by the Trust on the security of debentures or inscribed stock such amount calculated at such rate as the Treasurer approves and is hereby authorised to approve, and as the Governor confirms and is hereby authorised to confirm.

Sinking
Fund.

(2) When it is necessary to have resort to any sinking fund referred to in subclause (1) of this clause for the purpose of redeeming either the whole or any part of any loan in respect of which a sinking fund is so provided, the Trust may sell any securities in which the fund is invested, or may obtain and advance thereon from any bank or from the Treasurer of the State.

6. No notice of any trust, express, implied, or constructive, shall be received or noted by the Trust or by an employee of the Trust in relation to a debenture or inscribed stock, and the Trust or the employee shall not be bound to see to the execution of the trust to which the debenture or inscribed stock may be subject.

Notice of
Trust not
receivable.

*Metropolitan (Perth) Passenger
Transport Trust*

Owners of securities not responsible for application of moneys.

7. A person advancing money to the Trust and receiving in consideration of the advance a debenture or inscribed stock is not bound to inquire into the application of the money advanced and is not in any way responsible for the non-application or mis-application thereof.

PART II.—DEBENTURES.

S. 49 (2).

The following provisions apply to debentures issued by the Trust under this Act:—

Form of debenture.

1. Debentures shall be in the form prescribed by the regulations.

2. Debentures—

Seal.

(a) shall be sealed with the official seal of the Trust in the presence of the Chairman and the secretary; and

Number.

(b) shall be numbered consecutively beginning with the number one and proceeding in an arithmetical progression having a common difference of one.

Pass by delivery.

3. Debentures with the interest coupons annexed thereto, and every interest coupon after being detached therefrom, shall pass by delivery and without any assignment or endorsement.

Rights of bearer.

4. The bearer of a debenture or detached interest coupon has the same rights as if he were expressly named as payee in the debenture or coupon.

Payment of interest.

5. No interest is payable by the Trust in respect of a debenture, except to the holder of the coupon representing the interest claimed and upon delivery of the coupon to the Trust.

Register of debentures.

6. (1) The Trust shall cause to be kept in one or more books a register of debentures, and within a reasonable time after the date of the issue of a debenture shall cause to be made an entry in the register specifying the number, date and amount of the debenture.

(2) The register of debentures—

Inspection.

(a) may be inspected at all reasonable times by any person on payment of ten cents for each inspection; and

Register to be evidence.

(b) shall be evidence of any matters required or authorised by or under this Act to be inserted therein.

*Metropolitan (Perth) Passenger
Transport Trust*

61

(3) Any person is entitled to obtain from the Trust copies or extracts certified on behalf of the Trust by the employee in whose custody the register is kept to be true copies of or extracts from the register upon payment for each copy or extract of a fee of twenty-five cents and two cents for every folio of seventy-two words; and any copy or extract so certified is *prima facie* evidence of the original of which it is certified to be a copy.

Copies to
be supplied.

7. Upon proof being made before a Judge in chambers by affidavit of any credible person that a debenture or coupon issued by the Trust under this Act and held by such person, the number and amount of which is specified by him in the affidavit, has been lost or accidentally burnt or otherwise destroyed before it has been redeemed by the Trust, and after the insertion of such advertisements as the Judge directs and upon the Judge certifying that he is satisfied with the proof, the Trust may after the expiration of six months cause a new debenture with interest coupons attached to be made having the same currency and bearing the same number, date, principal sum, and rate of interest, as the debenture so lost or destroyed, and to be delivered to the person upon his giving sufficient security to the Trust to indemnify the Trust against any double payment; but where the Trust is satisfied that a debenture or coupon has been lost or accidentally destroyed before the due date of redemption the Trust may, without insisting on an application being made to a Judge pursuant to the foregoing provisions of this clause, so make and deliver to the person entitled a new debenture or new coupon in place of that lost or destroyed on the person entitled giving to the Trust sufficient security to indemnify the Trust against double payment.

Provision
for lost
debentures.

8. If a debenture is defaced by accident—

- (a) the Trust may cancel it and cause a new debenture to be made in lieu thereof; and
- (b) the new debenture shall have the same currency, and be in all respects subject to the same provisions, and bear the same number, date, principal sum, and rate of interest, as the cancelled debenture.

Provision
for defaced
debentures.

9. (1) Where a debenture is redeemed, discharged, exchanged for, or converted into, inscribed stock, the Trust shall cause it—

Discharged
debentures
to be
destroyed.

- (a) to be cancelled by the secretary; and
- (b) to be burnt in the presence of the secretary and of the Auditor General or one of his officers authorised by him in writing to witness the destruction of the debenture.

*Metropolitan (Perth) Passenger
Transport Trust*

(2) A debenture shall not be so burnt unless the Auditor General or such officer, as the case may be, has audited the debenture and allowed the accounts thereof and furnished the Trust with a certificate particularising the debenture about to be so burnt; and the secretary shall file that certificate in the office of the Trust.

PART III.—INSCRIBED STOCK. S. 49 (3).

The following provisions apply to the Metropolitan (Perth) Passenger Transport Trust's Inscribed Stock created in Perth, Western Australia by the Trust under this Act (in this part called "stock"):—

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| Establishment of registry and appointment of registrar. | 1. The Trust may establish at the office of the Trust a registry for the inscription of stock and appoint an employee of the Trust to be registrar of stock. |
| Parcels of stock. | 2. The Trust may borrow money in parcels or amounts of twenty dollars or a multiple of twenty dollars, on the security of stock. |
| Stock ledgers. | 3. (1) The Trust shall cause to be provided and kept at the office of the Trust books to be called "stock ledgers." |
| Inscription of stock. | (2) The registrar of stock shall cause the names of the owners of stock and the amount of stock held by each of them to be inscribed in the stock ledgers. |
| Joint purchasers. | (3) Where more than four persons are joint owners of stock, the registrar sufficiently complies with the requirements of subclause (2) of this clause if he inscribes the names of not more than four of them as the joint owners. |
| Evidence. | (4) The stock ledgers are evidence of any matters appearing therein and required or authorised by or under this Act to be inserted therein. |
| Copies to be supplied. | (5) Any person is entitled to obtain from the Trust copies or extracts certified on behalf of the Trust by the registrar of stock in whose custody the register is kept to be true copies or extracts from the stock ledger upon payment for each copy or extract of a fee of twenty-five cents and two cents for every folio of seventy-two words; and any copy or extract so certified is <i>prima facie</i> evidence of the original of which it is certified to be a copy. |
| Stock how transferable. | 4. (1) Stock or any share therein is transferable from one person to another in the manner, and by instrument in the form, prescribed by the regulations, and not otherwise. |

*Metropolitan (Perth) Passenger
Transport Trust*

63

- (2) The registrar of stock shall not accept for registration or register a transfer of inscribed stock of a face value containing any fraction of one dollar, or of a face value of any smaller sum than forty dollars unless that face value containing the fraction or being the smaller sum is the full amount of the balance standing to the credit of the registered owner in the stock ledger. Restrictions on amount of stock which may be transferred.
- (3) An instrument of transfer of the stock of any share therein is not valid and shall not be accepted for registration or registered by the registrar of stock unless the instrument is executed by all parties, and the signatures to the instrument are attested in the manner prescribed by the regulations. Execution of transfer.
- (4) For the purposes of registration, an instrument of transfer when executed shall be delivered to the registrar who shall register it by entering a memorial of it in the stock ledger and shall inscribe the name of the transferee in the stock ledger as the owner of the stock. Registration of transfer.
5. (1) A person to whom stock is transmitted in consequence of the death or bankruptcy or insolvency of the registered owner of the stock or by any other lawful means than by a transfer in accordance with this Act may apply in the form prescribed by the regulations to the registrar at the registry to be inscribed as the owner of the stock. Application for transmission (other than transfer of stock).
- (2) An application for transmission is not valid and shall not be accepted for registration or registered by the registrar of stock unless the application is verified by statutory declaration or in such other manner as is prescribed by the regulations and— Verification of application for transmission.
- (a) in the case of a transmission consequent on death— unless the probate of the will is, or the letters of administration are, produced to the registrar; but in the case of transmission to a survivor or the survivors of a joint owner, the registrar of stock may accept production of a certificate of the death of the owner who has died, accompanied by a statutory declaration identifying the person named in the death certificate with the person who is shown as the registered owner of the stock in lieu of probate or letters of administration; and
- (b) in the case of a transmission consequent on bankruptcy or insolvency—unless an office copy of the adjudication or order of sequestration is delivered to the registrar.
- (3) The registrar shall if he is satisfied that the provisions of this Act have been complied with register any such transmission by entering a memorial of it in the stock ledger Registration of transmission.

*Metropolitan (Perth) Passenger
Transport Trust*

and inscribing the name of the person to whom the stock has been transmitted in the stock ledger as the registered owner of the stock.

Power of attorney.

6. (1) A person may by power of attorney under his hand and seal appoint a person to be his attorney for any purpose in relation to stock, including an application for conversion or to receive payment of interest or payment in redemption.

(2) A power of attorney is valid and effectual for all purposes therein mentioned until notice of its revocation or of the bankruptcy, insolvency, lunacy, unsoundness of mind, or death, of the principal has been received by the registrar at the registry.

When transfer books to be closed and ledgers balanced.

7. (1) The registrar of stock shall not register an instrument of transfer of stock or of any part thereof on any Saturday or holiday, or within the period of fourteen days, or within a period of twenty-one days or such shorter period as is prescribed, next before any of the days on which the interest thereon is payable.

(2) During the periods referred to in subclause (1) of this clause the Trust shall cause the amount of the stock respectively standing to the credit of the several registered owners thereof to be ascertained and the balances to be struck and carried forward in the proper stock ledger.

(3) The registrar of stock shall not register an instrument of transfer of stock or of any part thereof during the period of twenty-one days immediately preceding the date of maturity of stock.

Receipt of registered stock holders to discharge without regard to trust.

8. (1) The receipt of the person in whose name stock stands in the stock ledger, or if it stands in the names of more persons than one, the receipt of one of the persons named in the stock ledger, is a sufficient discharge to the Trust for any interest payable in respect of the stock notwithstanding any trusts to which the stock may then be subject, and whether or not the Trust has had notice of the trusts; and the Trust is not bound to see to the application of the money paid upon such receipt.

Receipt where one of joint holders dies, etc.

(2) If stock is held in joint names and one or more of the registered owners of the stock dies, becomes bankrupt, insolvent, or otherwise legally incapable, the receipt of any one of the other joint owners or survivors is a sufficient discharge to the Trust for any interest payable in respect of the stock, notwithstanding that a transmission has not been registered as required by this Act.